AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

OK 10 411-590
GSA

5-13-83
Vol. 48 No. 94
Pages 21523-21876

federal register

Friday
May 13, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aliens
Immigration and Naturalization Service

Animal Drugs
Food and Drug Administration

Antibiotics
Food and Drug Administration

Campaign Funds
Federal Election Campaign

Child Support
Food and Nutrition Service

Coal Mining
Surface Mining Reclamation and Enforcement Office

Communications Equipment
Federal Communications Commission

Conflict of Interests
Housing and Urban Development Department

Endangered and Threatened Wildlife
Fish and Wildlife Service

Flood Insurance
Federal Emergency Management Agency

Grant Programs—Education
Education Department

Grazing Lands
Land Management Bureau

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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

Selected Subjects

Hazardous Materials
Environmental Protection Agency

Loan Programs—Agriculture
Commodity Credit Corporation

Marketing Agreements and Orders
Agricultural Marketing Service

Mortgage Insurance
Federal Housing Commissioner—Office of Assistant Secretary for Housing

Pensions
Pension Benefit Guaranty Corporation

Quarantine
Animal and Plant Health Inspection Service

Radio Broadcasting
Federal Communications Commission

Savings and Loan Associations
Federal Home Loan Bank Board

Superfund
Environmental Protection Agency

Veterans
Veterans Administration

Contents

Federal Register
Vol. 48, No. 94
Friday, May 13, 1983

The President

EXECUTIVE ORDERS
21525 Hazardous duty incentive pay (EO 12420)
PROCLAMATIONS
21523 Baseball Month, National Amateur (Proc. 5060)

Executive Agencies

Agency for International Development
NOTICES
Housing guaranty programs:
21668 Barbados
Meetings:
21668 International Food and Agricultural Development Board

Agricultural Marketing Service
RULES
21532 Celery grown in Fla.
21530 Lemons grown in Ariz. and Calif.
21531 Peaches grown in Ga.

Agricultural Stabilization and Conservation Service
NOTICES
21608 Tobacco, flue-cured; marketing quota referendum results for 1983–1985 crops

Agriculture Department
See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Food and Nutrition Service; Rural Electrification Administration; Soil Conservation Service.

Air Force Department
NOTICES
Meetings:
21627 Scientific Advisory Board (2 documents)

Animal and Plant Health Inspection Service
RULES
Animal and poultry import restrictions:
21549 Horses from countries affected with CEM; interim

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
21625, 21626 Procurement list, 1983; additions and deletions (2 documents)

Centers for Disease Control
NOTICES
Grants and cooperative agreements:
21656 Tuberculosis control programs

Commerce Department
See Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
RULES
Loan and purchase programs:
21533 Peanuts; warehouse storage loans and handler operations; 1982–1985 crops

Conservation and Renewable Energy Office
NOTICES
Consumer products; petitions for waiver of test procedures:
21629 Honeywell, Inc.; furnaces

Consumer Product Safety Commission
NOTICES
Complaints issued:
21626 Honeywell, Inc.; prehearing conference
21701 Meetings; Sunshine Act

Defense Department
See also Air Force Department; Engineers Corps.; Uniformed Services University of the Health Sciences.
NOTICES
Meetings:
21628 Science Board (3 documents)

Education Department
RULES
Postsecondary education:
21852 Pell grant program; expected family contribution schedule
PROPOSED RULES
Postsecondary education:
21862 Self-help program; expected family contribution schedule; republication
NOTICES
Grant applications and proposals; closing dates:
21628 Refugee children transition program

Employment and Training Administration
PROPOSED RULES
21594 Wagner-Peyser Act implementation as amended by Job Training Partnership Act; advance notice
NOTICES
21675 Wagner-Peyser activities, final planning estimates; 1984 FY

Employment Standards Administration
NOTICES
21766 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ark., Conn., Del., Hawaii, Ind., Iowa, Maine, Md., Mass., N.H., N.J., N. Mex., N.Y., Ohio, Pa., R.I., Tex., Utah, W. Va., and Wis.)

Energy Department
See also Conservation and Renewable Energy Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department; Western Area Power Administration.
NOTICES
Patent licenses, exclusive:
21629 Pan American Energy Corp.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
21627 Cube Cove, Chatham Strait, Admiralty Island, Alaska

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
21579 Maine
Toxic substances:
21722 Premanufacture notification and review procedures
PROPOSED RULES
Superfund programs:
21598 Hazardous substances, facilities handling; financial responsibility requirements; advance notice
NOTICES
Environmental statement; availability, etc.:
21646 Agency statements; weekly receipts
Toxic and hazardous substances control:
21646 Premanufacture notification requirements; test marketing exemption applications

Federal Communications Commission
RULES
Radio services, special:
21583 VHF public coast stations market; new stations entry limit; removal and public coast station applicants; financial qualifications
PROPOSED RULES
Maritime services:
21599 Safety of Life at Sea (SOLAS) Convention of 1974, implementation; VHF radio watch on vessels outside harbor and port areas
NOTICES
Hearings, etc.:
21647 GTE Mobilnet of San Jose, Inc., et al.

Federal Deposit Insurance Corporation
NOTICES
21701 Meetings; Sunshine Act

Federal Election Commission
RULES
Contribution and expenditure limitations and prohibitions:
21553 Disclaimer notices in political communications and advertising; transmittal to Congress

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
21580 Arkansas et al.
21582 California et al.
NOTICES
Disaster and emergency areas:
21654 California
21655 Mississippi
21830 Emergency food and shelter programs; implementation of emergency job appropriation act

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
21636 Arkansas Louisiana Gas Co.
21636 Colorado Interstate Gas Co.
21636 Energenics Systems, Inc.
21636 Florida Power & Light Co.
21637 Idaho Power Co.
21637 K N Energy, Inc.
21637 Louisiana-Nevada Transit Co.
21637 Michigan Wisconsin Pipe Line Co.
21638 Montana-Dakota Utilities Co.
21638 Montana Power Co.
21638 National Fuel Gas Supply Corp.
21639 New England Power Co.
21639 Niagara Insterstate Pipeline Co.
21640 Tennessee Gas Pipeline Co.
21640 Texas Eastern Transmission Corp. (2 documents)
21641 Texas Gas Pipe Line Corp.
21641 Texas Sea Rim Pipeline, Inc.
21642 Transcontinental Gas Pipe Line Corp.

Federal Home Loan Bank Board
RULES
21554 Lenders, Federally chartered, etc.; preemption of State due-on-sale laws
NOTICES
Applications, etc.:
21655 United Federal Savings & Loan Association

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
21570 Interest rate changes
21569 Property improvement and mobile home loans; interest rate changes

Federal Mine Safety and Health Review Commission
NOTICES
21701 Meetings; Sunshine Act

Federal Reserve System
NOTICES
21701 Meetings; Sunshine Act

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
21604 Utah prairie dog

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
21566 Cyclothiazide tablets and flurandrenolide with neomycin sulfate ointment; withdrawn
21567 Glycopyrrolate injection
21565 Methylprednisolone and aspirin tablets
21564 Tylosin
Human drugs:
21563 Antibiotic drugs; oligosaccharide, peptide, and other antibiotic drugs; effective date confirmed

PROPOSED RULES
Food for human consumption:
21595 Peaches, quick frozen; identity standard, advance notice; terminated; correction
NOTICES
Animal drugs, feeds, and related products:
21659 Corderm ointment, renazide tablets, tylan boluses, and methagon tablets; approval withdrawn
Color additive petitions:
21662 Cosmetic, Toiletry & Fragrance Association Inc.; correction
Human drugs:
21658 Anabolic steroid drug products, drug efficacy study implementation; exemption revoked, etc.
21661 Benzodiazepine or minor tranquilizer drugs; international drug scheduling; Psychotropic Substances Convention
Laser variance approvals, etc.:
21662 Laser Images, Inc., et al.; correction
Medical devices; premarket approval:
21657 Alcon Laboratories, Inc.
Meetings:
21660 Advisory committees, panels, etc.
21660 Consumer information exchange

Food and Nutrition Service
RULES
Child nutrition programs:
21527 Child care food program; elimination of cost as a factor for reimbursement to child care centers; final
PROPOSED RULES
Child nutrition programs:
21587 Child care food program; nondiscretionary provisions, implementation; editorial amendments

Foreign-Trade Zones Board
NOTICES
Application, etc.:
21609 New Hampshire

General Services Administration
RULES
Procurement:
21580 Subcontracting report (Forms 294 and 295); temporary; extension of expiration date
NOTICES
Environmental statements, availability, etc.:
21655 Union Station, Nashville, Tenn.; discontinuation of renovation, etc.

Health and Human Services Department
See also Centers for Disease Control; Food and Drug Administration; Public Health Service.
NOTICES
Organization, functions, and authority delegations:
21662 Inspector General; health care fraud and abuse authority

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
21642-21644 Decisions and orders (3 documents)

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing.
RULES
21567 Conduct standards, amendments
NOTICES
21663 Agency forms submitted to OMB for review (2 documents)

Immigration and Naturalization Service
RULES
21548 Immigration; arrival-departure manifests and lists; supporting documents
PROPOSED RULES
21593 Nonimmigrant classes; alien to perform temporary services or labor, petition for; Governor of Guam not Secretary of Labor to determine certification for Guam

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

International Development Cooperation Agency
See Agency for International Development.

International Joint Commission, Canada and United States
NOTICES
21668 Great Lakes; diversions and consumption of water uses; meetings

International Trade Administration
NOTICES
Antidumping:
21615 Industrial nitrocellulose from France
Countervailing duties:
21618 Fresh asparagus from Mexico
21610 Stainless steel products from Brazil
Meetings:
21610 Telecommunications Equipment Technical Advisory Committee (2 documents)
Scientific articles; duty free entry:
21624 National Aeronautics and Space Administration, et al.
21623 University of California

Interstate Commerce Commission
NOTICES
Motor carriers:
21674 Compensated intercorporate hauling operations; intent to engage in
21673 Finance applications
21671 Permanent authority applications
Motor carriers; control, purchase, and tariff filing exemptions, etc.:
21669 Batt Trucking
21669 International Transport, Inc., et al.
21670 Whiteford, Ronald, et al.
Railroad operation, acquisition, construction, etc.:
21672 Atchison, Topeka & Santa Fe Railway, Co.; lease exemption
Railroad services abandonment:
21673, 21675 Chicago & North Western Transportation Co. (2 documents)
21673 Illinois Central Gulf Railroad Co.

21673 Seaboard System Railroad, Inc.

Justice Department
See Immigration and Naturalization Service.

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Occupational Safety and Health Administration.
NOTICES
21677 Agency forms submitted to OMB for review

Land Management Bureau
PROPOSED RULES
Grazing administration:
21820 Livestock grazing on public lands
NOTICES
Alaska native claims selection; applications, etc.:
21663 Cape Fox Corp.
Exchange of public lands for private land:
21665 Montana
Recreation use permit systems:
21665 California; use fee schedule
Survey plat filings:
21664 California (3 documents)

Library of Congress
NOTICES
Meetings:
21678 American Folklife Center Board of Trustees

Management and Budget Office
NOTICES
21868 Budget rescissions and deferrals; cumulative report

Minerals Management Service
NOTICES
Meetings:
21666 Minerals Accountability Advisory Committee

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
21607 Snapper-Grouper fishery of South Atlantic
NOTICES
Marine mammal permit applications, etc.:
21624 Hubbs-Sea World Research Institute
21625 Kynard, Boyd
21624 National Zoological Park
Meetings:
21625 Western Pacific Fishery Management Council

National Park Service
NOTICES
National historic or scenic trail routes; trail markers registration:
21667 Ice Age National Scenic Trail, Wis. et al.
21666 North Country National Scenic Trail, Mich. et al.
21667 Overmountain Victory National Historic Trail, N.C. et al.

National Science Foundation
NOTICES
21702 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
21679 Arkansas Power & Light Co. (2 documents)
21680 Florida Power & Light Co.
21680 Niagara Mohawk Power Corp. et al.
21681 Northeast Nuclear Energy Co. et al.
21682 Northern States Power Co.
21683 Pacific Gas & Electric Co.
21684 Virginia Electric & Power Co.
21684 Wisconsin Electric Power Co.
Meetings:
21679 Reactor Safeguards Advisory Committee

Occupational Safety and Health Administration
NOTICES
Variance applications, etc.:
21676 Block 76 Ltd.

Occupational Safety and Health Review Commission
NOTICES
21702 Meetings; Sunshine Act

Pension Benefit Guaranty Corporation
RULES
Plan benefits valuation:
21573 Non-multiemployer plans; interest rates and factors

Personnel Management Office
NOTICES
21684 Advisory committee reports, annual; availability

Public Health Service
NOTICES
Grants; availability, etc.:
21840 Adolescent family life programs, national demonstrations
21848 Adolescent family life research
21844 Family planning services delivery improvement research
Organization, functions, and authority delegations:
21662 Centers for Disease Control Director; correction

Rural Electrification Administration
RULES
Telephone borrowers:
21547 Direct burial telephone cable (air core), PE-23 (Bulleting 345-14); withdrawn

Securities and Exchange Commission
NOTICES
Hearing, etc.:
21685 Bankers National Life Insurance Co. et al.
21686 Central Power & Light Co.
21686 Fidelity Tax Exempt Money Market Trust
21691 Pligrowth Fund, Inc.
21695 Southwestern Electric Power Co.
21696 West Texas Utilities Co.
21696 Privacy Act; systems of records
Self-regulatory organizations; proposed rule changes:
21691 American Stock Exchange, Inc.
21689 Midwest Securities Trust Co. et al.
21690 Municipal Securities Rulemaking Board (2 documents)
21693 National Association of Securities Dealers, Inc.
21688 National Securities Clearing Corp.
21688 Options Clearing Corp.
21691 Pacific Stock Exchange, Inc.; correction

Self-regulatory organizations; unlisted trading privileges:
21685 Boston Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
21698 Glover Capital Corp.
21698 Roedal Associates, Ltd.
21698 Sunbelt Capital Corp.
21699 Sunwestern Capital Corp.
21699 Wesco Capital, Ltd.
Disaster loan areas:
21699 Utah

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
21608 Colonel Town Community Camp, N.H.
21609 Lake Pleasant Critical Area Treatment Measure, Mass.

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission, various States:
21574 Kentucky

Treasury Department
NOTICES
21699 Agency forms submitted to OMB for review

Uniformed Services University of the Health Sciences
NOTICES
21702 Meetings; Sunshine Act

Veterans Administration
PROPOSED RULES
Adjudication; pensions, compensation, dependency, etc.:
21595 Active duty for training; definition revised; burial allowance eligibility extension, etc.
NOTICES
21700 Agency forms submitted to OMB for review

Western Area Power Administration
NOTICES
21646 Central Valley project, Calif.; rate order; correction

List of Separate Parts in This Issue

Part II
21722 Environmental Protection Agency

Part III
21766 Labor Department, Employment Standards Administration, Wage and Hour Division

Part IV
21820 Department of the Interior, Bureau of Land Management

Part V
21830 Federal Emergency Management Agency

Part VI
21840 Department of Health and Human Services, Public Health Service

Part VII
21844 Department of Health and Human Services, Public Health Service

Part VIII
21848 Department of Health and Human Services, Public Health Service

Part IX
21852 Department of Education

Part X
21868 Office of Management and Budget

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.

3 CFR

Proclamations:

5060 21523

Executive Orders:

11157 Amended by EO 12420) 21525

12420 21525

7 CFR

226 21527

910 21530

918 21531

967 21532

1446 21533

1701 21547

Proposed Rules:

226 21587

8 CFR

231 21548

Proposed Rules:

214 21593

9 CFR

92 21549

11 CFR

110 21553

12 CFR

556 21554

590 21554

591 21554

20 CFR

Proposed Rules:

Ch. V 21594

21 CFR

444 21563

448 21563

455 21563

510 21564

520 (2 documents) 21565, 21566

522 21567

524 21566

558 21564

Proposed Rules:

148 21595

24 CFR

0 21567

201 21569

203 21570

205 21570

207 21570

213 21570

220 21570

221 21570

232 21570

234 21570

235 21570

236 21570

241 21570

242 21570

244 21570

29 CFR

2619 21573

30 CFR

917 21574

34 CFR

690 21852

Proposed Rules:

691 21862

38 CFR

Proposed Rules:

3 21595

40 CFR

52 21579

720 21722

Proposed Rules:

320 21598

41 CFR

Ch. 1 21580

43 CFR

Proposed Rules:

4100 21820

44 CFR

64 (2 documents) 21580, 21582

47 CFR

81 21583

Proposed Rules:

83 21599

50 CFR

Proposed Rules:

17 21604

646 21607

Federal Register
Vol. 48, No. 94
Friday, May 13, 1983

Presidential Documents

Title 3—

The President

Proclamation 5060 of May 11, 1983

National Amateur Baseball Month, 1983

By The President of the United States of America

A Proclamation

The game of baseball originated in the United States of America approximately 150 years ago and quickly became a fixture of community life. Today baseball diamonds dot parks, playgrounds, and schoolyards across the land, and virtually every village, town, and neighborhood has its own team, or teams. No summer would be complete without its schedule of games and championship playoffs.

Baseball is affectionately known as the "national pastime" because of its popularity as both a participant and spectator sport. Some 19 million children, youths, and adults play amateur baseball in the United States, and many millions more attend amateur contests as spectators each year. This vast program is made possible by generous contributions of time, effort, and financial support by millions of individuals representing business, fraternal, civic, religious and service organizations.

Baseball has achieved its greatest popularity and highest level of perfection in the United States, but it is rapidly gaining acceptance elsewhere. In Europe, and in Japan and other Far Eastern countries, there is growing recognition of baseball's great entertainment value and its effectiveness as a means of instilling those qualities of teamwork and fair play that are essential to good citizenship. This recognition is reflected in the fact that baseball will be a part of the 1984 Olympic Games in Los Angeles.

Because amateur baseball plays such an important role in our lives, and because millions of Americans are involved in the game as players, fans, and supporters, it is fitting that we should celebrate this uniquely American activity.

In recognition of the wholesome recreation, good sportsmanship, competitiveness, and teamwork so necessary in developing good citizenship which the game of baseball affords, the Congress of the United States, by House Joint Resolution 175 (P.L. 98–16), has designated the month of May 1983 as "National Amateur Baseball Month" and has authorized and requested the President to issue a proclamation in observance of that month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of May 1983 as National Amateur Baseball Month, and I call upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities, so as to testify to the great and significant value of amateur baseball to the American way of life.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of May, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-13116
Filed 5-12-83; 11:06 am]
Billing code 3195-01-M

Editorial Note: For the President's remarks of May 11, 1983, on signing Proclamation 5060, see the *Weekly Compilation of Presidential Documents* (vol. 19, no. 19).

Presidential Documents

Executive Order 12420 of May 11, 1983

Incentive Pay for Hazardous Duty

By the authority vested in me as President of the United States of America by Public Law 97–60 and Section 301(a) of Title 37 of the United States Code, and in order to define the scope of two additional categories of hazardous duty, it is hereby ordered as follows:

Section 1. Executive Order No. 11157 of June 22, 1964, as amended, is further amended by adding the following new subsections to Section 109 of Part I:

"(h) The term "duty involving frequent and regular exposure to highly toxic pesticides" shall be construed to mean duty performed by members who, while under competent orders assigning such members to the entomology, pest control, pest management, or preventive medicine functions of a uniformed service for a period of 30 consecutive days or more, are required to perform in any calendar month a fumigation task utilizing (1) phosphine, sulfuryl fluoride, hydrogen cyanide, methyl bromide, or (2) a fumigant of comparable high acute toxicity and hazard potential.

"(i) The term "duty involving laboratory work that utilizes live dangerous viruses or bacteria" shall be construed to mean primary duty performed by members who work with micro-organisms (1) that cause disease (A) with a high potential for mortality, and (B) for which effective therapeutic procedures are not available, and (2) for which no effective prophylactic immunization exists, while such members are assigned by competent orders for a period of 30 consecutive days or more to participate in or conduct applied or basic research that is characterized by a changing variety of techniques, procedures, equipment, and experiments.".

Sec. 2. This Order shall be effective as of October 1, 1981.

Ronald Reagan

THE WHITE HOUSE,
May 11, 1983.

[FR Doc. 83–13117
Filed 5–12–83; 11:07 am]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 48, No. 94
Friday, May 13, 1983

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Elimination of Cost as Factor for Reimbursement to Child Care Centers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: Public law 97–35, the Omnibus Budget Reconciliation Act of 1981, enacted August 13, 1981, altered the Child Care Food Program (CCFP) and made several substantive changes. One major change was to eliminate the Federal requirement that reimbursement to institutions be limited to the cost of producing the meals served. This final rule will delete the following provisions of the May 11, 1982 (47 FR 20144), proposal: (1) Definition of net cash resources; (2) requirement to implement operating balances (net cash resources) into the CCFP; (3) requirement for State agencies (SA's) to establish and maintain an addition financial management system; (4) SA's responsibility to monitor and review the net cash resources of participating institutions; and (5) institutions' requirement to collect and maintain documentation of their net cash resources.

EFFECTIVE DATE: June 13, 1983.

ADDRESSES: The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Ms. Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302, or by telephone at (703) 756–3880.a

Copies of all written comments on the proposed rule are available for review during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Walstrom, Chief, Policy and Program Development Branch, at the above address or by telephone at (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification

This final rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete. This rule has also been reviewed with regard to the requirements of Pub. L. 96–354. Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this final rule does not have significant economic impact on a substantial number of small entities.

Paperwork Reduction Act: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final 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

On May 11, 1982, the Department published a proposed rule in the **Federal Register** (47 FR 20144) to eliminate the Federal requirement that costs be considered as a factor in reimbursement to child care centers. The proposal was designed to implement Section 819(k) of Pub. L. 97–35, which eliminated the requirement that reimbursement to institutions be limited to the cost of producing the meals served in child care centers. However, State agencies could still elect to reimburse these institutions according to the lesser of costs or meals times rates. The method chosen by the State agency was to be applied to all institutions participating in the CCFP in that State.

To comply with the mandate of the law, the Department removed the references to costs as a limiting factor on payments in the proposed rule. The proposal also included definitions of net cash resources and nonprofit food service. The new definitions required participating institutions to maintain revenue and expenditure records to substantiate the nonprofit status of their food service. The proposal further required the State agencies to be responsible for reviewing and monitoring the institution's nonprofit food service and net cash resources to ensure that the resources do not exceed three months' normal operating cost. In addition, State agencies would have been required to establish and maintain financial management systems conforming to the standards enumerated in the Department regulations (7 CFR Part 3015, Subpart H), which remain in effect. Moreover, the Department eliminated the Federal requirement that centers report their operating costs on the monthly claim for reimbursement.

Effective January 1, 1982, States were able to determine which of the two methods of reimbursement they would apply to centers, either: (1) Meals by type times the appropriate rate of reimbursement or costs, whichever is lesser; or (2) meals by type times the appropriate rate of reimbursement. The Department has found in the past that centers have generally received maximum reimbursement rates for meals served. This optional requirement to report costs included in the proposal would not have posed an implementation problem. In response to the May 11 proposal, the Department received 35 comments from State agencies, FNS Regional Offices, sponsors, advocacy groups, and government agencies. All comments were analyzed, summarized, and catalogued according to the regulatory section to which they referred so that the comments could be systematically analyzed and considered during the development of the final rule.

An overwhelming majority of the commenters expressed their concerns with the inclusion of the National School Lunch Program (NSLP) definitions of operating balances (net cash resources) and nonprofit food service in the CCFP regulations. It was noted by the commenters that these terms were not relevant to the CCFP and that adopting them would pose a tremendous hardship on the CCFP insti'utions and administering agencies.

In addition, the majority of commenters agreed that these additional requirements involving operating balances and nonprofit food service would: (1) Definitely increase the administrative burden on the institutions to maintain records of net cash resources to justify nonprofit status; (2) require institutions to keep separate bank accounts for the food service operations; and (3) require institutions to monitor their net cash resources, ensuring that the three months' normal operating balance is not exceed.

More than half of the commenters recommended that all references related to the requirements to monitor and review for net cash resources be deleted in the final rule. The administrative burden to monitor and review the institutions' resources for excessive balances, along with yet another recordkeeping process, would also incease State agency staff time. Furthermore, the requirement to monitor and review the resources of an institution would require a more in-depth knowledge and understanding of cash balances and general accounting procedures. Such expertise is greater than what is currently required of a Program reviewer.

The Department received a number of comments that the provision in the proposed rule regarding net cash resources was in direct opposition to the intent of Congress, which was to simply remove cost as a limitation on reimbursement. The commenters also expressed concern that the proposed provision regarding net cash resources (operating balances) would increase the paperwork burden on both the institution and the State agency rather than decrease it, which is not the intent of the Paperwork Reduction Act of 1980. Moreover, many commenters believed that the proposed Program regulations on net cash resources appeared more complicated and complex than the existing CCFP regulations. Besides the proposed regulation being cumbersome, many commenters felt the rule was not cost effective.

Statutory and Other Program Changes

Although the proposed rule presented the discussion on the amendments by regulatory sections, the comments received were more primarily on the one area of defining net cash resources (operating balances) and the burdens this provision would place on administering agencies and participating institutions.

1. *Definition:* The Department received 20 comments concerning the various references throughout the proposed rule on net cash resources and nonprofit food services. Many commenters expressed opposition to the definition of net cash resources, specifically concerning advances. In general, they wanted to know what was to be considered available monies when establishing the level of net cash resources. The commenters indicated that advances are *loans* to the participating institutions. These advances could possibly cause the institutions to exceed the three months' operating balance required in the proposed rule.

Some commenters were also concerned that the operating balance would be affected by start-up monies. The Department wishes to point out that in the proposed definition of net cash resources, start-up monies were inadvertently included. While these monies can be considered as part of funds an institution can receive, only sponsoring organizations of day care homes receive such funds. Therefore, such comments were not valid as this rule will not affect those institutions which are sponsoring organizations of day care homes. Such institutions are the only ones eligible to receive start-up monies under the CCFP. The Department regrets any confusion that this definition may have caused.

2. *State agency requirements.* The Department received 28 comments discussing the potential problems with the States reviewing and monitoring the institutions' net cash resources. The proposed requirement was to ensure that the institutions' resources did not exceed the three months' normal operating balance limit, and, if such resources exceeded this limitation, corrective action might be deemed necessary by the SA's.

First, many commenters felt that Program reviewers do not have the expertise to determine if the net cash resources of participating institutions exceed a three months' normal operating balance. To evaluate and compare whether an institution has funds in excess of this limitation, the SA's would be forced to spend additional time determining whether there are excessive funds. This extra time would place a burden on States, in addition to their already limited resources and staff. Furthermore, it was suggested that this procedure should be performed by accountants or auditors, who are trained to make such an assessment.

Second, several commenters indicated that this requirement would increase their review burden. One commenter noted that the increase in burden would roughly triple the necessary man hours for the SA's to complete a review, increase training requirements, and require the development of additional materials for the institutions. Thus, the proposal would have a significant staffing impact with only minimal Program benefit. Furthermore, according to the commenters, the expenditures by both the SA's and the institutions in auditing and monitoring would be excessive nationwide when compared to the savings that would be garnered.

In addition to the review and monitoring requirement, the SA's would be reponsible for establishing and maintaining a financial management system which would incorparate net cash resources. Several of the commenters stated that this requirement would necessitate an increase in paperwork and recordkeeping which could not be justified by either cost effectiveness or benefit to the Program. Very few commenters indicated that they agreed with the level of flexibility given the SA's in determining when and how to monitor and review the net cash resources. Some commenters further suggested that the proposal was actually lacking in flexibility and wanted further clarification of their responsibility in this area. Many of the commenters indicated that the proposal on net cash resources appeared to be in direct opposition to the intent of Congress, which was to simply remove cost as a limitation on reimbursement. They also believed that the proposed requirements necessary to fulfill the provisions on net cash resources were not in compliance with the Paperwork Reduction Act of 1980.

Several commenters have pointed out that, although numerous references are made in the proposed preamble to allow the States the option to choose the type of reimbursement for their individual State, the actual provision was not in the proposed rule. This provision was inadvertently omitted from the proposed rule and has been inserted in this final rule.

3. *Institution requirements.* In addition to the concerns of the commenters regarding State agency requirements, the commenters were also concerned about the problems institutions would face in maintaining and documenting net cash resources.

The majority of the commenters agreed that the approach the proposed rule implements would significantly increase the institutions staff time and resources. At present, most institutions maintaining a general account from which all bills are paid, and they do not keep a separate bank account specifically earmarked for the CCFP food service. The proposed provision

would indicate that a separate bank account would be necessary basically to assure the nonprofitability of the food service. The commenters pointed out that since most CCFP institutions purchase basic food staples somewhat irregularly, costs can vary greatly from one month to another. Further, since Food Service Equipment Assistance Funds have been eliminated from the Program, in those few instances where funds are accumulated, the institutions may use such funds to replace broken or inadequate pieces of small equipment. If their ability to accumulate funds is so severely curtailed, they will be unable to take advantage of wholesale food and equipment purchase opportunities.

Furthermore, according to the commenters, monitoring net cash resources in the CCFP would be a financial strain on the institution, since current food service reimbursements have been decreased. Generally, participating institutions use funds from other sources to cover those food costs not reimbursed by the CCFP. At present, institutions do not need to account for such non-Program funds under the CCFP. The institutions would have been forced to establish another recordkeeping system to identify all revenue and expenditures, which would create an increase in staff workloads and be extremely confusing for most institution staff.

Many sponsors indicated that their costs far exceeded the maximum reimbursement allowed for preparing a reimbursable meal. Considerable time and administrative money would be spent in monitoring. In most cases, the cost for implementing this additional requirement would not only take away from the quality of the meal, but also would result in the institution requiring and the administering agency providing additional technical assistance.

In response to the concerns mentioned above, the Department has either deleted or revised those proposed provisions that require the institutions to collect, maintain, and document their net cash resources. The provisions which have been changed are discussed below.

(a) *Definition of net cash resources.* The Department has considered the comments submitted in response to the proposed definitions and has decided to delete the definition of net cash resources in § 226.2. However, the definition of nonprofit food service has been retained. The Department believes that the institution must also ensure that all Program reimbursement funds are used solely for the conduct of the food service operation, or to improve the food service, principally for the benefit of the enrolled children.

(b) *State agency administrative responsibilities.* In the proposed rule, section 226.6(k) required State agencies, as part of their Program review of financial management standards, to also review the net cash resources of the institution. Since the Department is deleting the proposed definition of net cash resources, the proposed provision in this section no longer is applicable. Therefore, this section has been retained as stated in the final CCFP regulations published on August 20, 1982 (47 FR 36524).

(c) *State agency responsibilities for financial management.* The Department proposed to require the State agencies to be responsible for monitoring the net cash resources and the nonprofit status of the food service program of participating institutions. In the event such resources were in excess of the three months' normal operating cost, the State agencies would be required to take corrective actions.

Section 226.7(b) is not being revised as proposed but is being retained as stated in the final CCFP regulation August 20, 1982 (47 FR 36524) which requires the State agencies to adhere to the Uniform Federal Assistance Regulations, 7 CFR Part 3015. The Department has also included an additional sentence requiring the SA's to review the institutions' documentation to ensure that all Program reimbursement funds are used solely for the conduct of the food service, or to improve the food service, principally for the benefit of the enrolled children.

(d) *State agency adjustment of claims.* The Department proposed to eliminate section 226.9(c). The purpose of this section has been to allow State agencies to reassign payment rates for lunches and suppers claimed on an institution's final claim for the fiscal year. With the elimination of the Federal requirement that reimbursement include a comparison of costs to rates, it was felt that this purpose was no longer served. Deleting this provision did not allow States flexibility to adjust final claims under either reimbursement option. Also, it was determined that including an explanation of each reimbursement option would be helpful to States and institutions. Therefore, in § 226.9, a new paragraph (c) has been added which provides this explanation, and the old paragraph (c) has been revised and redesignated as paragraph (d). These changes should clarify each method of reimbursement and the adjustment of final claims under both reimbursement options.

(e) *Institution provision.* In the proposed rule, § 226.15(e) was amended to require the institutions, as part of their established recordkeeping procedures, to maintain documentation of their net cash resources to ensure that the level of resources does not exceed three months' normal operating cost for the nonprofit food service. However, this section has been revised to simply require the institutions, as part of their established recordkeeping procedures, to maintain documentation of their nonprofit food service to ensure that all Program reimbursement funds are used: (1) Solely for the conduct of the food service operation; or (2) to improve such food service operations, principally for the benefit of the enrolled children.

(f) *Sponsoring organization provisions.* The proposed rule amended § 226.16(h) by eliminating the references to Program costs as a limiting factor in reimbursing child care centers. While this provision is being retained, the Department has revised it in the final rule to allow for States to choose the optional method of reimbursement.

In addition, participating institutions will still be required to maintain records of Program reimbursement and expenditures for the food service operation for review and audit purposes, regardless of the manner in which the State agency elects to reimburse according to costs from requiring that related Program costs be entered on the claim for reimbursement. This information may be necessary to the States as a means of targeting technical assistance needs, planning audit activity, and monitoring the Programs' nonprofit status. Therefore, although the Department is revising the rule to eliminate some of the accountability procedures, it is not expected that this change will encourage waste or abuse of Program funds.

List of Subjects in 7 CFR Part 226

Child care centers, State agencies and Institutions.

PART 226—[AMENDED]

Accordingly, the Department is amending 7 CFR Part 226 as follows:

1. Section 226.2 is amended by adding the definition of "nonprofit food service" in alphabetical order, to read as follows:

§ 226.2 Definitions.

* * * * *

"Nonprofit Food Service" means all food service operations conducted by the institution principally for the benefit of enrolled children, from which all of the Program reimbursement funds are

used solely for the operation or improvement of such food service.

* * * * *

2. Section 226.7, paragraph (b) is amended by adding a new sentence at the end to read as follows:

§ 226.7 [Amended]

* * * * *

(b) * * * State agencies or FNSRO's, where applicable, shall also have a system in place for monitoring and reviewing the institutions' documentation of their nonprofit status to ensure that all Program reimbursement funds are used: (1) solely for the conduct of the food service operation; or (2) to improve such food service operations, principally for the benefit of the enrolled children.

* * * * *

3. Section 226.9, paragraph (c) is redesignated paragraph (d) and revised and a new paragraph (c) is added to read as follows:

§ 226.9 Assignment to rates of reimbursement for centers.

* * * * *

(c) States have two methods of reimbursing institutions. The method chosen by the State agency must be applied to all institutions participating in the CCFP in that State. These methods are:

(1) Meals times rates payment, which involves reimbursing an institution for meals served at the assigned rate for each meal. This method entails no comparison to the costs incurred by the institution for the meal service; and,

(2) Meals times rates or actual costs, whichever is the lesser, which involves reimbursing an institution for meals served at the assigned rate for each meal or at the level of the costs actually incurred by the institution for the meal service. This method does entail a comparison of the costs incurred to the meal rates, with the costs being a limiting factor on the level of reimbursement an institution may receive.

(d) In those States where the State agency has chosen the option to implement a meals times rates payment system State-wide, the State agency may elect to pay an institution's final claim for reimbursement for the fiscal year at higher reassigned rates of reimbursement for lunches and suppers; however, the reassigned rates may not exceed the applicable maximum rates of reimbursement established under § 210.11(b) of the National School Lunch Program regulations. In those States which use the method of comparing meals times rates or actual costs, whichever is lesser, the total payments made to an institution shall not exceed the total net costs incurred for the fiscal year.

4. The first sentence of § 226.11(d) is revised to read as follows:

§ 226.11 Program payments for child care centers and outside-school-hours care centers.

* * * * *

(d) If the State agency elects to reimburse its institutions according to the lesser of rates or actual costs, total Program payments to an institution during any fiscal year, including any cash payments in lieu of commodities, shall not exceed allowable Program operating and administrative costs, less income to the Program. * * *

* * * * *

5. Section 226.15 is amended by removing the period at the end of paragraph (e)(10) adding a semi-colon and adding a new paragraph (e)(11), to read as follows:

§ 226.15 Institution provisions.

* * * * *

(e) Recordkeeping.* * *

(11) Maintain documentation of nonprofit food service to ensure that all Program reimbursement funds are used: (i) Solely for the conduct of the food service operation; or (ii) to improve such food service operations, principally for the benefit of the enrolled children.

* * * * *

6. Section 226.16, paragraph (h) is amended by removing the period at the end of the paragraph, adding a semi-colon, and inserting a new phrase to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(h) * * * ; except in those States where the State agency has chosen the option to implement a meals times rates payment system. In those States which implement this optional method of reimbursement, such disbursements may not exceed the rates times the number of meals documented at each facility during any fiscal year.

* * * * *

(Secs. 810, 819 and 820, Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981; Sec. 2, Pub. L. 95-627, Stat. 3603 (42 U.S.C. 1766); Sec. 10, Pub. L. 89-642, 80 Stat. 889 (42 U.S.C. 1979))

Dated: May 6, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-12820 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 411]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 15–21, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 15, 1983.

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

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

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

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on May 10, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee

reports the demand for lemons continues active.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.711 is added as follows:

§ 910.711 Lemon Regulation 411.

The quantity of lemons grown in California and Arizona which may be handled during the period May 15, 1983, through May 21, 1983, is established at 300,000 cartons.

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

D. S. Kuryloski,

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

[FR Doc. 83-13125 Filed 5-12-83; 11:49 am]

BILLING CODE 3410-02-M

---

7 CFR Part 918

[Peach Regulation 2, Amdt. 1]

Fresh Peaches Grown in Georgia; Amendment of Quality and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment of final rule.

SUMMARY: This amendment relaxes quality regulations for shipments of Georgia peaches to nonadjacent markets for the period May 9 through August 31, 1983 by suspending minimum grade requirements, which are essentially that such peaches grade at least 85 percent U.S. No. 1. The amendment continues the minimum size requirement of 1⅝ inches in diameter and requires that the peaches be mature. The amendment removes all such requirements with respect to shipments to adjacent markets. Such action recognizes the composition of the crop and current and prospective marketing conditions.

EFFECTIVE DATE: May 9, 1983.

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

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

This final rule is issued under the marketing agreement, as amended, an Order No. 918, as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on information submitted by the Industry Committee established under this marketing order, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Shipments of Georgia peaches, except peaches in bulk to adjacent markets (The States of Florida, Alabama, Tennessee, North Carolina, South Carolina, Mississippi, and that portion of Louisiana which is east of the Mississippi River) are currently required to grade at least 85 percent U.S. No. 1 quality with additional allowances for damage and decay, and be at least 1⅝ inches in diameter, as well as be inspected and certified as meeting such requirements. Sections 918.54 and 918.400 require that peach shipments be mature.

The committee met on April 12, 1983, to consider supply and market conditions and other factors affecting the need for and type of regulations suitable for the 1983 season Georgia peach crop. The committee recommended that for the 1983 season peaches shipped to other than adjacent markets be mature and measure at least 1⅝ inches in diameter. The committee also recommended that all shipments of peaches to adjacent markets be exempt from these requirements. The committee recommended these requirements based on an appraisal of the current and prospective growing and marketing conditions for this season's Georgia peach crop. The Georgia peach production area is one of the first each season to market an appreciable amount of fresh peaches. During the early weeks of the season there is a tendency to ship inmature and smaller size fruit. Shipment of such fruit at this time tends to adversely affect consumer demand, with resultant depressing effects on grower returns. Specification of minimum size and maturity requirements for shipments to other than adjacent markets is necessary to promote orderly marketing of shipments from the 1983 crop. Peach producing states surrounding Georgia do not have mandatory quality requirements for peaches shipped to fresh markets. Exemption of peach shipments to adjacent markets from grade, size and maturity requirements allows an additional outlet for fruit not meeting the requirements for nonadjacent markets. The committee unanimously adopted and has submitted to the Secretary a marketing policy for the 1983 season Georgia peach crop including an analysis of supply and demand factors having a bearing on the marketing of the crop.

The regulation currently in effect (Peach Regulation 2; 47 FR 32513; July 28, 1982) was issued July 23, 1983, on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. Relaxation of current regulation for Georgia peaches is applicable to the 1983 season only. The committee will continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Georgia peaches. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will review committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice,

engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this final rule is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the revisions of the quality and size requirements at an open meeting, at which the committee, without opposition, recommended implementation of the requirements specified in this final rule. This final rule relieves restrictions on the handling of peaches, and handlers have been apprised of such provisions and the effective date.

List of Subjects in 7 CFR Part 918

Marketing Agreements and Order, Peaches, Georgia.

PART 918—[AMENDED]

Therefore, § 918.325 is amended by adding a new paragraph (e) to read as follows: (Paragraph (e) of § 918.325 expires August 31, 1983, and will not be published in the annual Code of Federal Regulations).

§ 918.325 Peach Regulation 2

* * * * *

(e) Notwithstanding the provisions in paragraphs (a), (b), and (c), of this section, during the period May 9, 1983, through August 31, 1983, no handler shall ship peaches to destinations, other than those in the adjacent markets, unless such peaches are mature as provided in § 918.400, and are not smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅝ inches in diameter.

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

Dated: May 9, 1983.

D.S. Kuryloski,

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

[FR Doc. 83-12858 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 967

Celery Grown in Florida; Reestablishment and Reapportionment of Committee Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule reduces the number of members serving on the Florida Celery Committee from sixteen to twelve, to reflect the declining number of celery producers and handlers in Florida. The reduction in committee size eliminates three positions in the South Florida District and one position in the Central Florida District.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, Washington, D.C. 20250 (202) 447–2615.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action relates to industry representation on the marketing order administrative committee and will not significantly affect costs for the handlers regulated under the program.

Marketing Agreement No. 149 and Order No. 967, both as amended (7 CFR Part 967), regulate the handling of celery grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Celery Committee, established under the order, is responsible for its local administration.

The order currently provides for a committee of sixteen members and their alternates. One member represents the public, and the remaining fifteen are industry representatives. Due to a decline in the number of Florida celery growers and handlers, it has been difficult to fill all positions on the committee. For this reason, the order was recently amended to authorize the reestablishment of the number of industry members on the committee.

After careful consideration of all relevant factors, including the total number of growers and handlers currently active in the production area, the committee unanimously recommended that it be reestablished to consist of twelve members by reducing the number of industry representatives from 15 to 11. Such a change will result in more efficient administration of the program.

The committee further recommended that this reduction be accomplished by eliminating three positions in the South Florida District and one position in the Central Florida District. Representation of the other groups remains unchanged. The committee has determined that such a reapportionment will provide adequate and equitable industry representation in view of the current distribution of celery production and shipments among the five established groups.

Findings. After consideration of all relevant matters, including the proposal set forth in the notice, it is hereby found that the following reestablishment and reapportionment of committee membership will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) this change in committee membership should become effective sufficiently in advance of nomination meetings for the 1983–84 Florida Celery Committee scheduled for mid-June; (2) it was unanimously recommended by the committee and its contents have been widely discussed within the celery industry; and (3) notice was given in the **Federal Register** allowing interested persons to file written comments and none was received.

List of Subjects in 7 CFR Part 967

Marketing agreements and orders, Celery, Florida.

PART 967—CELERY GROWN IN FLORIDA

Sections 967.135 and 967.136 are added to read as follows:

§ 967.135 Reestablishment of committee.

Pursuant to § 967.25(b), the Florida Celery Committee is reestablished to consist of 12 members, including eleven producer or handler members and one public member.

§ 967.136 Reapportionment of committee membership.

Pursuant to § 967.27(g), industry membership on the Florida Celery Committee shall be reapportioned among groups as follows:

(a) Group 1—Two members and their alternates.

(b) Group 2—Two members and their alternates.

(c) Group 3—Two members and their alternates.

(d) Group 4—Two members and their alternates.

(e) Group 5—Three members and their alternates.

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

Dated: May 10, 1983, to become effective upon publication.

D. S. Kuryloski,

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

[FR Doc. 83-12953 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1446

General Regulations Governing 1982 Through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This Final Rule establishes the terms and conditions under which producers acting through area marketing associations may receive price support on eligible peanuts through warehouse storage loans for the 1982 through 1985 crops of peanuts. These regulations are necessary for the administration of the price support program for peanuts. The peanut program is conducted in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended. The provisions of this final rule were addressed in an Interim Rule issued in June of 1982. With a few exceptions, the provisions of this final rule are the same as those contained in the Interim Rule. Changes which are made by this final rule principally involve the terms which must be contained or may be omitted in contracts for additional peanuts, the procedure of assessing penalties under the regulations, and a deletion of a provision of the Interim Rule concerning the substitution of additional peanuts or quota peanuts which had been crushed.

EFFECTIVE DATE: May 31, 1983.

FOR FURTHER INFORMATION CONTACT: David Kincannon (ASCS), 202-382-0154. The Final Regulatory Impact Analysis is available upon request.

SUPPLEMENTARY INFORMATION: This Final Rule has been reviewed under USDA procedures, Executive Order 12291, and Secretary's Memorandum No. 1512-1, and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The information requirements contained in this regulation and information requests authorized by the regulation have been reviewed and approved under OMB Number 0560-0024.

The title and number of the Federal assistance program to which this rule applies are: Commodity Loans and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

An Interim Rule, which established regulations governing 1982 through 1985 Crop peanut warehouse storage loans and handler operations, was published in the **Federal Register** on June 29, 1982 (47 FR 28069). The 60-day comment period on the Interim Rule ended on August 30, 1982.

The regulations set forth in the Interim Rule and this Final Rule are essentially the same as those governing the 1981 and prior crop years which are codified at 7 CFR 1446.1 through 1446.17. Accordingly, the administration of warehouse storage loans and handler operations has been changed only slightly from the manner in which such matters were administered for previous crop years. However, the original Interim Rule and this Final Rule have implemented several modifications which have been made to reflect changes brought about by the Agriculture and Food Act of 1981, Pub. L. 97-98, 95 Stat. 1213, to improve the overall administration of the program, and to address recommendations received during the comment period.

The most significant changes which have been made in the regulations for warehouse storage loans and handler operations for the 1982 through 1985 crops of peanuts, as compared with those which governed previous crop years, are as follows:

1. *Definitions.* As compared to the regulations involving previous crop years, the regulations governing the 1982 through 1985 crop years have been revised to reflect the statutory amendments which were made by the 1981 Act which permit "additional peanuts" (non-quota peanuts) to be grown on non-traditional peanut producing farms and in non-traditional peanut producing areas, and which permit peanut-flaking (in some instances) to be considered as domestic crushing. In addition, the provisions of the regulations relating to the use of peanuts as seeds have in some instances been modified insofar as determining whether the retention of such peanuts on the farm for seed shall be considered as a domestic edible use for quota purposes. In addition, the following definitional changes were made in the interim rule.

(a) The term "additional peanuts" is defined in the regulations governing the 1982 through 1985 crop years to include all peanuts marketed from a farm for which no poundage quota has been established.

(b) For the 1982 through 1985 crops of peanuts, the definition of crushing includes, among other things, peanuts processed into flakes for uses other than traditional domestic edible uses.

(c) The definition of "domestic edible use" has been revised to exclude seed-uses of peanuts where the seeds are unique strains that are not commercially available and which are used to produce green peanuts. In this regard, the term "green peanuts" is specifically defined as those peanuts which are marketed exclusively for use as boiled peanuts.

2. *Completion date for contracting additional peanuts for crushing or export.* Section 359(j) of the 1938 Act, as amended, mandates that contracts between handlers and producers must be submitted for approval to the Secretary of Agriculture prior to April 15 of the year in which the crop is produced. That date is incorporated in this final rule.

3. *Availability of warehouse storage loans.* Section 108A(3)(A) of the 1949 Act requires that the Secretary make warehouse storage loans available in each of the three traditional producing areas through area marketing associations. This final rule specifies that loans for the 1982 through 1985 crop years will be made available in the following areas through the following associations:

(a) For the Southeastern area which includes the traditional peanut-producing areas encompassing the States of Alabama, Florida, Georgia, Mississippi, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers, loans will be made through the GFA Peanut Association of Camilla, Georgia.

(b) for the Southwestern area which includes the traditional peanut-producing areas encompassing the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas, loans will be made through the

Southwestern Peanut Growers Association of Gorman, Texas.

(c) For the Virginia-Carolina area which includes the traditional peanut areas encompassing the states of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee/Congaree-Broad Rivers, loans will be made through the Peanut Growers Cooperative Marketing Association of Franklin, Virginia.

In view of the 1981 amendments to the 1949 Act, which had the effect of broadening the areas in which additional peanuts can be grown beyond traditional peanut-growing regions, warehouse storage loans will also be available to producers of additional peanuts which are grown outside the States named above. All peanuts submitted for loans must be delivered to an approved warehouse located in the marketing area where the peanuts were grown. The schedule which assigns all non-traditional growing regions to one of the three general marketing areas has been modified slightly from the schedule contained in the Interim Rule to cover all territories and possessions of the United States, and the District of Columbia. The modified schedule of assignments is as follows:

(a) Alaska, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming and all territories and possessions of the United States not otherwise assigned are assigned to the Southwest marketing area;

(b) Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, Wisconsin and the District of Columbia are assigned to the Virginia-Carolina marketing area; and

(c) Puerto Rico and the U.S. Virgin Islands are assigned to the Southeast marketing area.

Regulations governing farm-stored loans for all areas of the country are contained in 7 CFR Part 1421.

4. *Immediate buyback of additional peanuts.* The regulations governing the 1981 crop and previous crops which are found at 7 CFR 1446.7, provided that for additional peanuts to be purchased under the "immediate buyback" procedure, the applicable Inspection Certificate and Sales Memorandum was required to be signed by the producer to indicate that the peanuts were available for immediate buyback. Experience has shown, however, that it is often an inconvenience for the producer to sign the Inspection Certificate and Sales Memorandum for each "buyback" purchase. To expedite the delivery of additional peanuts which are available for "immediate buyback" purchase, the regulations governing this procedure have been revised from those which were applicable for the 1981 and previous crop years. This final rule provides that eligibility for "immediate buyback" is established by the farm operator when an application is made for the marketing card (ASCS–1002). The stamp "eligible for buyback" will be placed on the marketing card when it is issued only with the approval of the farm operator, or with the approval of a properly authorized agent of the farm operator if a Power of Attorney (ASCS–211) is on file. Multiple marketing cards may be issued when producers wish only a portion of their additional peanuts to be available for "immediate buyback" purchase. Producers may also apply for supplemental cards if, after having been issued a marketing card, the producer decides to change the eligibility status of any remaining additional peanuts to be marketed.

5. *Procedures for the Assessment of Penalties Against Handlers.* Section 359 of the 1938 Act, as amended, requires that penalties be assessed against handlers who fail to comply with the statutory or regulatory requirements for the handling and disposition of additional peanuts. The procedures for the assessment and collection of such penalties, as well as the appeal rights of handlers, have been clarified in this final rule.

Summary of Comments and Analysis

1. *General.* A total of 72 comments were received from individuals, firms, and organizations. There were 19 comments from grower organizations, 11 from Members of Congress, 11 from individual producers, 8 from general farm organizations, 7 from handler organizations, 3 from individual handlers, and 13 from other entities. There were 5 respondents who supported the Interim Rule as it was issued and made no suggestions for changes. Of this group, 4 specifically supported the continuation of the Segregation 2 and 3 transfer provision contained in the Interim Rule.

2. *Segregation 2 and 3 transfer provision.* The Interim Rule allowed producers who are unable to fill their quota to transfer additional loan peanuts to the quota loan pool. This provision is helpful to producers when drought or other circumstances beyond the producers' control cause their peanuts to grade as Segregation 2 or 3, thus causing the peanuts to be ineligible for price support at the quota loan rate. The transfer allowance is also an effective mechanism for preventing Segregation 3 peanuts from illegally entering the domestic consumption market by encouraging such peanuts to be marketed through the loan program. A number of comments were received with respect to this provision prior to the issuance of the Interim Rule and have been included for consideration in the development of the Final Rule. There were 27 comments in support of the transfer provision as it was issued in the Interim Rule and this provision has been adopted in this final rule.

3. *Export restrictions to Mexico and Canada.* The Interim Rule continued regulations in force for previous crop years which defined Mexico and Canada as ineligible countries for the purpose of exporting contract additional peanuts in the form of peanut products. This regulation was promulgated to protect against the possibility of contract additional peanuts being processed into products in the United States, exported to Canada or Mexico, and then imported back into the U.S. in competition with quota peanuts for a share of the domestic market.

With the exception of those instances where additional peanuts may be substituted for quota peanuts which have been or will be exported, under the two-tiered price support program, additional peanuts may be used in the domestic market only if purchased from CCC loan stocks at the quota support level plus handling costs. This means that peanut products may be offered in the domestic market only if they are: (1) Processed from quota peanuts; (2) processed from additional peanuts loan stocks priced at the quota support level; or (3) processed from imported peanuts brought into the United States within applicable import quota levels. Contract additional peanuts and products made from such peanuts are required by section 359(j) of the 1938 Act, as amended, to be exported or crushed into peanut oil.

In recent years, the incentive for the reentry of peanuts made from restricted peanuts has become substantial. During the 1978 through 1981 crop years, prices for contract additional peanuts were near the quota loan rates, thereby making it relatively uneconomical to export, process, and import the products back into the domestic U.S. market. However, recent legislation and weak world market prices, together with the exclusion of peanut products from existing import quotas, now provide a substantial potential for the

reimportation into the U.S. of peanut products made from contract peanuts purchased at prices lower than statutory minimum U.S. domestic edible prices.

Section 106A of the 1949 Act provides that the minimum quota support level is $550 per short ton for the 1982 crop of peanuts. In addition, the national average quota support rate for each of the 1983, 1984 and 1985 crops of quota peanuts shall be the national average quota support rate for the previous crop, adjusted to reflect any increase in the national average cost of production, excluding any increase in the cost of land. However, in no event can the national average quota support rate for any such crop exceed by more than 6 percent the national average quota support rate for the previous crop. The additional support level, however, continues to be based mainly on crushing value and was established at $200 per ton for 1982. For the 1983 crop, the Secretary has announced that the support level for additional peanuts will be $185 per short ton. Data collected by the Department has indicated that 1982 crop contract additional peanuts were purchased for export by handlers at prices ranging from $200 to $450 per ton. Those figures are $100 to $350 per ton below the quota loan rate and this price spread is substantially wider than the $20 to $50 per ton spread experienced during 1978–1981 crop years.

Seven respondents requested that the provisions of these regulations be revised to allow U.S. firms to export contract additional peanuts in the form of peanut products to Canada and Mexico. The respondents argue that removal of the restriction on the export of contract additional peanuts to these countries is warranted in order that the respondents can compete in foreign markets with foreign companies. However, the Department believes that these restrictions should be continued. First, these restrictions apply only to sales of peanut products to Canada and Mexico insofar as foreign markets are concerned. Second, these restrictions on the export of contract additional peanuts will be continued at this time because removal of the restrictions could entail serious harm to the quota price support program as a result of the displacement of quota peanuts with peanut products which had been purchased at prices which were below the level of quota price support. This raises the possibility of substantial interference with the quota price support program and creates the potential for material losses of public funds committed to the program. To the extent that quota peanuts are displaced, quota stocks may ultimately have to be crushed into oil and meal at prices substantially lower than the quota loan rate. Under the 1938 Act, as amended, the Secretary is required to control and regulate contracts for additional peanuts. The exercise of that power, for the reasons given, warrants, in the Department's view, that the restriction be continued at this time, as provided in this final rule. However, the Department believes that additional consideration of this issue is warranted. In order to highlight this issue and obtain additional public participation, the Department intends to issue a notice which will allow all parties an opportunity to comment on whether further action should be taken to retain, remove or expand the restriction to include other countries.

4. *Handler liability for liquidated damages.* Current regulations provide that liquidated damages will be assessed against a handler who exports additional peanuts and peanut products which are made from additional peanuts if such peanuts or products are reentered into the U.S. These liquidated damages will be assessed regardless of whether the handler was directly involved in the reentry of the peanuts or peanut products. Several handlers and handler organizations have recommended that handlers who exported peanuts or peanut products which are subsequently reentered into the U.S. should not be held liable for liquidated damages with respect to the reentry of such peanuts or products. The price differential that now exists between quota peanuts and contract additional peanuts, however, provides a strong economic incentive for importers to purchase additional peanuts on the international market and to reenter such peanuts or peanut products made from these peanuts into the domestic market. The respondents suggest that rather than assessing liquidated damages against the exporting handler, such damages should be assessed against the person or firm directly responsible for the reentry of the peanuts or peanut products. In this respect, the respondents argue that they lose control of the exported peanuts, have no means to control whether the buyer reenters such peanuts, and, therefore, should be free of liability. Nonetheless, the exporters have the responsibility to inform their customers of restrictions on contract additional peanuts and on peanut products made from additional peanuts and to take such measures as are necessary to ensure compliance. For that reason, it remains appropriate to continue to assert liability for liquidated damages against the handler contracting with the producers for the peanuts. Accordingly, these provisions have not been revised.

5. *Tolerance for screen size variations for the substitution of additional and quota peanuts.* Under the provisions of the Interim Rule, handlers are allowed to substitute additional peanuts into the domestic market for quota peanuts that have previously been exported. In addition, handlers are permitted to substitute additional peanuts into the domestic market against a letter of credit—to cover potential damages to CCC—and later export an equivalent quantity of quota peanuts. The major benefit of substitution is that it enables shellers or handlers to move quota peanuts into export markets before they are in a position to begin processing contract additional peanuts. When contract additional peanuts are subsequently processed, the shelled outturn of the peanuts is supervised by a representative of the Secretary to ensure that substitution involves peanuts of the same crop, type, area, an screen size as the peanuts for which the replacement is made.

Several handlers have suggested that shellers be allowed a 5 percent tolerance in screen size variation when substituting additional peanuts into the domestic market for previously exported quota peanuts or where substitution is made in those instances where a letter of credit is established as specified above. They further suggest that if a general 5 percent tolerance is not allowed, such an allowance should nonetheless be allowed where a larger screen size was exported (within the 5 percent tolerance range), the contention being that there should not be any damage in those instances to the price support program. To allow such tolerances as the respondents seek would, however, still permit the handler involved in such substitutions to exercise some selectivity in adjusting sales of contract additional peanuts and quota peanuts between the domestic and export markets. Even where smaller screen size peanuts are moved into the domestic market through the mechanism of substitution, this would produce an unfair competitive advantage for some handlers to the disadvantage of those handlers competing in the same markets and milling smaller screen size peanuts but with low or nonexistent contract additional peanut purchases. For this reason, the tolerance suggestion has not been adopted at this time.

6. *Supervision of contract additional peanuts.* Under the provisions of the Interim Rule, nonphysical supervision of

contract additional peanuts is no longer available. Nonphysical supervision was permitted for the 1981 crop of peanuts. However, experience with this method of supervision demonstrated several serious flaws. First, handlers have realized shelled outturn that differed substantially from the sample shellings made at the time of loadout. Particularly, more splits have resulted from the commercial shelling process which, in practice, produced substitutions of different qualities of peanuts between the domestic and export markets than would have been the case if nonphysical supervision had not been permitted. The consequent adjustments have required undue and otherwise unnecessary substitutions of peanuts between quota peanut stocks and additional peanut stocks, thereby producing an unwarranted complication in the administration of the program and unneeded adjustments in the actual marketings of peanuts to the possible competitive detriment of other handlers. In addition, the nonphysical supervision option effectively permitted handlers to designate shelled lots for export or crushing without regard to whether such lots were originally designated as quota or as contract additional peanuts. Thus, whenever shelled peanut lots, irrespective of their origin, failed quality standards or have been lost or damaged, handlers have designated these lots as meeting the disposition requirements of contract additional peanuts. This has made it impossible to actually verify with accuracy whether contract additional peanuts are, in fact, entering the domestic edible market through unwarranted substitutions.

Although several respondents favored retaining nonphysical supervision, the larger number of respondents addressing this issue favored the elimination of nonphysical supervision. Thus, the requirement in the Interim Rule that all phases of the handling and disposition of contract additional peanuts must be supervised by a representative of the association has been adopted in the final regulations without change. This leaves the program with the same method of supervision which was applicable for the 1980 crop and prior crop years.

In addition to other modifications already identified, several other minor changes from the provisions of the Interim Rule of June 29, 1982, have been made. They are as follows:

(1) *Contracts for additional peanuts for crushing or export.* Beginning with the 1983 crop year, the requirements for county committee approval of a contract for additional peanuts, Form CCC–1005, have been reduced to what is considered minimally necessary to qualify as a contract. Producers and handlers will be allowed, however, to incorporate previously required items as they mutually agree. The items no longer required for County committee approval include the producer's farm number, the clause on failure to deliver due to conditions beyond the control of the producer, the statement of liens or prior interests, a statement regarding the type of peanuts contracted, and the handler agreement to handle and dispose of the contracted peanuts in accordance with the regulations of 7 CFR Part 1446. These changes should simplify the actual contracting process, as well as simplifying the county committee approval of such contracts.

(2) *Substitution of quota and additional peanuts.* The Interim Rule permits, with the prior approval of the association, additional peanuts to be substituted into the domestic market for farmers stock quota peanuts of the same crop, type, quality, and area that had previously been exported or crushed. When nonphysical supervision was allowed, substitution into the domestic market of quota peanuts which had been crushed was permitted because of factors peculiar to nonphysical supervision. It has become apparent that it is not possible to adequately monitor the quality of quota peanuts which are crushed. This has meant that additional peanuts of edible quality could enter the domestic edible market replacing quota peanuts which had been previously crushed regardless of whether the crushed quota peanuts were themselves of edible quality. If a handler is permitted to crush quota peanuts which do not meet the edible quality standards instead of additional peanuts which are required to be exported or crushed, the handler has an unfair advantage in the marketplace over handlers who do not have access to additional peanuts since a handler executing a peanut marketing agreement must either crush or export for crushing any peanuts not meeting edible quality standards. Accordingly, this final rule provides that additional peanuts may be substituted only for quota peanuts which have been previously exported.

(3) *Procedure for Assessment of Penalties and liquidated damages against handlers.* The Interim Rule provided that any notice of assessment of a penalty or liquidated damages was to be issued by the Director, Tobacco and Peanuts Division. Since these provisions involve matters related to CCC support operations, it has been determined that the more appropriate official to assess such penalties and liquidated damages is a CCC Contracting Officer. Thus, this final rule assigns to CCC contracting officers the responsibility for assessing penalties and liquidated damages.

Likewise, this final rule provides that any administrative appeals involving the assessment or reduction of penalties or liquidated damages must be filed with the Executive Vice President of CCC rather than the Deputy Administrator, State and County Operations, ASCS.

Section 1446.59(e) of the Interim Rule contained a typographical error in setting forth the number of days within which a handler must submit a written appeal of a penalty assessment. That error has been corrected to provide for 15 days for submission of the appeal rather than 45 days.

In addition, a number of the provisions of the Interim Rule have been revised for clarity purposes only. Since these revisions affect a number of sections, it has been determined that the Interim Rule published at 47 FR 28069 should be revised and republished in its entirety, except for conforming changes made to the regulations governing the 1979–1981 crop years which have been adopted as a final rule as published.

List of Subjects in 7 CFR Part 1446

Loan programs—agriculture, Peanuts, Price Support Programs, Warehouse.

Final Rule

Accordingly, the Interim Rule published at 47 FR 28069 is hereby adopted as a Final Rule except that the regulations at 7 CFR 1446.50 *et seq.* are revised as follows:

Subpart—General Regulations Governing 1982 Through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

General

Sec.

1446.50 General statement.
1446.51 Administration.
1446.52 Definitions.

Handler Operations

1446.53 Handler responsibilities.
1446.54 Contracts for additional peanuts for crushing and exportation.
1446.55 Commingling of quota and additional peanuts.
1446.56 Use of additional peanuts as domestic edible peanuts.
1446.57 Compliance requirements for handlers of contract additional peanuts
1446.58 Supervision and handling of contract additional peanuts.
1446.59 Assessment of penalties and liquidated damages against handlers

Warehouse Storage Loans

Sec.
1446.60 Availability of warehouse storage loans.
1446.61 Pooling and distribution of net gains.
1446.62 Producer indebtedness.
1446.63 Eligible producer.
1446.64 Eligible peanuts.
1446.65 Disposition of Segregation 3 peanuts and liquidated damages.
1446.66 Producer transfers of additional loan stocks to quota pools.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 101, 108A, 401 *et seq.*, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421 *et seq.*); Sec. 359, 375, 52 Stat. 31, 64, as amended (7 U.S.C. 1359, 1375), unless otherwise noted.

Subpart—General Regulations Governing 1982 Through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

General

§ 1446.50 General statement.

(a) *Scope.* This subpart sets forth the terms and conditions under which producers and handlers may trade in the 1982 through 1985 crops of peanuts. This subpart also sets forth the terms and conditions under which eligible producers acting collectively through specified marketing associations (referred to severally in this subpart as "the association") may obtain price support on their 1982 through 1985 crops of farmers stock peanuts. Eligible farmers stock peanuts produced by eligible producers which are quota peanuts shall be eligible for price support at the quota support rate. Farmers stock peanuts which are not quota peanuts are considered additional peanuts and shall be eligible for price support at the additional support rate. Additional peanuts may only be marketed through contracts with handlers or by being pledged as collateral for price support loans under the terms of this subpart. Annual notice of determinations will specify support rates, and, where necessary, supplements to this subpart will specify other terms and conditions not contained in this subpart. Specific terms and conditions relating to contracts for sales of peanuts under loan will be set out in announcements issued by the Commodity Credit Corporation (CCC).

(b) *Price support advances.* Producers may obtain price support at the rates specified in the applicable annual Notice of Determination through the applicable association. Each association will make appropriate price support loan advances on peanuts delivered to it by producers at warehouses operating under peanut receiving and warehouse contracts with the association. CCC will make a loan (referred to in this subpart as a "warehouse storage loan") to the association. Such loans will be secured by peanuts received by the association.

(c) *Farm storage loans and purchases from producers.* Regulations setting forth the terms and conditions under which CCC will make farm storage loans directly to producers and purchases directly from producers for any crop of farmers stock peanuts will be published separately in the **Federal Register.**

§ 1446.51 Administration.

(a) *Responsibility.* Under the general direction and supervision of the Executive Vice President, CCC, the Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), will administer this subpart.

(b) *Limitation of authority.* State and county committees or their employees and the associations have no authority to modify or waive any of the provisions of this subpart or any amendment or supplement thereto.

(c) *Supervisory authority.* No delegation of authority in this subpart shall preclude the Executive Vice President, CCC, or the Executive Vice President's designee, from determining any questions arising under the regulations or from reversing or modifying any determinations made pursuant to such delegation.

§ 1446.52 Definitions.

As used in this subpart, and in instructions and documents in connection herewith, the words and phrases defined in this section shall have the meanings herein assigned to them by this section unless the context or subject matter otherwise requires.

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Additional support rate.* The price support rate applicable to additional peanuts.

(c) *ASCS.* The Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(d) *Association.* An area marketing association which is operated primarily for the purpose of conducting loan acitivites and which is selected and approved for such activities by the Secretary.

(e) *CCC.* The Commodity Credit Corporation, an agency and instrumentality of the United States, within the Department of Agriculture.

(f) *Compliance regulations.* The regulations in Part 718 of this title, issued by the Administrator, ASCS, and effective for the applicable crop.

(g) *Contract additional peanuts.* Additional peanuts for crushing or exportation, or both, for which a contract has been entered into between a handler and producer in accordance with § 1446.54.

(h) *County committee.* The body of persons elected within a county as the county committee under the regulations governing the selection and functions of Agricultural Stabilization and Conservation (ASC) county and community committees in Part 7 of subtitle A of this title of the Code of Federal Regulations, except that for Puerto Rico and the Virgin Islands, the Caribbean Area Agricultural Stabilization and Conservation Committee shall, insofar as applicable, perform the functions of the county committee. For other areas without a regular county committee available for handling such matters as would normally fall to a county committee, the functions of the county committee shall be performed by the Deputy Administrator for State and County Operations or the person or body to whom such functions shall be delegated by the Deputy Administrator.

(i) *County office.* The office of the county ASC committee where records for the farm are kept.

(j) *Crushing.* The processing of peanuts: (1) To extract oil for food uses and meal for feed uses; or (2) into flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses.

(k) *Domestic edible use.* Domestic edible use means, for the purpose of regulations found in this subpart: (1) Use of peanuts for milling to produce domestic food peanuts (including the processing of peanuts into flakes for traditional domestic edible uses); (2) use of peanuts for seed, exluding unique strains which are not commercially available and which are used for the production of green peanuts; and (3) use of peanuts on a farm.

(l) *Edible export standard for contract additional peanuts.* Raw shelled or inshell peanuts of any crop exported for human consumption meeting such U.S. grade requirements, or modifications thereof, or requirements as to wholesomeness, as are specified in the outgoing quality regulations for such crop set forth in the Marketing Agreement for Peanuts No. 146: *Provided,* That peanuts shown by the applicable Federal-State Inspection Certificate to deviate from these requirements shall be considered as meeting such requirements if the handler

certifies to the association that such deviations are: (i) Acceptable to the export buyer, and (ii) fall within the range of deviations allowable under the Marketing Agreement.

(m) *Effective farm poundage quota.* The effective farm poundage quota for the applicable crop of peanuts as defined in the poundage quota and marketing regulations, Part 729 of this title.

(n) *Eligible country.* Any destination outside the United States, except that, neither Canada nor Mexico shall be considered an eligible country for the purpose of exporting peanut products other than treated seed peanuts.

(o) *Export and exportation.* A shipment of peanuts or peanut products from the United States directed to a destination outside the United States and for which a statement, which is signed by the handler and specifies the name and address of the consignee, is made available to the association or CCC, or, upon request by the association or CCC, for which a consignee receipt is made available to the association or CCC.

(p) *Extra large kernels.* Shelled Virginia type peanuts which are "whole" and free from "foreign material", "damage", and "minor defects" as such terms are defined in the U.S. Standards for shelled Virginia type peanuts effective on the date of inspection and which will not pass through a screen having 20/64 by 1 inch openings.

(q) *Farm.* A farm, as defined in Part 719 of this title.

(r) *Farmers stock peanuts.* Picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels removed by producers from farmers stock peanuts.

(s) *Flaked peanuts.* Raw contract additional peanuts which are colloid milled (finely ground), stabilized to prevent rancidity, and drum dried into flake form. Flaked peanuts, to be considered as peanuts used for crushing under these rules, may only be used in approved products or uses, those being the processing of flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses. Products approved for use include, but are not limited to, bases for meat and cheese flavored sandwich spreads, meat analogs, extenders for certain types of luncheon meats, extenders for scrambled eggs, and other products as approved by CCC or the association.

(t) *Form ASCS–1007 and Form FV–95.*—(1) *Form ASCS–1007.* The Inspection Certificate and Sales Memorandum for farmers stock peanuts.

(2) *Form FV–95.* The Federal-State Inspection Service Peanut Inspection Notesheet.

(u) *Fragmented peanuts.* Peanuts not more than 20 percent of which are whole kernels which will not pass through the following openings, by type: Spanish 15/64 x 3/4 inch slot; Runner 16/64 x 3/4 inch slot, and Virginia 15/64 x 1 inch slot.

(v) *Green peanuts.* Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

(w) *Handler.* Any person or firm, or subdivision thereof, registered with ASCS for the purpose of acquiring peanuts for resale, domestic consumption, exportation, or crushing, through a business of buying and selling peanuts.

(x) *Inspector.* A Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture.

(y) *Loan value.* The amount of the price support loan advance which may be obtained by a producer from the association under this subpart with respect to a lot of eligible farmers stock peanuts, computed for quota or additional peanuts, as applicable, on the basis of weight, quality, and the support values announced for such type.

(z) *Lot.* That quantity of farmers stock peanuts for which one ASCS–1007 or other inspection certificate is issued. For farmers stock peanuts delivered to the association for a price support loan advance, a lot shall consist of not more than the contents of one vehicle, or two or more vehicles containing a total of approximately 24,000 pounds.

(aa) *Marketing card.* Form ASCS–1002 issued each year in accordance with Part 729 of this title by ASCS county offices to producers for use in marketing peanuts of the applicable crop. Each Form ASCS–1002 shall indicate: (1) The farm operator's eligibility for quota price support; (2) the pounds that may be marketed as quota peanuts; (3) the pounds of additional peanuts contracted and the handler number of the contracting handler; and (4) the eligibility of additional peanuts for immediate buyback.

(bb) *Marketing penalties.* The penalties prescribed in the poundage quota and marketing regulations, Part 729 of this title, which shall be computed and collected in accordance with those regulations and are effective for the applicable crop.

(cc) *Marketing regulations.* Regulations in Part 729 of this title, effective for the applicable crop.

(dd) *Marketing year.* The period beginning on August 1 of the year in which the peanuts of the applicable crop are planted and ending on July 31 of the following year.

(ee) *Net weight.* That weight of farmers stock peanuts obtained by deducting from the gross scale weight of the peanuts: (1) Foreign material; and (2) moisture (i) in excess of seven percent in the traditional peanut-producing States of the Southwestern and Southeastern areas, those being Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, that part of South Carolina in the southeastern area, and Texas; or (ii) in excess of eight percent for peanuts grown in any other location.

(ff) *Peanut meal.* Any meal, cake pellets, or other forms of residue remaining after extraction or expulsion of oil from peanut kernels, but not including pressed peanuts.

(gg) *Peanut products.* Any products, other than peanut oil and meal, manufactured or derived from peanuts such as, but not limited to, peanut candy, peanut butter, and peanut granules.

(hh) *Peanut receiving and warehouse contract.* Form CCC–1028 (Identity Preserved), Form CCC–1028–A (Commingled Storage), or any other form approved by CCC for the purpose of receiving and warehousing peanuts.

(ii) *Peanut segregations.*—(1) *Segregation 1.* Farmers stock peanuts which: (i) Have at least 99 percent peanuts of one type; (ii) have not more than two percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay, nor more than 0.5 percent freeze damage; (iii) are free from any offensive odor; and (iv) are free from visible Aspergillus flavus mold.

(2) *Segregation 2.* Farmers stock peanuts which are free from visible Aspergillus flavus mold and which either: (i) Have less than 99 percent peanuts of one type; or (ii) have more than two percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay, or more than 0.5 percent freeze damage; or (iii) have an offensive odor. However, if such peanuts are placed under additional loan and purchased under the immediate buyback procedure, as provided in § 1446.56(a) of these regulations, such peanuts shall be

considered Segregation 1 additional peanuts for loan pool accounting purposes.

(3) *Segregation 3.* Farmers stock peanuts which have visible Aspergillus flavus mold. However, if such peanuts are placed under additional loan and purchased under the immediate buyback procedure as provided in § 1446.56(a), such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(jj) *Pools.* Accounting pools established by the association and for which complete and accurate records are maintained by area, by type, and by segregation for quota peanuts and additional peanuts not under contract.

(kk) *Quota peanuts.* For purposes of the regulations found in this subpart, peanuts which are: (1) Eligible for domestic edible uses; and (2) marketed or considered marketed from a farm as quota peanuts, but not in excess of the farm poundage quota.

(ll) *Quota support rate.* The price support rate applicable to quota peanuts.

(mm) *Raw peanuts.* Inshell peanuts, shelled peanuts, or blanched peanuts which have not passed through any other processing operations.

(nn) *Sound mature kernels.* Kernels which are free from "damage" and "minor defects" as defined in the U.S. Standards for the applicable type of peanuts effective on the date of the inspection, and which will not pass through screens with the following openings:

Runner type: 15/64 x 3/4 inch slot;
Spanish type: 15/64 x 3/4 inch slot;
Virginia type: 15/64 x 1 inch slot.

(oo) *Type.* The generally known types of peanuts (i.e., Runner, Spanish, Valencia, and Virginia), as defined in the poundage quota and marketing regulations, Part 729 of this title.

(pp) *United States.* The 50 States of the United States, Puerto Rico, the territories and possessions of the United States, and the District of Columbia.

(qq) *United States government agency.* Any corporation wholly owned by the Federal Government, and any department, bureau, administration, or other agency of the Federal Government.

(rr) *Valencia type peanuts produced in the Southwest suitable for cleaning and roasting.* Valencia type peanuts produced in the Southwest containing not more than 25 percent shells damaged by: (1) Discoloration; (2) cracks or broken ends; or (3) both discoloration, and cracks or broken ends.

Handler Operations

§ 1446.53 Handler responsibilities.

(a) *Examination of producers' marketing cards.* All handlers shall examine producers' marketing cards and record each purchase or delivery of peanuts as required in Part 729 of this title and in accordance with procedures established by ASCS. Any peanuts delivered by producers under an additional peanut contract (Form CCC-1005) in excess of the provisions of such contract shall be considered as having been marketed as quota peanuts. No peanuts shall be handled from any producer who does not present a marketing card and farm identification card at the time of delivery.

(b) *Purchase records.*—(1) *Purchases of quota peanuts on which an ASCS-1007 is prepared.* Each handler shall maintain records of the peanuts purchased and sold. The records shall contain, at a minimum, the following information: (i) The State and county code; (ii) the farm number of the farm on which the peanuts were produced or the registration number of the seller if the seller is a handler; (iii) the quantity and type of peanuts; (iv) the date of purchase; and (v) the applicable ASCS-1007 serial number. The handler shall imprint forms ASCS-1007 and FV-95 with the farm identification card, the peanut buyer's card, and the buying point card.

(2) *Purchases of quota peanuts from producers on which an ASCS-1007 is not prepared.* The handler shall immediately transmit a record of such purchase to CCC. Such record shall show the name and address of the producer, State and county code, farm number, the handler's name, address and registration number, buying point, any marketing penalty collected, the type and quantity of peanuts purchased, and the date of purchase.

(c) *Sales and disposal records.* Each handler shall maintain records of all sales and other disposals of peanuts. Such records shall show date of sale, quantity, type, to whom sold, whether sold as edible peanuts or for crushing, and any other information required by this subpart.

(d) *Method of keeping records.* Handler records shall be maintained by a handler in such a manner that will enable the association or CCC, ASCS, or any other representative of the Secretary to readily reconcile the quantities, grades, and qualities of all peanuts acquired and disposed of by such a handler. Records concerning the acquisition and disposal of contract additional peanuts must also be kept in such a manner that the association or CCC, ASCS, or any other representative of the Secretary can readily determine whether there has been compliance with the provisions of this subpart.

(e) *Retention of records.* All records shall be maintained for a period of three years following the end of the marketing year in which the peanuts were produced.

§ 1446.54 Contracts for additional peanuts for crushing and exportation.

(a) *Contracts between handlers and producers.* Handlers who have a U.S. address may contract with producers to buy additional peanuts from producers for crushing or exportation, or both: *Provided however,* That producers approved as producer-handlers under Part 1421 of this title, for the purpose of immediate buyback of their additional peanuts, may not contract with themselves. All contracts for sales of additional peanuts shall be completed on Form CCC-1005 and submitted to the county office for approval prior to April 15 of the year in which the crop is produced. Such contracts cannot be sold or traded, except under the terms and conditions specified in paragraph (b) of this section.

(1) Contracts in order to be approved by the county committee shall include at least the following:

(i) The name and address of the producer;

(ii) The State and County code of the State and County in which the additional peanuts are to be produced;

(iii) The name, and address of the handler, and registration number;

(iv) The amount of Segregation 1, Segregation 2, or Segregation 3 peanuts in pounds;

(v) The contract price shown as a percentage of the quota peanut support rate;

(vi) The signature of the producer; and

(vii) The signature of the handler or authorized agent of the handler.

(2) Contracts Form CCC-1005 (1-22-82), may contain but are not required to contain for approval, the following:

(i) The farm serial number of the farm;

(ii) The type of peanuts;

(iii) A requirement of disclosure by the producer of any liens on the peanuts on date of delivery;

(iv) A provision that the producer shall not be liable for failure to deliver against such contract an amount of peanuts in excess of the actual production of such type and quality on the farm. In the case of harvested peanuts, however, the producer shall be free of his delivery obligation only so long as delivery of such peanuts is prevented solely because of external

source such as drought, fire, lightning, inherent explosion, windstorm, tornado, flood or other act of God, or any other condition beyond the control of the producer; or

(v) The signature of the farm operator.

(b) *Contract transfers and delivery of contracted peanuts to other handlers.* If a handler is unable to perform under contracts with producers for the purchase of additional peanuts because of conditions beyond the handler's control, including but not limited to insolvency, bankruptcy, death, or destruction of warehouse facilities, the handler and the producer may agree to the delivery of the peanuts to other handlers under the terms of the original contract or under modified terms. Such transfers shall not be valid without the prior written approval of the Deputy Administrator, State and County Operations, ASCS. A transfer shall be approved by the Deputy Administrator only if it is determined by the Deputy Administrator that such transfer will not impair the effective operation of the peanut program.

(c) *Contract transfers and transfer of delivery obligations to other producers.* If a producer is unable to fully perform under the terms of a contract with a handler for the purchase of additional peanuts because of conditions beyond the prouducer's control including, but not limited to, farm reconstitutions (combinations and divisions), insolvency, bankruptcy or death, the handler and the producer or his succesor-in-interest may agree to a modification of the contract or to the substitution of another producer either under the original terms of the contract or modified terms: *Provided however,* That where there is a substitution of another producer, the original contract price and quantity provided for in the contract may not be changed. Such modifications or transfers of contract obligations shall not be valid without the prior written approval of the Deputy Administrator, State and County Operations, ASCS. A transfer shall be approved by the Deputy Administrator only if it is determined by the Deputy Administrator that such modifications or transfers will not impair the effective operation of the peanut program. Contract modifications other than changes in producer, owner, or operator, may be approved by the county ASCS office in accordance with instructions issued by ASCS.

(d) *Deliveries under optional provisions of the contract.* Contracts may also specify, in addition to other matters, the terms and conditions of delivery of the peanuts covered in the contract. Such terms and conditions may include, but are not limited to, multiple delivery dates, priorities of delivery, specifications regarding quality, and variation in prices for time of delivery and/or quality of the peanuts actually delivered.

(e) *Contracts between handlers.* Handlers may contract with other handlers to transfer liability for exporting or crushing contract additional peanuts. Such contracts must contain the following agreement:

> I agree that I will either export or crush the peanuts delivered under this contract as provided in Part 1446, Subpart-General Regulations Governing 1982 through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations, as amended, by August 31 following the calendar year in which the crop is grown, except that if the final date for export or crushing is extended by the Commodity Credit Corporation to November 30 of that year, I agree to dispose of such peanuts by November 30 of that year, and that, upon my failure to do so, I shall be subject to a marketing quota penalty as specified in such regulations on all such peanuts which have not been so crushed or exported. I further agree that if I contract with another Handler to market any such peanuts, I shall include as part of the contract the agreement contained herein, and upon my failure to do so, I may be subject to a marketing quota penalty, as specified in the regulations on all such peanuts.

(f) *Inspection of contract additional peanuts.* The type and quality of each lot of contract additional peanuts delivered under contract shall be determined by an inspector when such peanuts are delivered by a producer.

(g) *Contracts for 1982 crop additional peanuts.* Contracts between producers and handlers for 1982 crop additional peanuts entered into prior to April 15, 1982, and meeting the requirements of the regulations then in effect (Subpart—General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations, 7 CFR Part 1446), shall be considered as having met the requirements for such contracts which are set forth in this subpart. However, such contracts and the peanuts which are the subject of such contracts shall otherwise be governed by the terms and conditions set forth in this subpart. All references contained in such contracts to the General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations, or portions thereof, shall be deemed to be references to this subpart.

§ 1446.55 Commingling of quota and additional peanuts.

Quota and additional farmers stock peanuts of like type and segregation may be commingled and exchanged on a dollar value basis to facilitate handling and marketing. The dollar value basis shall be determined on the basis of the quota support rate. The handler shall receive, store, and deliver all such peanuts in accordance with good commercial practices and instructions provided by CCC. For each lot of quota and/or additional peanuts stored commingled, the records of the handler shall show at all times the date and place received, name and address of the producer, the type, segregation, pounds, and dollar-value-in. The handler shall keep such other accounts and records and furnish such information and reports relating to the dollar-value-out and disposition of such peanuts as may be prescribed by the association or CCC.

§ 1446.56 Use of additional peanuts as domestic edible peanuts.

(a) *"Immediate Buyback" purchase.* During harvest season, a handler shall have the right to purchase additional peanuts from the association for domestic edible use at buying points owned or controlled by such handler at prices equal to 100 percent of the quota loan value of such peanuts plus handling charges. The purchase (i.e., the "immediate buyback" purchase) may be made only from the association and only on the date such peanuts were delivered by the producer as collateral for a price support loan. The "immediate buyback" purchase shall be valid and accepted by the association only if the marketing card (ASCS–1002) is stamped "eligible for buyback". The handler shall: (1) As an agent for the association, advance to the producer price support from CCC funds for the peanuts at the additional loan rate; (2) pay to the producer from his own funds any agreed premiums for the delivery of such peanuts by the producer to the handler; and (3) forward to the association a check payable from his own funds to CCC for the peanuts in an amount equal to the quota loan value of the peanuts, as well as any handling charges. The check and applicable ASCS–1007 will identify the peanuts as additional peanuts that may be used for domestic edible use and those documents must be transmitted to the association (as evidenced by a postmark) not later than the third workday (excluding Saturdays, Sundays, and Federal holidays) following the day the peanuts were inspected. Such receipts will be credited to the additional loan pool for such peanuts.

(b) *Purchases of Quota and Additional Peanuts Subsequent to Delivery.* Handlers may also purchase

quota or additional peanuts for the loan pool for domestic edible use after delivery by producers to the association, under terms and conditions established by the association and CCC. The minimum price for such purchases shall be the applicable carrying charges plus: (1) Not less than 105 percent of the quota loan value of the peanuts if paid for not later than December 31 of the marketing year; or (2) not less than 107 percent of the quota loan value if paid for after December 31 of the marketing year.

§ 1446.57 Compliance requirements for handlers of contract additional peanuts.

(a) *Records.* All contract additional peanuts acquired by a handler shall be disposed of by domestic crushing or exportation to an eligible country in accordance with the conditions set forth in this subpart. All handler's records shall be subject to a review by the association, CCC, ASCS, or other representatives of the Secretary of Agriculture to determine compliance with the provisions of this subpart. Refusal to make such handler's records available to the association, CCC, ASCS, or other representative of the Secretary or the failure of such records to establish such disposition by the handler shall constitute prima facie evidence of noncompliance with this subpart for which a penalty may be assessed against the handler in accordance with § 1446.59. Reviews of handler records shall be made by the association in accordance with guidelines established by CCC.

(b) *Excess marketings of quota peanuts.* A handler will be subject to a penalty for noncompliance if it is determined by CCC that he marketed from any crop, for domestic edible use, a larger quantity, or higher grades or quality of peanuts, than could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of quota farmers stock peanuts purchased by the handler during the applicable marketing year and those purchased in accordance with the provisions of § 1446.56, regardless of whether additional peanuts were acquired by the handler. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate with respect to that quantity of farmers stock peanuts which are determined by CCC to be necessary to produce the excess quantity or grade or quality of peanuts sold, expect that such penalty may be reduced in appropriate circumstances under the terms set forth in § 1446.59, which also prescribes the manner in which penalties will be assessed.

(c) *Marketing in the U.S. of peanut products made from contract additional peanuts.* A handler will be subject to a penalty for noncompliance if it is determined by CCC that the handler marketed in the United States, including its territories and possessions and the District of Columbia, any peanut products made from any crop of contract additional peanuts. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate with respect to that quantity of farmers stock peanuts which are determined by CCC to be necessary to produce the quantity of peanut products imported and sold, except that such penalties may be reduced in appropriate circumstances under the terms set forth in § 1446.59, which also prescribes the manner in which penalties will be assessed.

(d) *Storage requirements for contract additional peanuts prior to processing.*—(1) *Commingled storage.* Handlers may commingle quota loan, quota commercial, additional loan, and contract additional peanuts. In such case, quota loan and additional loan peanuts must be inspected as farmers stock peanuts and settled on a dollar value basis less adjustments for shrinkage, except when such peanuts are purchased from the association for domestic edible use on an in-grade, in-weight basis. Contract additional peanuts must be inspected on a farmers stock basis and accounted for on a dollar-value basis less a one time adjustment for shrinkage for each crop equal to 4.0 percent of the dollar value of the peanuts for Virginia-type peanuts and 3.5 percent for all other peanut types. However, if such additional contract peanuts are graded out and accounted for prior to February 1 of the year following the year in which the peanuts were grown, the adjustment of the dollar value for shinkage shall be 3.5 percent for Virginia-type and 3.0 percent for all other peanuts.

(2) *Identity preserved storage.* Contract additional peanuts stored "identity preserved" shall be inspected as farmers stock peanuts and settled on a dollar value basis. The handler shall receive, store, and otherwise handle such peanuts in accordance with good commercial practices and instructions provided by CCC.

(3) *Penalties.* Failure to store and account for peanuts in accordance with the requirements of this paragraph shall constitute noncompliance with this subpart for which a penalty may be assessed in accordance with § 1446.59.

(e) *Disposition of contract additional peanuts.*—(1) *Disposition.* Handlers shall dispose of all contract additional peanuts, either by exportation, crushing, or substitution, in accordance with the requirements and procedures of § 1446.58.

(2) *Final disposition date.* Handlers shall dispose of all contract additional peanuts by August 31 of the year following the calendar year in which the crop was grown.

(3) *Extension of final disposition date.* The final disposition date shall be extended to November 30 of the year following the calendar year in which the crop was grown if, by August 31, the handler:

(i) Furnishes information to the association showing that the contract additional peanuts have been milled and positive lot identified;

(ii) Furnishes the association with the name and location of the contract additional peanuts; and

(iii) Provides a written statement to the association agreeing to pay for any supervision costs which are incurred with respect to contract additional peanuts after August 31.

(4) *Disposition following an extension.* The identical contract additional peanuts with respect to which a request for extension of the final disposition date has been granted by the association or CCC must be disposed of by exportation or crushing in conformity with the requirements of § 1446.58. Such contract additional peanuts may not be disposed of through the substitution procedures set forth in § 1446.58(d).

(5) *Penalties.* The failure of a handler to dispose of contract additional peanuts by the final date for disposition in accordance with the requirements of this subpart shall constitute noncompliance with the provisions of this subpart for which a penalty may be assessed against the handler in accordance with the provisions of § 1446.59.

§ 1446.58 Supervision and handling of contract additional peanuts.

The handler must arrange for and the association will conduct onsite supervision of domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, milling, blanching, weighing, and shipping.

(a) *Access to facilities.* The handler, by entering into contracts to receive contract additional peanuts or any person or firm otherwise receiving contract additional peanuts, shall be deemed to have agreed that authorized

representative(s) of CCC and the association:

(1) May enter and remain upon any of the premises of the handler when such peanuts are being received, shelled, cleaned, bagged, sealed, weighted, graded, stored, milled, blanched, crushed, packaged, shipped, sized, processed into flaked peanuts or other products, or otherwise handled.

(2) May inspect such peanuts and the oil, meal, and other products thereof; and

(3) May inspect the premises, facilites, operations, books, and records of the handler to the extent necessary to determine that such peanuts have been handled in accordance with this subpart.

(b) *Notifying the association.* Before moving or processing any contract additional peanuts, the handler (or cleaner, sheller, or processor under contract with the handler) shall notify the association of the time such operation will begin and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working days advance notice to the association so that supervision can be arranged.

(c) *Processing.* The contract additional peanuts shall be shelled or otherwise milled, crushed, or shelled and crushed as a continuous operation separate from other peanuts. Shelled peanuts shall be identified with positive lot identity tags before being stored and moved for crushing, exportation, processing into peanut flakes, or processing into peanut products to be exported. Except as otherwise authorized by the association, such peanuts will be considered as having been crushed or exported only if positive lot identity has been maintained in the following manner:

(1) *Transportation.* The peanuts shall be transported from the storage location in a covered vehicle, such as a truck or railroad car. The vehicle shall be sealed unless the association determines that identity of the peanuts can be maintained without sealing.

(2) *Storage.* The peanuts shall be stored in separate building(s) or bin(s) which can be sealed or which the association determines will satisfactorily maintain lot identity.

(d) *Substitution of quota and additional peanuts.*—(1) *Substitution of quota peanuts which have been exported.*

(i) *Farmers stock peanuts.* The identical contract additional farmers stock peanuts shall be handled in accordance with the provisions of this section, except that with prior notification to and approval of the association, farmers stock quota peanuts of the same crop, type, quality, and area may be exported in place of such additional peanuts.

(ii) *Milled peanuts.* The identical contract additional milled peanuts shelled under supervision of the association shall be disposed of in accordance with this section, except that with prior notification to and approval by the association, such peanuts may be used to replace, in domestic edible use, quota peanuts of the same crop, type, area, and screen size, which have been previously exported. The quota peanuts exported, for which substitution is requested, must have been positive lot identified and otherwise handled as additional peanuts.

(2) *Use of additional peanuts for domestic edible uses prior to substitution.* Additional peanuts may be used for domestic edible use with prior notification and approval of the association and upon presentation to the association of an irrevocable letter of credit in an amount which is not less than 120 percent of the quota support rate for any portion of the lot for which substitution has not been approved in accordance with paragraph (d)(1) of this section. Such letter of credit shall be issued in a form and by a bank which is acceptable to CCC. The handler shall subsequently deliver to the association satisfactory evidence that a like amount of quota peanuts of appropriate screen sizes have been handled as contract additional peanuts and exported in accordance with these regulations. Such evidence must be submitted no later than 30 days after the final date for export as established in § 1446.57(e)(2) or 15 days prior to the expiration of the letter of credit, whichever occurs first. If satisfactory evidence is not presented by such date, CCC may authorize the association to draw against the letter of credit the full amount of the penalty which would otherwise be due for failure to dispose of contract additional peanuts in accordance with this subpart.

(3) *Time limitations.* Substitution may not be requested or approved with respect to contract additional peanuts for which the final disposition date has been extended in accordance with § 1446.57(e)(3).

(e) *Expense charged to handlers.* All supervision costs shall be borne by handlers.

(f) *Domestic sale or transfer of contract additional peanuts.*—(1) *Farmers stock peanuts.* The handler must submit contracts (CCC–1006) covering any domestic sale, transfer, or other disposition of farmers stock contract additional peanuts to the association for written approval. Such approval must be obtained prior to any physical movement of the peanuts by the handler from the buying point. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees in writing to handle and crush (including processing into flakes in those instances where such processing may be considered as crushing under § 1446.52(s)) or export the contract additional peanuts as raw peanuts or peanut products in accordance with the terms and conditions of this subpart. Approval of such contracts may be made before or after delivery of the peanuts to the handler by the producer.

(2) *Milled peanuts.* The handler must submit contracts (CCC–1006) covering any domestic sale, transfer, or other disposition of milled contract additional peanuts to the association for written approval. Approval must be obtained prior to any physical movement of the peanuts by the handler. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees, in writing, to handle and crush (includes processing into flakes if approved by the association or CCC) or export the contract additional peanuts in accordance with the terms and conditions of this subpart.

(g) *Disposal of contract additional peanuts.* Contract additional peanuts may be disposed of by domestic crushing or by exportation to an eligible country as follows:

(1) All kernels may be crushed domestically; or

(2) All kernels may be exported for crushing, if fragmented; or

(3) All kernels that are graded to meet the edible export standards may be exported and the remaining kernels: (i) Crushed domestically, or (ii) exported for crushing, if fragmented; or

(4) All of the peanuts may be exported as farmers stock peanuts; or

(5) The peanuts may be exported to an eligible country as peanut products if such peanuts meet edible export standards; or

(6) The peanuts may be processed into peanut flakes for those domestic uses approved by CCC or the Association to be considered as a crushing use under the terms of § 1446.52(s) if such peanuts meet domestic edible quality standards; or

(7) The peanuts may be exported as milled or inshell peanuts.

(h) *Disposal of meal contaminated by aflatoxin.* All meal produced from peanuts which are crushed domestically and found to be unsuitable for use as feed because of contamination by aflatoxin shall be disposed of for nonfeed purposes only. If the meal is exported, the export bill of lading shall reflect the analysis of the lot by inclusion and appropriate completion thereon of the following statement: "This shipment consists of lots of meal which contains aflatoxin ranging from —— to —— PPB and averaging —— PPB."

(i) *Final dates for scheduling supervision.* Contract additional farmers stock peanuts shall be scheduled for supervision by the Association during the normal marketing period but not later than July 31 of the calendar year following the calendar year in which the crop was grown, unless prior approval of a later date has been made by the association.

(j) *Exportation provisions.*—(1) *Exportation to a U.S. Government agency.* Except for the exportation of raw peanuts to the military exchange services for processing outside the United States, the exportation of peanuts in any form by or to a United States Government agency shall not be considered as exportation to an eligible country, but shall instead be considered a domestic edible use of such peanuts. However, sales to a foreign government which are financed with funds made available by a United States agency, such as the Agency for International Development, will not be considered sales to a United States Government agency if the peanuts are not purchased by the foreign buyer for transfer to a United States agency.

(2) *Exportation of contract additional peanuts.*—All contract additional peanuts which are not crushed domestically (including approved processing into flakes) and which are eligible for exportation shall be exported in accordance with the provisions of this subpart to an eligible country as peanuts or peanut products.

(3) *Reentry transshipment and liquidated damages.*—(i) *Reentry transshipment.* Additional peanuts and peanut products made from such peanuts which have been exported shall not be reentered by anyone into the United States in any form or product and shall not be caused by a handler to be diverted or transshipped to other than an eligible country in any form or product. If contract additional peanuts or peanut products made from such peanuts are reentered into the United States, the handler shall, except in cases where the handler's liability is transferred under a valid good-faith transfer executed in accordance with the regulations of this part, be liable for liquidated damages as specified in paragraph (j)(3)(ii) of this section. Liability for liquidated damages arising out of purchases of loan additional peanuts (peanuts purchased from inventories of additional peanuts pledged as price support loan collateral) are governed by the terms of announcements issued by CCC describing the terms and conditions of such sales.

(ii) *Liquidated damages.* Any handler receiving contract additional peanuts shall be deemed to have agreed that: CCC may incur serious and substantial damages to its program to support the price of quota peanuts if additional contract peanuts or products made from such peanuts are exported and later are reentered into the United States or diverted or transshipped to other than an eligible country in any form or product; the amount of such damages will be difficult, it not impossible, to ascertain exactly; and, with respect to any such peanuts or the products of such peanuts which are reentered into the United States or diverted to or transshipped to other than an eligible country, such handler shall pay to CCC, as liquidated damages and not as a penalty, the amount by which the national quota support rate for the applicable crop year exceeds the national additional peanut support rate, for that year on a per pound basis for each pound of peanuts or peanut products reentered. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such reentry, diversion, or transshipment.

(iii) *Waiver or reduction of liquidated damages.* The liquidated damages specified in paragraph (j)(3)(ii) of this section may be reduced or waived if the Executive Vice President of CCC, or his designee, determines that such waiver or reduction will not impair the effective operation of the peanut price support program. Such reduction or waiver may contain such terms and conditions as the Executive Vice President of CCC or his designee determines to be appropriate and necessary for effectuating the purposes of the peanut price support program.

(4) *Evidence of exportation.* The handler shall furnish the association or CCC with the following documentary evidence of exportation of peanuts or peanut products not later than 30 days after the final disposition date provided in § 1446.57(e):

(i) *Exportation by water.* A nonnegotiable copy of an onboard ocean bill of lading, signed on behalf of the carrier, showing the date and place of loading onboard vessel, the weight of the peanuts, peanut meal, or products exported, the name of the vessel, the name and address of the exporter, and the country of destination. Peanut meal which is unsuitable for use as feed because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(ii) *Exportation by rail or truck.* A copy of the bill of lading (showing the weight of the peanuts or peanut meal or products exported), supplemented by a copy of the Shipper's Export Declaration or other documentation acceptable to the association. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(iii) *Exportation by air.* A copy of the Airway Bill (showing the weight of the peanuts, peanut meal, or peanut products exported, the consignee and shipper) and other documentation acceptable to the association.

(iv) *Certified statement.* A statement signed by the handler specifying the name and address of the consignee or, upon request by the association of CCC, a copy of the consignee receipt.

(k) *Penalties.* Failures to obtain required supervision from the association, or failure to handle and dispose of contract additional peanuts in accordance with the provisions of this section, shall constitute noncompliance with the provisions of this subpart for which a penalty may be assessed in accordance with § 1446.59.

§ 1446.59 Assessment of penalties and liquidated damages against handlers.

(a) *Penalty liability.* A handler shall be subject to the penalty provisions of this subpart for any or all of the following violations:

(1) Failure to keep or make available records in accordance with § 1446.57(a);

(2) Excess marketings of quota peanuts, as set forth in § 1446.57(b), including any marketing of imported peanut products made from contract additional peanuts as set forth in § 1446.57(c) or any marketing of imported peanut products made from additional peanuts purchased from the inventory of CCC loan collateral peanuts;

(3) Failure to store and account for contract additional peanuts in accordance with the requirements of § 1446.57(d);

(4) Failure to dispose of contract additional peanuts in accordance with this subpart by the final disposition date in accordance with § 1446.57(e); or

(5) Failure to obtain supervision of or to handle contract additional peanuts as required by § 1446.58.

(b) *Liquidated damages.* The liability for, and the amount of liquidated damages shall be determined in accordance with § 1446.58(j)(3).

(c) *Penalty rate and amount.* The penalty rate shall be equal to 120 percent of the basic quota support rate for the applicable crop year for the type of peanuts involved in the violation for which the penalty is being assessed. The amount of the penalty shall be equal to the penalty rate times the quantity of peanuts: (1) For which records have not been properly kept or made available; (2) marketed as excess quota marketings; (3) not properly stored; (4) not properly disposed of; (5) not properly supervised or handled; or (6) determined by CCC to have been necessary to produce the quantity of peanut products made from contract additional peanuts imported and sold in the United States.

(d) *Notice of assessment.* A handler shall be notified in writing of the assessment of a penalty or liquidated damages by a CCC contracting officer. Such notice shall state the basis for the assessment of the penalty or liquidated damages, and shall advise the handler of the handler's appeal rights under this subpart.

(e) *Appeals.* A handler who is dissatisfied with the penalties or liquidated damages assessed by the CCC contracting officer may file a written request for reconsideration of the assessment with the CCC contracting officer. Such request must be made no later than 15 days after the handler receives the notice of assessment. If the handler is dissatisfied with the determination, the handler may appeal such determination by submitting a written notice of appeal to the Executive Vice President of CCC, within 15 days of the issuance of a determination of reconsideration by the contracting officer. Except as otherwise provided herein, such appeal shall be conducted in accordance with the appeal regulations set forth in Part 780 of this title.

(f) *Request for reductions of penalties or liquidated damages.*—(1) *Form of request.* A handler may request a reduction in the amount of the penalties or liquidated damages which have been assessed. Such a request shall be treated as an appeal under paragraph (e) of this section, and must comply with the requirements of that section. The handler may simultaneously contest liability for the penalty or liquidated damages and, in the alternative, request that the penalty or liquidated damages be reduced.

(2) *Reduction criteria.*—(i) *Liquidated damages.* The criteria for reducing liquidated damages shall be those which are set forth in § 1446.58(j)(3)(iii).

(ii) *Penalties.* A penalty may be reduced if the Executive Vice President of CCC or his designee, determines that the violation for which the penalty was assessed was done unintentionally or unknowingly by the handler and that a reduction in the amount of the penalty would not impair the effective operation of the price support program for peanuts. The provisions of this paragraph shall be applicable only to handlers who made a good faith effort to comply fully with the terms and conditions of the program.

(3) *Limitations.* The amount of a penalty may not be reduced to less than an amount which is equal to 40 percent of the basic quota support rate for the applicable crop year times the quantity of peanuts involved in the violation. There shall be no limitation on the amount by which an assessment of liquidated damages may be reduced.

Warehouse Storage Loans

§ 1446.60 Availability of warehouse storage loans.

(a) *Loans to associations.* CCC will make warehouse storage price support loans to the associations specified in paragraph (b) of this section which contract with CCC to arrange for the storing and handling of farmers stock peanuts, make price support advances to producers on such peanuts, and use such peanuts as collateral for loans to be obtained from CCC. Loans on quota peanuts shall be made on the basis of the quota support rate, and loans on additional peanuts shall be made on the basis of the additional support rate. Such loans will mature on demand.

(b) *Associations and areas.* Price support advances will be available through:

(1) The GFA Peanut Association of Camilla, Georgia, for the Southeastern area consisting of Puerto Rico, the U.S. Virgin Islands, and the States of Alabama, Florida, Georgia, Mississippi, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers;

(2) The Southwestern Peanut Growers Association of Gorman, Texas, for the Southwestern area consisting of all other territories and possessions of the United States not listed in paragraphs (b)(1) or (b)(3) of this section, and the States of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming;

(3) The Peanut Growers Cooperative Marketing Association of Franklin, Virginia, for the Virginia-Carolina area consisting of the District of Columbia, and the States of Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Where available.* Price support advances will be available to eligible producers at warehouses which have entered into peanut receiving and warehouse contracts with the association. Such contracts will require the warehouseman to inform producers that price support advances are available and to make advances to producers on eligible peanuts tendered for price support as provided in paragraph (g) of this section. The contracts will require Warehousemen to: (1) Examine the producers' marketing cards to determine price support eligibility; (2) make entries on the marketing card as required by Part 729 of this title; and (3) record each delivery as to quota or additional peanuts and date of delivery. If quota peanuts or contract additional peanuts are delivered, the balance of the quota or contract additional peanuts must be shown on the marketing card after each delivery. The names and locations of such warehouses may be obtained from the office of the appropriate association or from State or county ASCS offices.

(d) *Time.* Price support advances to eligible producers on peanuts of any crop will be available from the beginning of harvest through the following January 31 or such later date as may be established by the Executive Vice President, CCC. If the final date of availability falls on a nonworkday for the association, the applicable final date shall be the next workday.

(e) *Inspection.* The type and quality of each lot of farmers stock peanuts delivered to an association for a price support advance shall be determined by an inspector when such peanuts are received at a warehouse under contract with an association.

(f) *Producer agreement.* To obtain a price support advance, the producer shall, in writing, authorize the association to pledge the peanuts delivered to the association by the producer to CCC as collateral for a warehouse storage loan and relinquish any right to redeem or obtain possession of such peanuts.

(g) *Advance to the producer.* For each lot of peanuts delivered, the association will make a price support advance to the producer in an amount equal to the support value of such peanuts in accordance with procedures established by CCC. However, in addition to marketing quota penalties and the deductions specified in § 1446.62, any assessments or excise taxes imposed by State law will be deducted from such advances and paid to the proper State authorities. In addition, the Southwestern Peanut Growers Association may, upon the prior agreement of the producer, deduct from such advance an amount which is approved by CCC, not to exceed $1 per net weight ton of peanuts upon which such advance was made, and which is to be used in financing its peanut related activities outside the price support program.

(h) *Fraud by the producer.* The making of any fraudulent representation by a producer in the loan documents or in obtaining a price support loan advance shall render the producer subject to criminal prosecution under applicable Federal statutes. In addition to any liability under criminal or civil fraud statutes, the producer shall be personally liable to CCC for the amount of the loan advance and for all costs which CCC incurred as a result of the producer's fraudulent representation, together with interest upon such amounts at the rate per annum equal to the rate of interest which was charged CCC by the Treasurer of the United States on the date the price support loan advance was made. The producer shall be given credit for the proceeds received by CCC upon sale of the peanuts upon which such advance was made.

(i) *Ineligible peanuts.* Any person who causes ineligible peanuts (as defined in § 1446.64), to be placed in the loan program shall pay to CCC, as liquidated damages, the amount by which the average quota or additional loan rate (whichever is applicable) for that type of peanuts exceeds the market price for such type for crushing, as determined by CCC. Such person shall pay such amount to CCC promptly upon demand. Liquidated damages under this subsection may be reduced by the Executive Vice President, CCC, or his designee based upon a consideration of the following factors: (1) Whether the person causing ineligible peanuts to be placed in the loan program made a good faith effort to ensure that ineligible peanuts were not pledged as loan collateral; (2) the degree of damage or potential damage to the price support program; (3) the nature and circumstances of the violation; (4) the extent of the violation; and (5) any other pertinent information.

§ 1446.61 Pooling and distribution of net gains.

The association shall establish separate pools by area, type, and segregation of peanuts and maintain separate, complete and accurate records for quota peanuts under loan and for additional peanuts under loan. Bright hull and dark hull Valencia peanuts produced in the southwest area shall be considered as different types for purposes of establishing pools under this section. Net gains on peanuts in each pool shall be distributed to each producer in proportion to the value of peanuts placed in the pool by the producer, except that any distribution of net gains with respect to additional peanut pools of any type to a producer shall be reduced to the extent of any loss incurred by CCC on quota peanuts of a different type placed under loan by the same producer. In addition, the proceeds due to any producer from any pool shall be reduced by the amount of any losses which are incurred by CCC with respect to peanuts which are transferred from an additional loan pool to a quota loan pool under the provisions of this subpart.

(a) *Quota pool.* Net gains from peanuts in the quota pool shall consist of:

(1) the net gains which are in excess of the loan indebtedness on quota peanuts and other costs or losses which are incurred by CCC as the result of such peanuts being placed in the pool by a producer, plus

(2) an amount from the net gains on additional peanuts sold into domestic food and related uses which is equal to the losses incurred in disposing of an equal quantity of quota peanuts of the same type and segregation in the same production area, considering sales of quota peanuts for export first and then as necessary, sales for crushing.

(b) *Additional pool.* Net gains for peanuts in the additional pool shall consist of:

(1) The net gains which are in excess of the loan indebtedness on additional peanuts and other costs or losses which are incurred by CCC as the result of such peanuts being placed in the pool by a producer, less

(2) An amount of the net gains from the additional pool allocated to the quota pool to offset any loss on that pool which is attributable to additional peanuts being used in domestic edible use.

§ 1446.62 Producer indebtedness.

(a) *Facility and drying equipment loans.* If an installment or installments on any loan made by CCC on farm storage facilities or drying equipment are payable under the provisions of the note evidencing such loan and the amount due is recorded on the producer's marketing card, any amount due the producer under this subpart, after deduction of payments due prior lienholders, shall be applied to such installment(s).

(b) *Producers listed on county debt record.* If the producer is indebted to CCC, Farmers Home Administration, or to any other agency of the United States, and such indebtedness is listed on the county debt record and recorded on the producer's marketing card, amounts due the producer under this subpart, after deduction of amount due prior lienholders and on farm storage facilities or drying equipment, shall be applied to such indebtedness as provided in the Secretary's Setoff Regulations, Part 13 of this title.

§ 1446.63 Eligible producer.

(a) *Requirements.* An eligible producer is an individual, partnership, association, corporation, estate, trust, or other legal entity, and whenever applicable, a State, political subdivision of a State, or any agency thereof, producing peanuts as a landowner, landlord, tenant, or sharecropper on a farm. No producer on a farm for which the farm operator fails timely to file a report of crop or land use acreage as required by Part 718 of this title shall be eligible for price support at the quota loan rate unless the late-filed report was accepted by the county ASC committee. In addition, no producer shall be eligible for price support at the quota loan rate if the producer has filed an erroneous report of crop or land use acreage unless: (1) The determined acreage does not differ from the reported acreage by more than the tolerance established by Part 718 of this title; or (2) the county ASC committee determines that the producer acted in good faith in reporting the crop or land use acreage.

(b) *Estates and trusts.* A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate or of a

ward or of an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustees shall be considered to be the production of the person represented. Loan documents executed by any such person shall be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if such minor meets one of the following requirements: (1) The right of majority has been conferred on such minor by court proceedings or by statute; (2) a guardian has been appointed to manage such minor's property and the applicable price support documents are signed by the guardian; or (3) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had such minor been an adult.

§ 1446.64 Eligible peanuts.

Eligible peanuts shall be farmers stock peanuts of the applicable crop which were produced in the United States by an eligible producer.

(a) *Quota support.* Peanuts eligible for quota support are peanuts which meet the following requirements. The peanuts:

(1) Must be Segregation 1 peanuts;

(2) Must contain not more than 10 percent moisture and which, if mechanically dried, contain at least 6 percent moisture;

(3) Must contain no more than 10 percent foreign material;

(4) Must be free and clear of all liens and encumbrances, including any landlord's liens, unless acceptable waivers are obtained;

(5) Must, if delivered to the association in bags in the Southwestern area, be in new or thoroughly cleaned used bags which: (i) Are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, (ii) are free from holes, (iii) are finished at the top with either the selvage edge of the material, a binding, or a hem, and (iv) are uniform in size with approximately 2 bushel capacity;

(6) Must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; and

(7) Must have been inspected as farmers stock peanuts and have an official grade determined by an inspector.

(b) *Additional support.* Peanuts eligible for additional support are peanuts which meet the following requirements. The peanuts:

(1) Must contain not more than 10 percent moisture;

(2) Must contain not more than 10 percent foreign material, except that such peanuts may contain more than 10 percent foreign material, if the handler agrees to purchase such peanuts for domestic edible use as provided in § 1446.56(a).

(3) Must be free and clear of all liens and encumbrances, including landlord's liens, unless acceptable waivers are obtained;

(4) Must, if delivered to the association in bags in the Southwestern area, be in new or thoroughly cleaned used bags which: (i) Are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, (ii) are free from holes, (iii) are finished at the top with either the selvage edge of the material, a binding, or a hem, and (iv) are uniform in size with approximately 2 bushel capacity;

(5) Must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; and

(6) Must have been inspected as farmers stock peanuts and have an official grade determined by an inspector.

Peanuts which are graded as Segregation 2 or 3 and which, because they contain more than 10 percent moisture and/or foreign material, would otherwise not be considered acceptable for loans under the provisions of (b)(1) and (b)(2) will nonetheless be considered eligible for loans, provided that all other conditions of this section are met, if: the level of moisture does not exceed a level determined to be acceptable by the association; the local crushing market for peanuts is such that the peanuts can be crushed within a reasonable time, as determined by the association; and the producer has made a bona fide effort, as determined by the association, to clean and dry such peanuts prior to offering such peanuts for loan.

(c) *Ownership requirement.* In addition to the requirements set out above, the beneficial interest in all peanuts of all segregations tendered for support as either quota or additional peanuts must be in the producer who delivers them to the association and must always have been in such producer or a former producer whom such producer succeeded before the peanuts were harvested. In order to meet the requirements of succession, the rights, responsibilities, and interests of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether his interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the appropriate county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC.

§ 1446.65 Disposition of Segregation 3 peanuts and liquidated damages.

(a) *Disposition of Segregation 3 peanuts.* Any producer who has a lot of farmers stock peanuts classified by the inspector as Segregation 3 peanuts shall:

(1) Deliver the peanuts to the association subject to the conditions set forth in this subpart for loan at the additional loan rate;

(2) Deliver such lot as contract additional peanuts subject to the provisions of § 1446.54;

(3) Sell such peanuts as quota peanuts subject to the conditions set forth in this subpart to a handler who is a signer of the peanut marketing agreement or to any handler in the event that such peanuts are seed peanuts produced under the auspices of a State agency if the handler to whom the peanuts are sold has signed a supervision supplement to the warehousing contract with the area marketing association; or

(4) Retain the lot for seed.

(b) *Failure to Properly Dispose of Segregation 3 Peanuts.* If the producer does not dispose of or market such peanuts as provided above on the date of inspection, such producer shall be ineligible for continued quota price support for the rest of the marketing year on all peanuts at the close of business on the day of the inspection.

(c) *Retention of Segregation 3 Peanuts for Seed.* If the producer elects to retain a lot for seed, the producer shall designate such peanuts as quota peanuts, have the net weight of such peanuts determined and deducted from the farm marketing card, and advise the inspector that the peanuts are being retained for seed. The producer shall be given a copy of the ASCS–1007 as a record showing the quantity and quality

factors of the peanuts and must store such peanuts separate from other peanuts on the farm. The producer shall notify CCC when such peanuts are used and otherwise account for the disposition of such peanuts. Should it later be determined that such peanuts are unfit for seed use, the producer may, after receiving prior approval from the county office, sell such peanuts for crushing as quota peanuts without benefit of price support.

(d) *Liquidated damages.* Any producer participating in the price support loan program shall be deemed to have agreed that: CCC will incur serious and substantial damage to its program to support the price of peanuts if Segregation 3 peanuts are disposed of other than in the manner prescribed by CCC; the amount of such damages will be difficult, if not impossible, to ascertain exactly; and, with respect to any lot of peanuts which is pledged as collateral for a quota price support loan but which is ineligible for such loan, or any lot of peanuts which is pledged as collateral for a quota price support loan by a producer after the producer has disposed of any lot of Segregation 3 peanuts in any manner other than in the manner prescribed in paragraph (a) of this section, such producer shall pay to CCC as liquidated damages and not as a penalty, the difference between the quota loan rate and the additional loan rate (on a per pound basis) per net pound of such peanuts. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such action by the producer. The provisions of § 1446.60(i) relating to the producer's liability shall not be applicable to such peanuts. However, the producers retain such liability as the producer may have under any applicable civil or criminal fraud statute.

§ 1446.66 Producer transfers of additional loan stocks to quota pools.

Producers may transfer Segregation 2 and Segregation 3 additional loan peanuts to the quota loan pool after the producer has completed marketing and returned his marketing card to the county office. Such transfer may not exceed the smaller of the effective farm poundage quota minus the production of Segregation 1 peanuts on the farm, or the undermarketing of quota peanuts shown on the farm marketing card: *Provided,* That the pool proceeds due such producer from peanuts in any other pool shall be reduced by the amount of any losses to CCC on the peanuts so transferred. The support values for any Segregation 2 peanuts so transferred shall be the support value for quota peanuts minus the damage discount published in the quota support schedule and the support value for Segregation 3 peanuts shall be the support value for quota peanuts minus the applicable discount published in the quota support schedule. Producers who are eligible to transfer additional loan peanuts to the quota loan pool in accordance with the provisions of this section may apply for such transfers with the county office. The county office shall determine the quantity of undermarketings of quota peanuts and the quantity of additional peanuts which are eligible for transfer. The producer must indicate to the county office the net weight and applicable Form ASCS–1007 numbers for the peanuts to be transferred. Such pounds shall be considered as marketing of quota peanuts, the applicable ASCS–1007 shall be appropriately adjusted and the producer will be advanced the appropriate difference between the additional and quota support rates.

Signed at Washington, D.C., on May 10, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-12952 Filed 5-12-83; 8:45 am]
BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins; Withdrawal of REA Specification for Direct Burial Telephone Cable (Air Core), PE–23

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins by withdrawing Bulletin 345–14, REA Specification for Direct Burial Telephone Cable (Air Core), PE–23. A review of the current specifications and practices in rural telephony revealed that the product covered in this specification has little or no utility in today's modern telecommunications systems. Filled cables are now used in applications for which this product was intended. As the product is no longer used, there is no valid reason to maintain the specification.

EFFECTIVE DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8663. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). This final action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A–95 review. This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Background—While useful in the past, the product covered by this specification has little or no utility in today's modern telecommunication system because of the increasing use of filled cables in similar applications. As the product is no longer produced in significant quantities, and rural telecommunications systems are no longer using it, withdrawal of this specification will permit a reduction in government paperwork with virtually no impact on the private sector.

A Notice of Proposed Rulemaking was published in the **Federal Register** on February 15, 1983, Volume 48, Number 32, page 6718. However, no public comments were received in response to the notice.

In view of the above, the Administrator hereby amends 7 CFR Part 1701, Appendix A—REA Bulletins, by withdrawing Bulletin 345–14, REA Specification for Direct Burial Telephone Cable (Air Core), PE–23.

List of Subjects in 7 CFR Part 1701

Loan programs—communications, Telecommunications, Telephone.

Dated: May 6, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-12856 Filed 5-12-83; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 231

Arrival-Departure Manifests and Lists; Supporting Documents; Revised Requirements

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule eliminates certain manifest requirements for carriers transporting aliens. In addition, procedures for manifests required by air and sea carriers are simplified to eliminate collection of unnecessary information and thus reduce their paperwork requirements.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT:
For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3048
For Specific Information: Lawrence J. Weinig, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–2680

SUPPLEMENTARY INFORMATION: After careful review of the Service's information collecting requirements under section 231 of the Act (8 U.S.C. 1221), it has been determined that the manifest procedures and reporting requirements for commercial passenger carriers can be simplified to reduce the paperwork burden imposed under the Act.

Under this rule, use of Form I–418, Passenger List-Crew List, is no longer required as a passenger manifest and its use is now limited to crewmember manifests. Both sea and air carriers will continue to use Form I–92, Aircraft/Vessel Report, for passenger manifests.

Additionally, Form I–94, Arrival/Departure Record, is not required for arriving or departing resident aliens and immigrants; however, use of Form I–94 is still required for nonimmigrants. Also, crewmembers are still required to use Form I–95AB, Crewman's Landing Permit, for multiple entries.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the rule is limited to revising procedures which reduce the paperwork reporting burden upon the public.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of Section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 231

Air carriers, Aliens, Crewmen, Inspections, Maritime carriers, Passenger vessels.

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

PART 231—ARRIVAL-DEPARTURE MANIFESTS AND LISTS; SUPPORTING DOCUMENTS

In Part 231, §§ 231.1 and 231.2 are revised to read as follows:

§ 231.1 Arrival manifest for passengers.

(a) *Requirement for manifest.* The master, captain, or agent of every vessel or aircraft arriving in the United States from a foreign place or outlying possession of the United States shall present an arrival manifest to the immigration officer at the port or entry. The manifest must be in the form of a separate Arrival/Departure Record, Form I–94, prepared on board for each passenger except: United States citizens, lawful permanent resident aliens of the United States, and immigrants to the United States. In addition, a properly completed Aircraft/Vessel Report, Form I–92, must be submitted for each arriving aircraft vessel which is transporting passengers. Manifests are not required by vessels or aircraft arriving directly from Canada on a trip originating in that country or arriving in the Virgin Islands of the United States directly from a trip originating in the British Virgin Islands.

(b) *In-Transit Passengers.* An Arrival/Departure Record, Form I–94, is not required for an arriving, through-flight passenger at a United States port provided:

(1) The passenger will depart directly to a foreign place or outlying possession of the United States on the same flight;

(2) The number of through-flight passengers is noted on the Aircraft/Vessel Report, Form I–92, for the flight;

(3) The flight is inspected at a port of entry designated in paragraph 214.2(c) of this chapter;

(4) The carrier is signatory to an Immediate and Continuous Transit Agreement, Form I–426; and

(5) All through-flight passengers remain on board the aircraft or in a separate area under the direction and control of the Service during the ground time.

(c) *Progressive Clearance.* Inspection of arriving passengers may be deferred at the request of the carrier to an onward port of debarkation. Authorization for this progressive clearance may be granted by the Regional Commissioner when both the initial port of entry and the onward port are within the same regional jurisdiction, but when the initial port of entry and onward port are located within different regions, requests for progressive clearance must be authorized by the Assistant Commissioner for Inspections. When progressive clearance is requested, the carrier shall present Form I–92 in duplicate at the initial port of entry. The original Form I–92 will be processed at the initial port of entry, and the duplicate noted and returned to the carrier for presentation at the onward port of debarkation.

(d) *Preparation of Arrival/Departure Record, Form I–94.* Air and sea carriers shall be responsible to ensure that a properly completed From I–94 is presented to the immigration inspector at the port of entry for each arriving passenger except those passengers who do not require a Form I–94 under paragraph (a) of this section. The following classes of aliens are not required to complete the departure portion of the form I–94 if they are entering the U.S. for business or pleasure under section 101(a)(15)(B) of the Act, and intend to remain in the United States for less than six months:

(1) Citizens of Canada or British dependent territories citizens, Bermuda, and

(2) Residents of Canada or Bermuda having common nationality with Canadian nationals or British dependent territories citizens, Bermuda.

§ 231.2 Departure manifest for passengers.

The master, captain, or agent of every vessel or aircraft departing from the United States for a foreign place or outlying possession of the United States shall present a departure manifest to the immigration officer at the port of departure. The manifest must be in the form of a properly completed departure portion of Form I–94, Arrival/Departure Record, for each person on board except for United States citizens, and lawful permanent resident aliens of the United States. No manifest is required for a vessel or aircraft departing on a trip directly for and terminating in Canada, or departing from the United States Virgin Islands driectly to the British Virgin Islands on a trip terminating in the British Virgin Islands. Whenever possible, the departure Form I–94 used shall be the same form given the alien at the time of arrival in the United States.

Carriers shall endorse the Form I–94 with the departure information on the reverse of the form. Additionally, a properly completed Aircraft/Vessel Report, Form I–92, must be completed for each departing aircraft and each departing vessel which is transporting passengers. Submission of Forms I–94 and I–92 to the immigration officer shall normally be accomplished within 48 hours of the departure, exclusive of Saturdays, Sundays, and legal holidays. Failure to submit departure manifests within this time period shall be regarded as failure to comply with section 231(d) of the Act, unless prior authorization for delayed delivery of the departure manifest is obtained from the district director. A nonimmigrant alien departing on an aircraft proceeding directly to Canada on a flight terminating in that country should surrender any Form I–94 in his/her possession to the airline agent at the port of departure. Aircraft manifests should not include I–94 forms for in-transit passengers referred to in paragraph (b) of § 231.1.

(Secs. 103, 231 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103, 1221))

Dated: April 22, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner for Examinations, Immigration and Naturalization Service.

[FR Doc. 83–12809 Filed 5–12–83; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82–054]

Treatment of Horses From Countries Affected with CEM

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document revises the conditions which States must meet in order to receive stallions over 731 days of age imported from countries in which CEM exists. This action is necessary to prevent the introduction and dissemination of CEM into the United States.

DATES: Effective date: May 13, 1983. Comment date: Comments must be received on or before July 12, 1983.

ADDRESS: Written comments to T. O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 728, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, VS, APHIS, USDA, Room 840, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an annual effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dr. Saul T. Wilson, Jr., Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. These amendments are necessary to protect the United States from the introduction and dissemination of CEM, and should be made effective immediately in order to accomplish this purpose.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register.**

Comments have been solicited for 60 days after publication of this documents, and this emergency interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This rule will only affect those importers interested in importing stallions from countries in which CEM exists. It is anticipated that approximately 60 such stallions will be imported during calendar year 1983. This compares with approximately 40,000 horses of all classes imported into the United States in fiscal year 1982.

Alternatives

The following alternatives were considered: (1) To not amend the regulations, and (2) to amend the regulations as set forth in this document. The present regulations present unnecessary risks of the introduction and dissemination of CEM into the United States which are eliminated by these amendments. Also, these amendments relieve restrictions by permitting specimens collected from mares used to test stallions for CEM to be sent to USDA-approved laboratories. Accordingly, alternative 2 was selected.

Background

On January 4, 1980, a document was published in the **Federal Register** (45 FR 1003–1006) which established the conditions which States must meet in order to be approved to receive stallions over 731 days of age imported from countries in which CEM exists. These conditions were intended to eliminate unnecessary risks of the introduction and dissemination of CEM into the United States. Upon further consideration, the Department believes that these conditions still present unnecessary risks, and that these risks must be eliminated. Therefore, in order to eliminate unnecessary risks regarding the introduction and dissemination of CEM into the United States, this document amends the conditions which States must meet in order to be approved to receive stallions over 731 days of age imported from countries in which CEM exists. Each amendment made by this document is discussed in detail below.

The introductory clause in § 92.4(a)(6) is amended to conform a cross reference in that clause to the style presently required in the Document Drafting

Handbook published by the Office of the Federal Register. Other nonsubstantive changes are made for clarity.

Present § 92.4(a)(6)(ii) is renumbered § 92.4(a)(6)(ii)(A) and is amended to correct a typographical error. As presently written § 92.4(a)(6)(ii) requires that an approved State to receive stallions from CEM contries quarantine certain specified imported stallions until such stallions have been treated in accordance with the provisions of paragraph "(a)(6)(ii)." The treatment required prior to release from such quarantine is, however, set forth in § 92.4(a)(6)(iii). Therefore, the reference contained in present § 92.4(a)(6)(ii) to "(a)(6)(ii)" is amended to read "(a)(6)(iii)." Other nonsubstantive changes are made to conform cross references in § 92.4(a)(6)(ii) to the style presently required in the Document Drafting Handbook published by the Office of the Federal Register and to remove redundant language.

Further, a new § 92.4(a)(6)(ii)(B) is added to require that in order to be approved to receive stallions over 731 days of age imported for permanent entry from countries in which CEM exists (as listed in § 92.2(i)(1)), the State must agree to quarantine all mares used to test stallions for CEM until the mares have been released from quarantine in accordance with new § 92.4(a)(6)(iii)(C)(*4*). The Department believes that the quarantine of such mares until the provisions for release have been met is necessary to prevent the possible interstate dissemination of CEM. The substantive aspects of the provisions under which mares used to test stallions for CEM may be released from quarantine are discussed below.

The introductory clause in § 92.4(a)(6)(iii) is amended to conform cross references in that clause to the style presently required in the Document Drafting Handbook published by the Office of the Federal Register.

Further, the present introductory clause in § 92.4(a)(6)(iii) requires that to be approved to receive stallions over 731 days of age from countries in which CEM exists, the State must have laws and regulations to ensure that stallions are treated in a manner specified in the remainder of § 92.4(a)(6)(iii). This document amends the introductory clause in § 92.4(a)(6)(iii) to give a State the option as to whether to have laws or regulations requiring the specified treatment. This amendment is made because it is not necessary that a State have both laws and regulations requiring a specified treatment. As long as the treatment is required and such requirements have the force and effect of law this Department has no interest in whether such requirements take the form of laws enacted by the State legislature or regulations promulgated by a State agency or both.

Present § 92.4(a)(6)(iii)(A) requires that in order to be approved to receive stallions over 731 days of age from countries in which CEM exists, a State must have laws and regulations which require that on 5 consecutive days the prepuce, penis, including the fossa glandis, and urethral sinus of the stallion be thoroughly cleaned and washed (scrubbed) while in full erection with a solution of not less than 2 percent surgical scrub chlorhexidine and then thoroughly coated (packed) with an ointment of not less than 0.2 percent nitrofurazone under the monitoring of a State or Federal veterinarian and performed by an accredited veterinarian. This document amends the extent of oversight of the treatment by requiring that the treatment be done under the direct supervision of a State veterinarian rather than that the treatment be monitored by a State or Federal veterinarian. The present requirement that a State or Federal veterinarian monitor the treatment has been misinterpreted to not require the physical presence of a State or Federal veterinarian during the treatment described above. Therefore, in order to clarify the intent of this regulation, this document amends § 92.4(a)(6)(iii)(A) to require direct supervision of the treatment by a State veterinarian. This amendment clarifies the requirement that a veterinarian employed by the State in which the stallion is located be physically present during all aspects of the treatment of the stallion required in § 92.4(a)(6)(iii)(A).

This document also amends the oversight required in § 92.4(a)(6)(iii)(A) by requiring that the oversight be performed by a State veterinarian rather than providing individuals with the option of having the oversight performed by a State or Federal veterinarian. This option has been deleted because this Department no longer has adequate personnel available to perform the function involved.

Present § 92.4(a)(6)(iii)(A) is further amended to require that prior to the treatment of the stallion one specimen each shall be taken from the prepuce, the fossa glandis and the urethral sinus of the stallion and cultured for CEM. This requirement is added for two reasons. First, it will provide this Department information regarding the numbers of stallions and the origins of stallions which are affected with CEM when they enter this country. Present § 92.2(i)(2)(iv) requires that stallions over 731 days of age from countries in which CEM exists must be accompanied by a certificate signed by a salaried veterinary officer of the national government of the country of origin stating that certain specified things were done or not done with respect to the stallion.

Should the information provided by the cultures performed prior to treatment of the stallion in the United States indicate a pattern of CEM affected stallions entering this country from a particular country of origin, the Department will have an opportunity to consult with the national veterinary service of that country in an attempt to remedy any deficiencies which may exist in their treatment of such stallions.

The second reason for adding the requirement that specimens be taken from the stallion and cultured prior to the treatment presently required in § 92.4(a)(6)(iii)(A) is to provide State officials with information regarding the disease status of each stallion to be treated. If a culture indicates that a particular stallion is affected with CEM prior to the stallion being treated, this will enable the State veterinarian supervising such treatment and the accredited veterinarian performing such treatment to be particularly conscientious with respect to the treatment required in § 92.4(a)(6)(iii)(A). It should be noted however, that the treatment required by § 92.4(a)(6)(iii)(A) is required no matter what results are obtained by culturing the specimens taken prior to treatment.

Present § 92.4(a)(6)(iii)(A) is further amended by deleting footnote 5a and the reference thereto. The reference to footnote 5a appears directly after the term "accredited veterinarian", and the footnote informs the reader that the term "accredited veterinarian", as used in § 92.4(a)(6)(iii)(A), is defined in Title 9, Code of Federal Regulations, Part 160. This footnote and reference thereto are no longer necessary because the term "accredited veterinarian" is defined in Title 9, Code of Federal Regulations, § 92.1(aa), and this definition is applicable to the term as used in § 92.4(a)(6)(iii)(A). The deletion of the footnote and reference thereto is not substantive because the definition of the term "accredited veterinarian" in § 92.1(aa) is identical to the definition in Title 9, Code of Federal Regulations, Part 160.

Present § 92.4(a)(6)(iii)(B) is amended by renumbering the section as § 92.4(a)(6)(iii)(B)(*2*) and revising the paragraph as discussed below. A new § 92.4(a)(6)(iii)(B)(*1*) is added which requires that mares to be used to test stallions for CEM must be permanently

identified with the letter "T" before such mares are used for testing stallions for CEM. This identification is necessary to aid State officials in determining the identity of mares which must be placed under quarantine in accordance with § 92.4(a)(6)(ii)(B) as discussed above, and in determining the identity of mares which have already been used to test stallions for CEM. (As discussed below, mares may not be used to test stallions for CEM twice).

New § 92.4(a)(6)(iii)(B)(*1*) specifies that the marking shall be applied to the mare by a Veterinary Services inspector, State inspector or an accedited veterinarian. The Department believes that this restriction on the identity of those who may apply the mark is necessary to ensure that the mares to be used to test stallions for CEM will be identified properly.

New § 92.4(a)(6)(iii)(B)(*1*) also amends the regulations to require that the mares be marked with a hot iron, freezemarking or lip tattoo. These methods of marking ensure that the mark will be permanent and easy to identify as the letter "T." Further, new § 92.4(a)(6)(iii)(B)(*1*) requires that if a hot iron or freezemarking is used, the marking shall not be less than 2 inches high and shall be applied to the left shoulder or left side of the neck of the mare. If a lip tattoo is used, the marking must not be less than 1 inch high and three-fourths of an inch wide and must be applied to the inside surface of the upper lip of the mare. These requirements regarding the size and location of the marking are necessary to ensure that mares to be used to test stallions for CEM can be quickly and easily identified.

As stated above, this document renumbers present § 92.4(a)(6)(iii)(B) as § 92.4(a)(6)(iii)(B)(*2*). In addition, new § 92.4(a)(6)(iii)(B)(*2*) is amended in three respects.

First, the present regulations refer to the scrubbing and packing (of the stallion) required in "(1)". The reference to "(1)" is a typographical error which is amended in this document to refer the reader to the scrubbing and packing required in "paragraph (a)(6)(iii)(A)."

Second, the present regulations require, among other things, that stallions over 731 days of age from countries in which CEM exists must be bred to two mares qualified prior to breeding as apparently free from CEM. After such breeding the mares are required to be tested to determine the CEM disease status of the stallion. This document amends new § 92.4(a)(6)(iii)(B)(*2*) to prohibit the use of mares which have been used to test stallions for CEM previously and to prohibit the use of mares which have been bred after the time specimens were taken or samples drawn from the mares to qualify the mares as apparently free from CEM. These two additional requirements for mares to be used to test stallions for CEM are necessary to ensure that the mares used to test the stallion for CEM are not affected with CEM prior to being used to test the stallion. The additional requirements will prevent the possible spread of CEM to stallions by mares which are used to test the stallion for CEM. Further, such mares found positive for CEM after being used to test a stallion for CEM, will constitute a more reliable indication of the source of infection.

Third, minor nonsubstantive changes are made for ease of reading.

Section 92.4(a)(6)(iii)(C)(*3*) is amended by making certain editorial, nonsubstantive changes for clarity and ease of reading.

Present § 92.4(a)(6)(iii)(C)(*4*) is redesignated at §§ 92.4(a)(6)(iii)(D)(*1*) and 92.4(a)(6)(iii)(D)(*2*) and revised as discussed below.

As explained above, this document adds a requirement that in order to be approved to receive stallions from countries in which CEM exists, a State must agree to quarantine all mares used to test stallions for CEM. This quarantine is necessary to prevent the possible interstate dissemination of CEM. This document adds a new provision designated as § 92.4(a)(6)(iii)(C)(*4*) which provides conditions under which a State may release a mare used to test a stallion for CEM. The Department believes that each condition under which the mares in question may be released from quarantine will assure that the mare does not disseminate CEM.

First, new § 92.4(a)(6)(iii)(C)(*4*)(*i*) provides that mares which have been used to test stallions for CEM may be released from quarantine if they are found negative on all cultures and tests required to be performed on specimens collected from the mare to determine the CEM disease status of the stallion. Specifically, those tests and cultures set forth in §§ 92.4(a)(6)(iii)(C)(*1*), 92.4(a)(6)(iii)(C)(*2*), and 92.4(a)(6)(iii)(C)(*3*). This Department believes that should each of the cultures and tests referred to be negative there is little likelihood that the mare is affected with CEM, and, therefore, she may be released from quarantine.

Second, new § 92.4(a)(6)(iii)(C)(*4*)(*ii*) provides that mares which have been used to test stallions for CEM may be released from quarantine if an accredited veterinarian performs an ovariectomy on the mare under the supervision of a State veterinarian. An ovariectomy prevents a mare from going into heat and thereby prevents breeding. Therefore, the risk of the mare disseminating CEM is minimal and the mare may be released from quarantine. To ensure that the ovariectomy is performed correctly this new paragraph requires that the operation be performed by an accredited veterinarian and be directly supervised by a State veterinarian. Direct supervision requires physical presence.

Third, new § 92.4(a)(6)(iii)(C)(*4*)(*iii*) provides that any mare used to test a stallion for CEM may be released from quarantine if the mare has been treated and handled in accordance with § 92.4(a)(9)(iii). Section § 92.4(a)(9)(iii) sets forth the treatment and handling necessary to ensure that mares are not affected with CEM. If a mare quarantined pursuant to § 92.4(a)(6)(ii)(B) is subjected to the treatment and handling set forth in § 92.4(a)(9)(iii) the risk is minimal that she is affected with CEM, and therefore, the mare may be released from quarantine.

Fourth, new 92.4(a)(6)(iii)(C)(*4*)(*iv*) provides that any mare used to test a stallion for CEM may be released from quarantine if the mare is moved directly to slaughter without unloading en route, is euthanized or dies. A dead mare or a mare disposed of in any such manner will not have an opportunity to breed and will not have an opportunity to disseminate CEM, and, therefore, the quarantine may be removed.

As stated above, present § 92.4(a)(6)(iii)(C)(*4*) is redesignated as §§ 92.4(a)(6)(iii)(D)(*1*) and 92.4(a)(6)(iii)(D)(*2*). Present § 92.4(a)(6)(iii)(C)(*4*) requires that all cultures and tests of the mares used to test the stallion must be negative for CEM before the stallion may be released from detention. This requirement is retained in new § 92.4(a)(6)(iii)(D)(*1*) and only minor nonsubstantive changes are made for ease of reading.

Present § 92.4(a)(6)(iii)(C)(*4*) also requires that if any CEM culture or test required by § 92.4(a)(6)(iii) is positive, the stallion shall not be released from quarantine and shall be retreated and retested as required by Title 9, Code of Federal Regulations, Part 92. This requirement is set forth in new § 92.4(a)(6)(iii)(D)(*2*) with one minor change. The reference to retreatment and retesting as required by Title 9, Code of Federal Regulations, Part 92, is amended to require retreatment and retesting as required by § 92.4(a)(6)(iii). The reference in the present regulations to the entire part is in error

Present § 92.4(a)(6)(iii)(D) requires that all tests and cultures required by § 92.4(a)(6)(iii) shall be conducted at the National Veterinary Services Laboratories, Ames, Iowa. Present § 92.4(a)(6)(iii)(D) is redesignated as § 92.4(a)(6)(iii)(E)(*1*) and amended to allow CEM tests and cultures to be conducted not only at the National Veterinary Services Laboratories, Ames, Iowa, but also at any other laboratory approved by the Deputy Administrator, Veterinary Services, to conduct CEM cultures and tests. The provision regarding approval for other laboratories to conduct CEM cultures and tests is added because the Department believes that other laboratories which meet the standards required before approval to conduct CEM cultures and tests is granted will provide results on such cultures and tests which are as reliable as those provided by the National Veterinary Services Laboratories. If other laboratories are approved, those which are closer to the point of collection of specimens to be tested or cultured for CEM will, in many cases, receive the specimens sooner than they would be received by the National Veterinary Services Laboratories, and the reliability of the results from such cultures or tests will thereby be improved.

In this regard, new § 92.4(a)(6)(iii)(E)(*2*) requires that all specimens submitted to the National Veterinary Services Laboratories or an approved laboratory must be accompanied by a statement indicating the date and time of the collection. To be eligible for testing or culture, the specimen must be received by the laboratory within 48 hours of collection. Specimens deteriorate over time, and those which are received more than 48 hours after collection do not yield reliable results with respect to CEM.

New § 92.4(a)(6)(iii)(E)(*3*) provides an address to which anyone may write to obtain a list of laboratories approved by the Deputy Administrator, Veterinary Services, to conduct CEM cultures and tests and the standards which must be met for a laboratory to be placed on or remain on the approved list.

New § 92.4(a)(6)(iii)(E)(*4*) provides that the Deputy Administrator, Veterinary Services, may refuse to grant approval to or may withdraw approval from a laboratory which does not meet the standards necessary for approval. This new section requires that the notification of the refusal to grant approval or the withdrawal of approval must be in writing and is effective upon service of the notification upon an official of the laboratory, pending the outcome of any hearing and judicial review thereof, unless otherwise ordered by the Administrator, Animal and Plant Health Inspection Service. If there is a material dispute of fact, the laboratory shall be afforded an opportunity for a hearing with respect to the merits or validity of the refusal to grant approval to or the withdrawal of approval from the laboratory to conduct CEM cultures and tests. The hearing shall be conducted in accordance with rules of practice which shall be adopted for the hearing by the Administrator, Animal and Plant Health Inspection Service.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended as follows:

1. In § 92.4, paragraph (a)(6) of the introductory clause up to and including the colon is revised as follows:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes.[5]

(a) * * *

(6) In order to be approved to receive stallions over 731 days of age pursuant to § 92.2(i)(2)(iv) the following conditions shall be met:

* * * * *

§ 92.4 [Amended]

2. § 92.4, paragraph (a)(6)(ii) is redesignated (a)(6)(ii)(A) and revised to read as follows:

(a) * * *

(6) * * *

(ii)(A) The State must agree to quarantine all stallions over 731 days of age imported from countries listed in § 92.2(i)(1), pursuant to § 92.2(i)(2)(iv), until the stallions have been treated in accordance with paragraph (a)(6)(iii) of this section.

* * * * *

3. In § 92.4, a new paragraph (a)(6)(ii)(B) is added to read as follows:

(a) * * *

(6) * * *

(ii) * * *

(B) The State must agree to quarantine all mares used to test stallions for CEM until the mares have been released from quarantine in accordance with paragraph (a)(6)(iii)(C)(*4*) of this section.

* * * * *

4. In § 92.4, paragraph (a)(6)(iii), the introductory clause up to and including the colon is revised as follows:

(a) * * *

(6) * * *

(iii) The State must have laws or regulations requiring that stallions over 731 days of age imported from countries listed in § 92.2(i)(1) pursuant to § 92.2(i)(2)(iv) have been treated in the following manner:

* * * * *

5. In § 92.4(a)(6)(iii)(A) footnote 5a is removed.

6. In § 92.4, paragraph (a)(6)(iii)(A) is revised to read as follows:

(a) * * *

(6) * * *

(iii) * * *

(A) One specimen each shall be taken from the prepuce, the fossa glandis, and urethral sinus of the stallion and be cultured for CEM. After the specimens have been cultured for CEM, on 5 consecutive days the prepuce, penis, including the fossa glandis, and urethral sinus of the stallion shall be thoroughly cleaned and washed (scrubbed) while in full erection with a solution of not less than 2 percent surgical scrub chlorhexidine and then thoroughly coated (packed) with an ointment of not less than 0.2 percent nitrofurazone by an accredited veterinarian under the direct supervision of a State veterinarian.

* * * * *

7. In § 92.4, paragraph (a)(6)(iii)(B) is revised by redesignating the present paragraph as (a)(6)(iii)(B)(*2*) and adding a new paragraph (a)(6)(iii)(B)(*1*) to read as follows:

(a) * * *

(6) * * *

(iii) * * *

(B)(*1*) *Identification of test mares.* Mares to be used to test stallions for CEM shall be permanently identified before the mares are used for such testing with the letter "T." The marking shall be permanently applied by an inspector, State inspector, or accredited veterinarian who shall use a hot iron, freezemarking or a lip tattoo. If a hot iron or freezemarking is used, the marking shall not be less than two inches high and shall be applied to the left shoulder or left side of the neck of the mare. If a lip tattoo is used, the marking shall not be less than one inch high and three-fourths of an inch wide

and shall be applied to the inside surface of the upper lip of the mare.

* * * * *

8. In § 92.4, a new paragraph (a)(6)(iii)(B)(*2*) is revised to read as follows:

(*2*) After a period of seven days following the fifth consecutive day of scrubbing and packing required in paragraph (a)(6)(iii)(A) of this section, the stallion shall be bred to two mares which have not been previously used to test stallions for CEM, which are qualified prior to breeding as apparently free from CEM and which have not been bred from the time specimens were taken from the mares to qualify the mares as apparently free from CEM. To qualify as apparently free from CEM, each mare shall be tested with negative results by a complement fixation (CF) test for CEM and specimens taken from each mare shall be cultured negative for CEM. For culture, one specimen each shall be collected during estrus from the endometrium of the uterus, clitoral sinuses and clitoral fossa. After an interval of not less than seven days, one specimen each shall be collected from the cervix, clitoral sinuses and clitoral fossa.

* * * * *

9. In § 92.4, paragraph (a)(6)(iii)(C)(*3*) is revised to read as follows:

(a) * * *
(6) * * *
(iii) * * *
(C) * * *

(*3*) Two blood serum samples obtained at intervals of not less than seven days between the 15th to 40th day after the day of breeding shall be tested by the complement fixation (CF) test for CEM.

* * * * *

10. In § 92.4, paragraph (a)(6)(iii)(C)(*4*) is revised to read as follows:

(a) * * *
(6) * * *
(iii) * * *
(C) * * *

(*4*) A mare which has been used to test stallions for CEM may be released from quarantine only if:

(*i*) The mare is found negative for CEM on all cultures and tests required under paragraphs (a)(6)(iii)(C)(*1*), (a)(6)(iii)(C)(*2*), and (a)(6)(iii)(C)(*3*) of this section; or

(*ii*) The mare is subjected to an ovariectomy by an accredited veterinarian under the direct supervision of a State veterinarian; or

(*iii*) The mare is treated and handled in accordance with paragraph (a)(9)(iii) of this section; or

(*iv*) The mare is moved directly to slaughter without unloading enroute, is euthanized or dies.

* * * * *

11. In § 92.4, paragraph (a)(6)(iii)(D) is revised to read as follows:

(a) * * *
(6) * * *
(iii) * * *

(D)(*1*) A stallion may be released from quarantine only if all cultures and tests of specimens from the mares used to test the stallion for CEM, are negative for CEM.

(*2*) If any culture or test required by this paragraph is positive for CEM, the stallion shall be retreated and retested in accordance with this paragraph.

* * * * *

12. In § 92.4, a new paragraph (a)(6)(iii)(E) is added to read as follows:

(a) * * *
(6) * * *
(iii) * * *

(E)(*1*) All tests and cultures required by this paragraph shall be conducted at the National Veterinary Services Laboratories, Ames, Iowa, or at a laboratory approved by the Deputy Administrator, Veterinary Services, to conduct CEM cultures and tests.

(*2*) All specimens submitted to the National Veterinary Services Laboratories or an approved laboratory for CEM culture or testing shall be accompanied by a statement indicating the date and time of collection. To be eligible for CEM culture or testing the specimen must be received by the National Veterinary Services Laboratories or approved laboratory within 48 hours of collection.

(*3*) A list of laboratories approved to conduct CEM cultures and tests and the standards which must be met to attain and retain approval are available from the Deputy Administrator, Veterinary Services, APHIS, USDA, 6505 Belcrest Road, Hyattsville, Maryland 20782.

(*4*)(*i*) The Deputy Administrator, Veterinary Services, may refuse to grant approval to or may withdraw approval from a laboratory to conduct CEM cultures and tests if the Deputy Administrator, Veterinary Services, determines that the laboratory does not meet the standards necessary for approval.

(*ii*) The Deputy Administrator, Veterinary Services, shall send a written notice to an official at the laboratory which shall state the reasons for the refusal to grant approval to the laboratory to conduct CEM cultures and tests or the withdrawal of approval from the laboratory to conduct CEM cultures and tests. If there is a material dispute of fact, the laboratory shall be afforded an opportunity for a hearing with respect to the merits or validity of the refusal to grant approval to or the withdrawal of approval from the laboratory to conduct CEM cultures and tests. The hearing shall be conducted in accordance with rules of practice which shall be adopted for the hearing by the Administrator, Animal and Plant Health Inspection Service. The refusal to grant approval to or the withdrawal of approval from a laboratory to conduct CEM cultures and tests shall be effective upon service of the notification on an official of the laboratory and shall continue in effect pending the outcome of any hearing and any judicial review thereof, unless otherwise ordered by the Administrator, Animal and Plant Health Inspection Service.

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 37 FR 28464, 28477; 38 FR 19141)

Done at Washington, D.C., this 3rd day of May, 1983.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-12951 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1983-14]

Disclaimer Notices

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On March 2, 1983 (48 FR 8809), the Commission published the text of revisions to its regulations at 11 CFR 110.11(a) which govern the inclusion of disclaimer notices in political advertising and communications. The Commission announces that these regulations are effective as of May 13, 1983.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW, Washington, D.C. 20463, (202) 523-4143 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: 2 U.S.C. 438(d) requires that any rule or regulation prescribed by the Commission to implement Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. If neither House of Congress disapproves the regulation

within 30 days after its transmittal, the Commission may finally prescribe the regulation in question. The regulations made effective by this notice were transmitted to Congress on February 25, 1983. Thirty legislative days expired in the Senate as of April 21, 1983 and in the House as of April 27, 1983.

Announcement of Effective Date

11 CFR 110.11(a), as published at 48 FR 8809–8810, is effective as of May 13, 1983.

Dated: May 6, 1983.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 83-12882 Filed 5-12-83; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 556, 590 and 591

[No. 83-242]

Preemption of State Due-on-Sale Laws

Dated: April 26, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") has implemented § 341 of the Garn-St Germain Depository Institutions Act of 1982, which provides for federal preemption of state laws restricting the right of any lender to exercise its contractual obligation to declare immediately due and payable sums secured by the lender's security instrument if all or any part of the real property securing the loan is sold or transferred without the lender's prior written consent. To that end, the Board has revised its existing regulations and issued new regulations regarding preemption of state laws restricting the use of due-on-sale clauses with respect to both federally and non-federally chartered lenders. The revisions: (1) Describe real property lenders subject to the statute and regulations; (2) restate the preemption of state laws with respect to all federally chartered institutions; (3) provide for preemption of state law for lenders holding real property loans not originated by federally chartered institutions; (4) provide a "window period" during which loans originated or assumed by lenders other than federally chartered institutions will be subject to state law or judicial decision prohibiting exercise of due-on-sale clauses; (5) describe specific circumstances in which no lender shall exercise due-on-sale clauses; and (6) provide notice that the Board will issue interpretations of the statute upon receipt of written requests.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Gwenn Hibbs, Deputy Director, Legislative Counsel (202–377–6448), or Anne K. Scully, Attorney, Legislative Counsel (202–377–6460), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 341 of the Garn-St Germain Depository Institutions Act of 1982 ("Act"), Pub. L. No. 97–320, 96 Stat. 1469, 1505, provides for federal preemption of state laws restricting the right of lenders to exercise their contractual right to declare a real property mortgage due and payable, pursuant to a due-on-sale clause, if all or any part of the real property is sold or transferred without the lender's prior written consent. The statutory preemption is, however, subject to a "window-period" which excepts certain loans originated or assumed after state action which (by statute, constitutional provision or judicial decision) restricted the enforcement of due-on-sale clauses.

Section 341(e)(1) of the Act authorized the Board, in consultation with the Comptroller of the Currency and the National Credit Union Administration Board, to issue regulations and to publish interpretations to implement the national policy governing the preemption of state laws restricting the exercise of due-on-sale clauses by both federally and non-federally chartered lenders. Prior to enactment of the Act on October 15, 1982, the Board had promulgated regulations affirming the right of federal associations to exercise due-on-sale clauses notwithstanding restrictive state laws, subject to certain enumerated limitations (12 CFR 545.8–3 (f) and (g), 556.9(c) (1976)).

The Board proposed on January 13, 1983, to revise and amend its regulations to implement the preemption established by the Act. (Board Resolution No. 83–17, 48 FR 2373, January 19, 1983). The proposed regulations restated and clarified, where necessary, the basic statutory framework set out in section 341 of the Act and consolidated and simplified existing provisions of §§ 545.8–3 (f) and (g) and 556.9. In addition, the Board requested comment on the appropriateness of the proposed clarifications and amplification of the statutory framework and whether the proposals adequately served the stated regulatory objectives.

The Board received 59 comment letters to its proposal: 17 from law firms, 24 from financial institutions, 11 from national and state trade associations, 2 from federal and state regulatory agencies, 3 from other corporations, and 2 from individuals. Generally, the commenters approved of the proposed regulations as providing a sound basis for the exercise of due-on-sale clauses, especially where the rules clarified several perceived statutory ambiguities. However, the Board received some comments recommending revision of certain provisions of the proposed regulations. Generally, these comments requested that the Board: (1) Specifically identify the window-period states and define the commencement date of a given state's window-period; (2) clarify the extent to which the borrower's and lender's expectation of enforcement of due-on-sale clauses in pre-window-period loans should be honored even though the Act does not appear to address the matter; (3) clarify whether state laws lengthening foreclosure procedures following the exercise of due-on-sale clauses are preempted or whether they are laws creating window-periods; (4) clarify the right of a lender in a window-period state to enforce a due-on-sale clause if a transferee does not meet customary credit standards; (5) clarify whether loans originated by service corporations of federal associations should be treated as originated by federal associations for purposes of federal preemption of window-period loans; (6) reconsider its proposal to limit the exceptions to the exercise of due-on-sale clauses set forth in section 341(d) of the Act to owner-occupied property; (7) specify enforcement methods available to lenders to prevent subsequent transfers of property that has been transferred into an inter vivos trust; and (8) reconsider the proposed prohibition on assessment of prepayment penalties in the event a lender exercises its option under a due-on-sale clause.

The Board has considered the comments and has determined to adopt the regulation substantially as proposed. However, in response to major issues raised by commenters regarding certain proposed provisions and in order to eliminate confusion and controversy with respect to application of those provisions, the Board has clarified the definition of window-period loan; has adopted a revised list of state-law restrictions that create a window period; and has clarified, where necessary, language contained in the Act regarding the issues of customary credit standards, transfers made to inter vivos trusts, and enforcement of due-on-sale clauses contained in various real estate devices.

Definitions

Due-on-Sale Clause—"Sale or Transfer" of Property

The Board has modified the definition of "due-on-sale clause" in § 591.2(b) of the final regulation to clarify the scope of what constitutes a "sale or transfer" of property for purposes of enforcing a due-on-sale clause. Several commenters suggested including a regulatory definition of "sale or transfer" to provide explicitly that the due-on-sale clause may be invoked not only upon sales or transfers of all or any part of the secured property, but also in response to the various devices that have been used to circumvent a due-on-sale clause, the Board has therefore established in the final regulation a definition of "sale or transfer" which includes various categories of real estate financing techniques considered to be "sales or transfers" for purposes of the exercise of a due-on-sale clause. In particular, consistent with section 341(d)(4) of the Act, which prohibits the exercise of a due-on-sale clause upon the granting of a leasehold interest of three years or less not containing an option to purchase, the Board has defined a "leasehold interest with a term greater than three years" as a "sale or transfer" for "due-on-sale" purposes.

"Lender." Section 591.2(g) of the final regulation expands the list of entities enumerated in the statutory definition of lender expressly to include insurance companies and federal and state chartered credit unions. The Board emphasizes that this list is intended to be representative and not exclusive. Failure to enumerate a specific entity in the regulation should not be interpreted to mean that such entity is excluded from coverage under section 341 of the Act and the applicable rules.

"Loan Secured by Lien on Real Property." The Board has modified final § 591.2(h) by deleting the proposed requirement that a leasehold interest in real property extend five years beyond the maturity of the loan. The proposed definition paralleled the definition of the same term in § 590.2 (usury preemption) of the Board's regulations. Additionally, Board regulations (12 CFR 545.32(c), Board Resolution No. 83–241, April 26, 1983) defining this term in the context of lending practices of federal associations also require that if security property is a leasehold, it must extend or be subject to extension at the option of the association for at least five years beyond the maturity of the loan. See also 12 CFR 541.14 (1979).

The requirement under Part 545 is intended to ensure that federal associations will have an interest of substantial value to protect a leasehold loan if there is a default by the borrower at or near the maturity date. In the context of defining terms applicable to due-on-sale preemption by all lenders, including state-chartered financial institutions and lenders such as finance companies, mortgage bankers, and other corporate entities, however, the Board believes it is inappropriate to impose its security requirements for federal associations in defining leasehold loans qualified for due-on-sale enforcement. These loans, subject to applicable regulation by state or other federal authorities, will therefore qualify for federal due-on-sale preemption.

Window-Period Loan

Commenters addressing the window-period loan definition generally requested the Board to clarify or revise the proposal in six areas, to: (1) Identify explicitly window-period states and beginning dates; (2) clarify the status of land-sale installment contracts; (3) clarify if window-periods were created by state law fully prohibiting enforcement or merely restricting enforcement of due-on-sale clauses; (4) clarify if window-periods cover all loans made or assumed during the period, or only the types of loans expressly protected by state decision or statute; (5) clarify the beginning and ending dates of the window-period if a state has rescinded its restrictions on due-on-sale clauses prior to October 15, 1982; (6) clarify the need to record an alleged window-period transfer.

a. *Defining the Window Period.* Consistent with the literal language and legislative history of the Act section 341(c)(1), proposed § 591.2(p) defined a window-period loan as one "made or assumed" during the period beginning on the date a state prohibited, by statute or judicial decision, "the unrestricted exercise of due-on-sale clauses" and ending on October 15, 1982.

The Board declined to identify expressly such states in its proposed rule, but solicited comments as to whether five broad categories of state law should be regarded as the types which, as a matter of federal law, "prohibited the unrestricted exercise" of due-on-sale clauses and created window-periods within the meaning of Act section 341(c)(1). While many comments approved this approach, with modifications, others urged the Board to promulgate a list of window-period laws and starting dates to eliminate confusion and conflicting interpretations. Upon consideration of these comments, the Board is incorporating in the final window-period loan definition a modified version of the five "categories" outlined in its proposal.

The Board is cognizant of the dilemma for lenders created by ambiguous state laws. However, the Board has determined that it would be inappropriate, at this time, to analyze and interpret various state laws by listing window-period states and the beginning dates of those window-periods. It is anticipated, however, that the Board's Office of General Counsel will render advisory opinions interpreting such state laws. This decision accords with the legislative history of the Act, which clearly evinces Congressional intent that the interpretation of window-period laws is a matter best left to state interpretation and state judicial decision. S. Rep. No. 536, 97th Cong., 2d Sess. 22, 58–59 (hereafter "S. Rep.").

The Board's adoption of the "categories" approach will provide a uniform framework to guide lenders in determining if a state law is of the type Congress intended to create a window-period. At the same time, this approach honors Congressional deference to state action. Ultimately, state attorneys general and courts must decide whether a particular state law or judicial decision is within the purview of the Act as implemented by the Board's regulation. New subparagraph (3) of final § 591.2(p) accordingly establishes two categories of state laws which create window-periods, substantially revising the five categories originally proposed.

The first two proposed categories (pertaining to laws permitting due-on-sale enforcement where the lender's security interest is impaired, and laws allowing due-on-sale enforcement where a person who assumes the loan fails to meet customary credit standards) are consolidated and retained in the final regulation as § 591.2(p)(3)(i). The Board has refined the language of the latter category to reference laws allowing exercise of a due-on-sale clause if the transfer impairs the "likelihood of repayment." The Board believes that this broad concept is inclusive of the proposal language regarding a transferee failing to meet "customary credit standards." Together with the fourth proposed category (designated as § 591.2(p)(3)(ii) in the final rule), pertaining to laws limiting interest rate increases upon assumption, these types of laws comprise the exclusive list of state laws that trigger a window-period. If a state law does not fall into one of the two categories, it does not create a window-period. Such a law would be preempted pursuant to Act § 341(b) (1)–

(2) however, if it imposed any other burden on the lender's effective use of the due-on-sale option.

The Board's final definition of window-period law categories also clarifies whether a particular type of foreclosure statute is preempted or is of a type creating a window-period. For example, a statute may provide for a longer than normal redemption period for foreclosures of property following enforcement of a due-on-sale clause by a lender, unless the transfer impairs the lender's security interest or likelihood of repayment. Consistent with the legislative history of the Act, the Board has determined that such a foreclosure statute is preempted by the Act and by the final rules. 128 Cong. Rec. S. 12235 (daily ed. September 24, 1982) (statement of Sen. Garn). However, such a foreclosure statute does not create a window-period because it does not fall within the two categories of state laws listed in the final rule that establish a window-period. In those instances where a lender otherwise subject to such a law has not provided for its right to enforce a due-on-sale clause vis-a-vis foreclosure in the contract, the lender must look to other state statutes governing real property foreclosure for its remedies.

The third proposed category (state laws that condition the use of due-on-sale clauses on the existence of "legitimate grounds") has been deleted in the final regulation. The Board believes that the proposed language was overly vague and could have invited conflicting interpretations. Moreover, the same concept is embodied in other provisions referring to laws restricting exercise of due-on-sale clauses to transfers which impair the lender's security interest or the likelihood of repayment.

The fourth proposed category (state laws which restrict or disallow interest-rate changes during the term of the loan, or upon assumption) has been redesignated as subparagraph (3)(ii) of § 591.2(p), and modified to include only those laws that require the lender to accept an assumption without an interest-rate change or with an interest-rate change below the lender's current market interest rate for similar loans. Several commenters expressed concern that the language of the proposal could be interpreted to include laws not related to due-on-sale enforcement or not substantially restricting it, such as usury laws and laws designed to prohibit or restrict the creation of adjustable-rate mortgages. The modification of the proposed language reflects the intent of the Act and will not create window-periods in states whose laws were not intended to affect due-on-sale clause enforcement.

The fifth proposed category (laws which limit the fee a lender may charge for transfer of a loan) has been eliminated in the final regulation. As several commenters noted, limiting the fees a lender may charge for transfer does not substantially impair enforcement of a due-on-sale clause (although the lender's cost of doing business may increase as a result). While the legislative history of section 341 of the Act specifically notes that state law restrictions "prohibit[ing] the full exercise of due-on-sale clauses by limiting the fee lenders can charge for transfer of a loan." (S. Rep. at 23) are of the type that might create window-periods, the Board believes that Congress did not intend to create a window-period based on laws which did not substantially impair enforcement.

b. *Land Sale Contracts.* Several California commenters requested clarification of the commencement date established for determining window-period loans in that state because of the impact of the definition upon the status of installment land-sale contract transactions. Generally, the commenters agreed with the definition of the commencement date for determining window-period loans as the date when state law or judicial decision prohibited the exercise of due-on-sale clauses upon the *outright transfer of property.* However, they expressed concern over apparently conflicting commencement dates for window-period loans created by the California Supreme Court which, in 1974, limited the exercise of due-on-sale clauses in loans on property transferred by installment land-sales contracts and, in 1978, limited due-on-sale enforcement as to property transferred by outright sale. The commenters noted that, absent clarification regarding the window-period commencement date for installment land-sales transactions, lenders could retroactively enforce due-on-sale clauses based on transfers by installment land sales in California between 1974 and 1978. The commenters argued that such a result seemed inconsistent with Congress' intent, in creating window-periods under Act section 341(c), to protect homebuyers who "relied on state due-on-sale restrictions and reasonably believed they had assumable loans." S. Rep. at 22.

The Board is aware of the apparent inconsistencies created by the definition of window-period in the proposed regulation. However, the Board believes that the definition is clearly in accordance with the requirements of the Act. First, section 591.2(a) which defines "assumed" to include transfers of real property by installment land-sales contracts, is based on explicit guidance in the legislative history of the Act. S. Rep. at 22. Second, the legislative history explicitly defines and clarifies the language of section 341(c)(1) as follows: "The window-period begins on the date the state law prohibited 'the unrestricted exercise of due-on-sale clauses *upon outright transfers of the property*'." S. Rep. at 22 (emphasis added). Congress based its definition on the U.S. Supreme Court decision in *Fidelity Federal Savings and Loan Association* v. *De La Cuesta*, 102 S. Ct. 3014, 3031 n.24 (1982). Thus, in a footnote to this statement, Congress directly addressed the various California Supreme Court decisions, including both the 1974 and 1978 cases regarding due-on-sale limitations, and cited as "instructive" the ruling of the U.S. Supreme Court in *De La Cuesta* that it was not until 1978 that the lender's right to accelerate a loan in response to an "outright transfer" was limited to cases where the security was impaired. *Id.* at n.1. In view of this ligislative history, the Board believes that it was Congress' intent to extend window-period protection only to assumptions of land-sales contracts after 1978 in California, notwithstanding the anomalies which might result.

c. *State Law Prohibition or Restriction on Exercise.* Under section 591.2(p) of the proposed regulation, a window-period is created on the date a state law or judicial decision prohibits the "*unrestricted* exercise of due-on-sale clauses * * *." (emphasis added). A number of commenters requested that the Board delete the work "unrestricted" in the final definition to conform to the statutory language of section 341(c)(1) of the Act. Section 341(c)(1) of the Act defines a window-period loan as one subject to a state law or decision "*prohibiting* the exercise of due-on-sale clauses." In the commenters' view, the proposed definition was inappropriate because it broadened the criteria to be used in the determination of the window-period. Arguably, the proposed definition would either increase the number or expand the duration of window-periods because it would allow an interpretation of the window-period to include times when any partial restriction on enforcement of due-on-sale clauses existed under state law.

The Board does not agree, for several reasons, with the commenters' interpretation that Congress intended a

window-period to exist only where exercise of a due-on-sale has been "prohibited" absolutely. First, the legislative history of section 341 refutes this reasoning. It clearly provides that:

> The window-period begins on the date the state law prohibited the *unrestricted exercise* of due-on-sale clauses upon outright transfers of the property. In states with judicial restrictions which purport to *retroactively restrict* due-on-sale enforcement, the window-period would not begin until the date of the judicial decision.

S. Rep. at 22. (emphasis added). Moreover, other references in the legislative history to the meaning of the word "prohibit" evince Congressional intent that it include prohibition of the "full exercise" of the clause or the limitation of the enforcement of the clause in various instances, such as impairment of the lender's security interest. Second, this conclusion is also supported by the Board's survey of those state laws tentatively identified as creating window-periods by the legislative history of Act section 341 and the comments received. None of these states, either by statute or judicial decision, absolutely prohibit the exercise of due-on-sale clauses. Instead, the statutes and judicial decisions are generally of the type which prohibit acceleration unless the lender can show that the transfer would impair its security interest or the likelihood of repayment. Were the Board to adopt an "absolute prohibition" approach in defining window-period loans, it would effectively eliminate all window-periods, in contravention of the legislative history. Therefore, the Board has retained the concept of a law prohibiting "unrestricted exercise" in defining "window-period loan" in the final rule.

d. *Types of Loans Covered by Window-Period Laws.* Section 341(a)(3) of the Act and proposed § 591.2(1) define a real property loan to include, among other types, a loan secured by a residential manufactured home, whether considered real or personal property. Several commenters noted that in many states, mobile home lending is a personal-property-secured transaction rather than a real property secured transaction. The commenters also noted that personal property transactions in most states are governed by the Uniform Commercial Code section 9–311, which specifically validates due-on-sale clauses in personal-property-secured transactions. The commenters observed that the result of the Act and the proposed rule would be to give mobile home borrowers an exemption from exercise of due-on-sale clauses which was never in effect under applicable state law. Other comments raised similar questions about state laws restricting due-on-sale clauses but expressly limited in application to narrow categories of loans on residential property used as the borrower's principal residence.

In the Board's view, a loan falls within the ambit of window-period protection only if it is the specific category of loan to which state legislative action or judicial decision applied in prohibiting the unrestricted exercise of due-on-sale clauses. Thus, while the legislative history clearly indicates that the due-on-sale *preemption* applies to mobile homes regardless of whether they are designated as real or personal property, S. Rep. at 57, Congress also indicated that the basic purpose of the window-period was to treat fairly home buyers who "relied on state law restrictions and reasonably believed they had assumable loans." S. Rep. at 22. Conversely, the legislators did not intend to create window-periods for loans never subject to state law restrictions. This "limited reliance" principle is reaffirmed in the legislative history of Act section 341(c), which declares that states are not authorized to expand the kinds of loans subject to the window-period. S. Rep. at 23.

Consistent with the reliance principle underlying Act 341(c), the Board has modified § 591.2(p) to apply only to those loans which are of the *type* the state law creating the window-period intended to protect. This interpretation is reflected in § 591.2(p)(1), referring to window-period loans as those "subject to" the state law creating the window-period.

Finally, the Board believes that this reliance principle, along with the principle that states may not retroactively expand the scope of the window-period, would require that a state judicial decision creating the window-period include language expressly holding a due-on-sale clause unenforceable, rather than merely commenting on unenforceability in *dicta*.

e. *Beginning/Ending Date of Window Period.* The definition of window-period in § 591.2(p) of the final rule has been modified from the proposal to clarify that the date upon which a window-period commences in a particular state is the *later* of the date upon which a state statute restricting the exercise of a due-on-sale clause becomes *effective* or is adopted, in the event that any of those states have delayed effective dates.

The Board is also revising the final definition to provide that a window-period ends on the *earlier* of October 15, 1982, or the date a state law rescinded a prior statutory or judicial restriction on the enforcement of due-on-sale clauses. The Board believes that this revision is consistent with Congressional intent to protect only a borrower's reasonable expectations and reliance on the contract terms as they existed at the time of origination or assumption of the loan, and not to extend or to create a window-period in a state where none existed under state law. S. Rep. at 22.

f. *Recording of Window-Period Loans.* The Board is incorporating in its final definition of window-period loans under § 591.2(p) a "sunset date" for transfers of loans qualifying for window-period treatment pursuant to section 341(c)(1) of the Act. In order to be afforded the protection of the window-period provision, a sale or transfer of real property made on or before October 15, 1982, must be recorded either prior to or not more than 60 days after October 15, 1982. The Board believes that this modification will prevent fraudulent backdating or nonrecordation of transfer documents.

Preemption—Loans Originated by Federal Associations

The proposed rule provided that a federal association, as to any real property loan orignated or to be originated by it, may include a due-on-sale clause in the contract between it and the borrower and may enforce the clause if title or any interest therein is transferred "by the borrower," without the prior written consent of the association. The Board recognizes that there may be instances in which a transferor who is a successor or assignee of the borrower may not be technically obligated under the loan instruments. Accordingly, the Board is striking the words "by the borrower" from final § 591.3(a), to ensure that the basic preemption will extend to any transfer by any party with an equitable or legal ownership interest in the property securing the loan. This change is consistent with the literal language of the Act's definition of due-on-sale clause and corresponding § 591.2(b).

The Board is also modifying proposed § 591.3(a) to affirm that a federal association *continues* to have the authority to include a due-on-sale clause in any real property loan originated by it. Under the proposal, the language could have been read to create only a prospective right. This clarification affirms the Board's longstanding preemption policy in this area, beginning with its interpretation of a 1948 regulation requiring federal associations to include in their loan contracts provisions for "full protection to" the

federal association. *See* 12 CFR 545.6–11 (1975); Advisory Opinion of Federal Home Loan Bank Board, Resolution No. 75–647, *In the Matter of Schott v. Mission Federal Savings and Loan Association;* 41 FR 6283, 6285 (1976); 48 FR 2373 (1983).

The Board has clarified proposed § 591.3(b) to indicate that the right to exercise a due-on-sale clause in any loan originated by a federal association shall be exclusively governed by the terms of the loan contract except as such right is *otherwise* modified by the exceptions set forth in § 591.5. The Board has also made a technical revision in § 591.3(b) by changing the word "association" to "lender" in the last clause of that paragraph for consistency of reference.

In response to requests by several commenters, the Board has clarified that loans originated by service corporations of federal associations are not necessarily exempted from the window-period provisions, as are federal associations by Act section 341(c)(2)(C). The language of the Act exempts only those loans originated by federal associations from the window-period provisions. Further, the legislative history does not appear to reflect Congressional intent to extend such treatment to federal associations' service corporations, which by their very definition are separate legal entities. Finally, previous Board regulations regarding federal preemption of state due-on-sale prohibitions conferred the right to include a due-on-sale clause only on federal associations and no mention was made of service corporations.

Preemption—Other Lenders

The title of final § 591.4 has been changed from "Other lenders" to "Loans originated by lenders other than federal associations" to clarify that the provisions apply with respect to all other lenders holding loans not originated by federal associations. The heading change also clarifies any regulatory ambiguity that may have arisen in the provisions of §§ 591.3 and 591.4.

Regarding preemption applicable to non-window-period loans under both §§ 591.3 and 591.4, several lenders requested clarification of a lender's right to impose non-contract conditions as a condition for waiving a due-on-sale clause. Both the Act and the relevant rule as proposed provided for preemption in non-window-period loans by stating that the lender's exercise of the due-on-sale clause "shall be *exclusively* governed by the loan contract." (emphasis added). In the Board's view, the preemptive mandate of section 341(b)(2) is not intended to supersede applicable state contract law concerning rights of a lender ancillary to waiver of a valid due-on-sale clause, and not substantially limiting the economic benefit of the option. Thus, section 341(b)(2) does not prohibit a lender from imposing any non-contractual term as a condition of waiving a due-on-sale clause, if state law governing enforcement of the contract would permit such a requirement.

Additionally, several commenters raised the issue of whether the Board should adopt language paralleling the statutory language of "encouragement" of allowing "blended rate" assumptions for federal associations or other lenders notwithstanding preemption of state law restricting due-on-sale enforcement. The Board believes that the statutory language of Act section 341(b)(3) is permissive; a lender, at its discretion, may offer blended rates to the borrower, upon the exercise of the lender's option under a due-on-sale clause, but the Act imposes no mandatory obligation upon lenders to offer such blended rates. Therefore, the final regulation imposes no such condition.

The Board has also made several changes in the language of proposed § 591.4(b)(1) to clarify ambiguities regarding the Act's treatment of window-period loans. In addition, the Board wishes to clarify the extent to which a state may "otherwise regulate such contracts". The legislative history of section 341(c)(1)(A) of the Act clearly indicates that a state having a window-period can shorten the three-year window-period or even repeal existing due-on-sale restrictions. However, states cannot *2retroactively* extend the window-period, nor can a state expand the type of loan to which the window-period applies. S. Rep. at 22.

A second change affecting window-period loans involves the Board's interpretation of Act 341(c)(2)(A), permitting lenders subject to window-period laws to invoke a due-on-sale clause if a transferee fails to meet "customary credit standards." The Board has added new paragraph (d) to § 591.4 in response to several commenters' requests for clarification regarding: (1) What constitutes "customary standards" that an institutional or private lender may apply with respect to window-period loans; and (2) whether a lender may apply the "customary standards" in effect as of the time of transfer of the property subject to the loan, or whether the lender is limited to the creditworthiness standards that it applied at the time of loan origination.

The legislative history of the Act states that lenders have the right to require transferees of window-period loans to meet to customary credit standards which are applicable to loans secured by similar property. In addition, the legislative history provides that a lender may require a transferee to provide customary information and "completion of its customary credit application" upon transfer of a window-period loan. S. Rep. at 24, 57. Consistent with this statement of intent, the Board has modified § 591.4 by adding a new paragraph (d)(1)(i) to identify customary credit standards for lenders who make real property loans in the ordinary course of business (e.g., banks, savings and loans and other institutional lenders).

The Board has also modified § 591.4 by adding new paragraph (d)(1)(ii) to identify customary credit standards for noninstitutional lenders and other real property sellers. Literally, the broad definition of "lender" in the Act contemplates imposition of customary credit standards by private persons who, as creditors, are subject to the terms of the Act but who are not in the business of making real estate loans. Such individuals will not have credit-worthiness standards which they usually apply to loans secured by similar property (the standard provided for an institutional lender) because they will not deal in a volume of transactions sufficient to establish any "customary" standards. In order to create uniform standards imposed by private lenders, to the extent practicable, final § 591.4(d)(1)(ii) permits a private seller or lender to impose the credit standards customarily applied by other similarly situated lenders or sellers in the geographic market within which the transaction occurs.

New § 591.4(d)(1)(i) and (ii) require that the application of customary credit standards by both institutional and non-institutional lenders shall be those in effect as of the time of *transfer* of the loan securing the real property.

Another issue arising under the "customary credit standard" exception to use of due-on-sale clauses in window-period loans involves the respective duties of borrower and lender when a transfer is contemplated. A number of comments raised the point that a lender's right to accelerate under section 341(c)(2)(A) would be meaningless if a transferee or prospective transferee refuses to cooperate. Because credit reporting agencies generally require a written release from a borrower before

providing a credit report, a noncooperative transferee could prevent a lender from making the determination that the transferee has failed to meet its customary credit standards. Such a result would clearly contravene Congressional intent in creating the customary credit standard provision for window-period loans. Accordingly, the Board has provided in the final language (§ 591.4(d)(2)) that a lender may exercise its due-on-sale clause *either* if: (1) The transferee fails to meet the lender's customary credit standards; or (2) upon a transfer, the transferee fails to provide information necessary for the lender to approve or disapprove the loan, within 15 days or the lender's written request.

New § 591.4(d)(3) also ensures that a lender must respond in good faith to a credit application of a transferee by acting to approve or disapprove the transfer within 30 days of receiving the credit application and any related credit information it may have requested.

Finally, new § 591.4(d)(4) clarifies that the right to invoke a due-on-sale clause when a transferee fails to meet customary credit standards is not intended to be exclusive of any other exceptions or qualifications currrently available in states which have window-periods. That is, the customary credit standards qualification is available to lenders holding window-period loans in addition to any other rights accorded the lender regarding assumptions in states restricting due-on-sale exercise (such as the right to impose a limited transfer fee or limited increase in interest rate upon assumption).

Limitation on Exercise of Due-on-Sale Clauses

Borrower-Occupied Homes. Consistent with Act section 341(d)(1), proposed § 591.5(b) set forth a list of statutory restrictions on the exercise of due-on-sale clauses for real property loans originated by all lenders, including window-period loans. The Board further noted in the preamble that it proposed to modify the statutory scheme by providing that the restrictions listed in the statute would apply only to loans made on homes occupied or to be occupied by the borrower. While the Board has carefully evaluated comments objecting to this limitation, it has determined to retain this principle in accordance with its belief that this approach is most consistent with the Congressional purpose of restricting due-on-sale exercise to protect consumers. S. Rep. at 24–25. A structural and historical analysis of the exemptions also supports the Board's interpretation that they apply only to borrower-occupants. To a large extent, the exemptions in the Act are extracted directly from the Board's existing due-on-sale regulations and statements of policy in which the exemptions were intended only to apply to borrower-occupants. In light of the Board's pre-existing interpretation and expressed intent regarding these exemptions and the subsequent restatement of those exemptions in the Act, the Board believes that applying the restrictions only to borrower-occupied home loans is most consistent with the intent of Congress. Accordingly, loans on all property other than borrower-occupied homes are not subject to the restrictions set out in final § 591.5(b).

Secondary Liens. Final § 591.5(b)(1)(i) clarifies that the limitation on the exercise of a due-on-sale clause in the event of the creation of a secondary lien or encumbrance does not include a transfer of the property pursuant to a contract for deed.

The Board believes that if a contract-for-deed transfer were considered to be a subordinate lien or encumbrance within the meaning of section 341(d)(1) of the Act, it would effectively create a loophole which would render the Act meaningless. Moreover, such a clarification is consistent with prior opinions of the Board and case law. Therefore, the final regulation indicates that the creation of a vendor's or vendee's interest in a contract for deed does not fall within the limitations of section 341(d)(1) of the Act.

In addition, as a technical matter, the Board has modified the language of the proposal to cover liens not relating to "a transfer of *rights* of occupancy in the property" to conform to the literal language of Act section 341(d)(1).

Leasehold Interest. Final § 591.5(b)(1)(iv), regarding the limitation on enforcement of a due-on-sale clause with respect to the granting of a leasehold interest, has been adopted as proposed. One commenter queried when an owner must occupy the property to avoid acceleration under this provision. In the Board's view, the requirement of owner-occupancy applies only at the time the loan securing the property was initially made, not at the time the owner enters into a lease with a tenant.

Inter Vivos Trusts. The Board has modified proposed § 591.5(b)(1)(vi), pertaining to limitation of due-on-sale enforcement upon transfer of the property to an *inter vivos* trust. As proposed, the lender could not enforce its due-on-sale clause upon a transfer to an *inter vivos* trust where the borrower is and remains the beneficiary and occupant of the security property. Several commenters noted that some states, such as Illinois, authorize transfers of property into so-called land trusts, where a trustee holds only legal title to the property. They expressed concern that transfers of property into a land trust could result in permanent incapacity of leaders' due-on-sale enforcement rights because the beneficiary of the trust is free to direct the sale of the beneficial interest without any public record (legal title remains with the trustee) or notice to the lender (trustee cannot reveal transfer absent consent of beneficiary). The commenters argued that, unless the Board modified the proposed rule to provide specific protection for lenders, the rule provided a means by which borrowers could circumvent a due-on-sale clause.

The Board agrees that lenders should be allowed to protect their legitimate right to exercise a due-on-sale clause against such transfers. The legislative history of Act § 341(d) indicates that the exceptions against exercise of due-on-sale clauses are not intended to allow borrowers to circumvent the right of the lender to exercise its option under a valid due-on-sale clause. S. Rep. at 24–25. Consistent with this clear Congressional directive and the Board's broad authority to issue regulations implementing the Act, the Board has modified the final rule to provide that the *inter vivos* trust exemption will not apply if a borrower refuses to provide reasonable means acceptable to the lender by which the lender will be assured of timely notice of any subsequent transfer of the beneficial interest or change in occupancy.

Technical Changes. The Board has modified proposed § 591.5(b)(1)(iii) to correct a typographical error. The final subdivision reads "* * * or operation of law *on* the death * * *," rather than "* * * or operation of law *or* the death * * *."

Prepayment Penalties. The Board has determined to eliminate a proposed limitation in § 591.5(b)(2), which would have precluded a lender from imposing prepayment penalties in the event of exercise of a due-on-sale clause. However, the final regulation retains the ban on the imposition of prepayment penalties on loans originated by federal associations after July 31, 1976, and prior to the effective date of the final rule. This approach is consistent with prior Board policy and ensures that holders of loans originated during that period will not be prejudiced by retroactive application of the new policy eliminating the proscription, as implemented in the final regulation.

Notwithstanding the elimination of the proscription on assessments of

prepayment charges, however, all lenders must comply with the pre-disclosure requirements regarding such charges imposed on federal associations by § 545.33(f)(1)(ii). The Board believes that this revision is within the scope of its authority and discretion, and is consistent with its decision to permit federal associations to determine their own prepayment policies in its final regulations implementing the new thrift lending authority under Act sections 321–330 (Resolution No. 83–241, April 26, 1983).

While the Board has determined not to impose federal restrictions on the imposition of prepayment (or equivalent) fees in conjunction with the exercise of due-on-sale clauses, lenders must consult state law to determine the validity of such practices. The legislative history of the preemptive language in Act section 341(b) indicates that Congress intended to preempt only those state laws interfering with a lender's effective enforcement of a due-on-sale clause as a means of increasing the yield on older low-interest mortgages in portfolio, at the time the loans are transferred. S. Rep. at 21, 22, 23, 57. While the ability to impose a prepayment or equivalent fee upon due-on-sale acceleration may be of some economic benefit to the lender, it is in no sense essential to effective use of the due-on-sale clause for the purpose of raising portfolios yields to current market rates.

Consequently, lenders should carefully review applicable state statutes and judicial decisions in this area. The Board notes that, to date, when mortgage instruments contain both a prepayment penalty and a valid due-on-sale clause, the courts have denied enforcement of the prepayment penalty upon a sale by a mortgagor leading the lender to accelerate the debt. The rationale in these cases is that the lender's election to accelerate renders the payment a "postpayment"—one made after maturity of the loan—that by definition is not a "prepayment" of the mortgage debt. *See, e.g., Slevin Container Corp. v. Provident Fed. Sav.*, 98 Ill. App. 646, 424 N.E.2d 939 (1981).

The Board has modified § 591.5(b)(3) of the proposed rule to clarify that the term "assumption" describes a written agreement between the lender and the borrower's successor in interest in which the latter agrees to be obligated under the terms of the loan. Such a change in language was made to avoid the possible interpretation of the term "assumption" as including transfers of real property "subject to" a mortgage or similar lien pursuant to the definition of "assumed" in § 591.2(a) of the final rule.

The Board has also modified proposed § 591.5(b)(3) by incorporating an additional sentence regarding the legal effect of waiver of a lender's due-on-sale option pursuant to the prospective transferee's agreement to assume the loan at a higher interest rate. This sentence is simply a recodification of the last sentence of prior Board regulation 12 CFR 545.8–3(g). Thus, a lender which waives exercise of the due-on-sale clause pursuant to paragraph (b)(3) will be required to release the original borrower from all contractual obligations under the mortgage, and will be deemed to have made a new loan to the existing borrower's successor in interest. The Board believes this reaffirmation of prior Board policy is an appropriate means of preventing any uncertainty or confusion regarding the legal status of the parties upon such a transfer.

Effective Date

The Board has determined that the full 30-day delay of effective date following publication of the regulations pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary because: (1) They relieve restrictions imposed on lenders by state laws restricting due-on-sale clause exercise, and (2) it is in the public interest to provide as expeditiously as possible uniform guidelines pertaining to preemption of state due-on-sale clause restrictions. The rules will therefore take effect on May 10, 1983.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objective, and legal basis underlying the rule.* These elements have been incorporated elsewhere into the supplementary information regarding the rule.

2. *Small entities to which the rule will apply.* The final rule will apply to all federally-chartered and insured depository institutions, all state-chartered and state-insured depository institutions, and all other government or corporate entities who fall within the definition of "lender" in Pub. L. 97–320 section 341(a)(2).

3. *Impact of the rule on small businesses.* The rule will not have a disproportionate effect on small businesses. By creating competitive parity between all lenders as to the use of due-on-sale clauses, the rule will benefit small lenders. The rule would have no significant economic impact on a substantial number of small entities.

4. *Overlapping or conflicting federal rules.* Any inconsistent state or federal law or regulation is superseded by the Board's rule, and in particular by the regulatory authority granted exclusively to the Board under subsection (e)(1) of section 341 Pub. L. 97–320. That subsection grants the Board broad authority to promulgate regulations governing preemption of due-on-sale clauses by all lenders making real property loans. Any overlapping or inconsistency will be eliminated through revisions of other law after implementation of this rule.

5. *Alternatives to the rules.* Most of the provisions are mandated by statute; moreover, to the extent that alternatives to the rules were considered, they are discussed elsewhere in the supplementary information.

Regulatory Analysis

The elements of regulatory analysis for major regulations required by Board Resolution No. 80–584 (September 11, 1980) have been incorporated in the supplementary information regarding the rule.

List of Subjects in 12 CFR Part 591

Savings and loan associations, Banks, banking, Mortgages.

Accordingly, the Board hereby amends Part 556, Subchapter C, and Part 590, Subchapter G, and adds new Part 591 to Subchapter G, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

Subchapter C—Federal Savings and Loan System

PART 556—STATEMENTS OF POLICY

§ 556.9 [Amended]

1. Amend § 556.9 by removing paragraph (b)(1) and redesignating the text of paragraph (b)(2) thereof as paragraph (b), and removing paragraphs (c), (d), (e) and (f) thereof.

2. Revise the title of Subchapter G as follows:

Subchapter G—Preemption of State Lending Restrictions

PART 590—PREEMPTION OF STATE USURY LAWS

3. Amend § 590.2 by revising paragraph (g), as follows:

§ 590.2 Definitions.

* * * * *

(g) "Residential manufactured home" shall mean a manufactured home as

defined in the National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5402(6), which is or will be used as a residence.

* * * * *

4. Revise paragraph (e) of § 590.4 as follows:

§ 590.4 Consumer protection rules for federally-related loans, mortgages, credit sales and advances secured by first liens on residential mobile homes.

* * * * *

(e) *Balloon payments.*—(1) *Federal associations.* Federal association creditors may enter into agreements with debtors which provide for non-amortized and partially-amortized loans on residential manufactured homes, and such loans shall be governed by the provisions of this section and § 545.33(f) of this Chapter.

(2) *Other creditors.* All other creditors may enter into agreements with debtors which provide for non-amortized and partially-amortized loans on residential manufactured homes to the extent authorized by applicable Federal or state law or regulation.

* * * * *

5. Add a new Part 591, as follows:

PART 591—PREEMPTION OF STATE DUE-ON-SALE LAWS

Sec.
591.1 Authority, purpose, and scope.
591.2 Definitions.
591.3 Loans originated by Federal associations.
591.4 Loans originated by lenders other than Federal associations.
591.5 Limitation on exercise of due-on-sale clauses.
591.6 Interpretations.

Authority: Sec. 5, 48 Stat. 132 (12 U.S.C. 1464), as amended by Sec. 401, 94 Stat. 160; Sec. 311, 97 Stat. 1496; Sec. 341, Pub. L. 97–320, 96 Stat. 1469, 1505–1507.

§ 591.1 Authority, purpose, and scope.

(a) *Authority.* This part contains regulations issued under section 5 of the Home Owners' Loan Act of 1933, as amended, and under section 341 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97–320, 96 Stat. 1469, 1505–1507.

(b) *Purpose and scope.* The purpose of this permanent preemption of state prohibitions on the exercise of due-on-sale clauses by all lenders, whether Federally- or state-chartered, is to reaffirm the authority of Federal savings and loan associations to enforce due-on-sale clauses, and to confer on other lenders generally comparable authority with respect to the exercise of such clauses. This Part applies to all real property loans, and all lenders making such loans, as those terms are defined in § 591.2 of this Part.

§ 591.2 Definitions.

For the purposes of this Part, the following definitions apply:

(a) "Assumed" includes transfers of real property subject to a real property loan by assumptions, installment land sales contracts, wraparound loans, contracts for deed, transfers subject to the mortgage or similar lien, and other like transfers.

(b) "Due-on-sale clause" is a contract provision which authorizes the lender, at its option, to declare immediately due and payable sums secured by the lender's security instrument upon a sale of transfer of all or any part of the real property securing the loan without the lender's prior written consent. For purposes of this definition, a "sale or transfer" means the conveyance of real property of any right, title or interest therein, whether legal or equitable, whether voluntary or involuntary, by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three years, lease-option contract or any other method of conveyance of real property interests.

(c) "Federal association" has the same meaning as provided in § 541.8 of this Chapter.

(d) "Federal credit union" means a credit union chartered under the Federal Credit Union Act.

(e) "Home" has the same meaning as provided in § 541.14 of this Chapter.

(f) "Insured institution" has the same meaning as provided in § 561.1 of this Chapter.

(g) "Lender" means a person or government agency making a real property loan, including without limitation, individuals, Federal associations, state-chartered savings and loan associations, national banks, state-chartered banks and state-chartered mutual savings banks, Federal credit unions, state-chartered credit unions, mortgage banks, insurance companies and finance companies which make real property loans, manufactured-home retailers who extend credit, agencies of the Federal government, any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act, and any assignee or transferee, in whole or part, of any such persons or agencies.

(h) "Loan secured by a lien on real property" means a loan on the security of any instrument (whether a mortgage, deed of trust, or land contract) which makes the interest in real property (whether in fee, or in a leasehold or subleasehold) specific security for the payment of the obligation secured by the instrument.

(i) "Loan secured by a lien on stock in a residential cooperative housing corporation" means a loan on the security of: (1) A security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization; and (2) an assignment of the borrower's interest in the proprietary lease of occupancy agreement issued by such organization.

(j) "Loan secured by a lien on a residential manufactured home, whether real or personal property," means a loan made pursuant to an agreement by which the party extending the credit acquires a security interest in the residential manufactured home.

(k) "Loan originated by" a Federal association or other lender means any loan for which the lender makes the first advance of credit thereunder, provided that such lender then held a beneficial interest in the loan, whether as to the whole loan or a portion thereof, and whether or not the loan is later held by or transferred to another lender.

(l) "Real property loan" means any loan, mortgage, advance or credit sale secured by a lien on real property, the stock or membership certificate allocated to a dwelling unit in a cooperative housing corporation, or a residential manufactured home, whether real or personal property.

(m) "Residential manufactured home" has the same meaning as provided in § 590.2(g) of this Subchapter.

(n) "Reverse mortgage" is any instrument providing periodic payments to homeowners based on accumulated equity, whether the payments are made directly by the lender, through purchase of an annuity through an insurance company or in any other manner. The loan may be due either upon a specific date or when a specified event occurs, such as the sale of the property or death of the borrower.

(o) "State" means the several states, Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

(p)(1) A "window-period loan" is a real property loan, not originated by a Federal association, which was made or assumed during a window-period created by state law and subject to that law, which loan was recorded, at the time of origination or assumption, before October 15, 1982, or within 60 days thereafter (December 14, 1982).

(2) The window-period begins on:

(i) The date a state adopted a law (by means of a constitutional provision or statute) prohibiting the unrestricted exercise of due-on-sale clauses upon outright transfers of property securing loans subject to the state law creating the window-period, or the effective date of a constitutional or statutory provision so adopted, whichever is later; or

(ii) The date on which the highest court of the state rendered a decision prohibiting such unrestricted exercise (or if the highest court has not so decided, the date on which the next highest appellate court rendered a decision resulting in a final judgment which applies statewide), and ends on the earlier of the date such state law prohibition terminated under state law or October 15, 1982.

(3) Categories of state law which create window-periods by prohibiting the unrestricted exercise of due-on-sale clauses upon outright transfers of property securing loans subject to such state law restrictions include laws or judicial decisions which permit the lender to exercise its option under a due-on-sale clause only where:

(i) The lender's security interest or the likelihood of repayment is impaired; or

(ii) The lender is required to accept an assumption of the existing loan without an interest-rate change or with an interest-rate change below the market interest rate currently being offered by the lender on similar loans secured by similar property at the time of the transfer.

§ 591.3 Loans originated by Federal associations.

(a) With regard to any real property loan originated or to be originated by a Federal association, as a matter of contract between it and the borrower, an association continues to have the power to include a due-on-sale clause in its loan instrument.

(b) Except as otherwise provided in § 591.5 of this Part with respect to any such loan made on the security of a home occupied or to be occupied by the borrower, exercise by any lender of a due-on-sale clause in a loan originated by a Federal association shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the lender and borrower shall at all times be fixed and governed by that contract.

§ 591.4 Loans originated by lenders other than Federal associations.

(a) With regard to any real property loan originated by a lender other than a Federal association, as a matter of contract between it and the borrower, the lender has the power to include a due-on-sale clause in its loan instrument.

(b) Except as otherwise provided in paragraph (c) of this section and § 591.5 of this Part, the exercise of due-on-sale clauses in loans originated by lenders other than Federal associations shall be governed exclusively by the terms of the loan contract, and all rights and remedies of the lender and the borrower shall be fixed and governed by that contract.

(c)(1) In the case of a window-period loan, the provisions of paragraph (b) of this section shall apply only in the case of a sale or transfer of the property subject to the real property loan and only if such sale or transfer occurs on or after October 15, 1985: *Provided*, that: (i) With respect to real property loans originated in a state by lenders other than national banks, Federal associations, and Federal credit unions, a state may otherwise regulate such contracts by state law enacted prior to October 16, 1985, in which case paragraph (b) of this section shall apply only if such state law so provides; and (ii) with respect to real property loans originated by national banks and Federal credit unions, the Comptroller of the Currency or the National Credit Union Administration Board, respectively, may otherwise regulate such contracts by regulations promulgated prior to October 16, 1985, in which case paragraph (b) shall apply only if such regulation so provides.

(2) A lender may not exercise its options pursuant to a due-on-sale clause contained in a window-period loan in the case of a sale or transfer of property securing such loan where the sale or transfer occurred prior to October 15, 1982.

(d)(1) Prior to the sale or transfer of property securing a window-period loan subject to the provisions of paragraph (c) of this paragraph,

(i) Any lender in the business of making real property loans may require any successor or transferee of the borrower to supply credit information customarily required by the lender in connection with credit applications, to complete its customary credit application, and to meet customary credit standards applied by such lender, at the date of sale or transfer, to the lender's similar loans secured by similar property.

(ii) Any lender not in the business of making loans may require any successor or transferee of the borrower to meet credit standards customarily applied by other similarly situated lenders or sellers in the geographic market within which the transaction occurs, for similar loans secured by similar property, prior to the lender's consent to the transfer.

(2) The lender may exercise a due-on-sale clause in a window-period loan if:

(i) The successor or transferee of the borrower fails to meet the lender's credit standards as set forth in paragraphs (b)(1) (i) and (ii) of this section; or

(ii) Upon transfer of the security property and not later than fifteen days after written request by the lender, the successor or transferee of the borrower fails to provide information requested by the lender pursuant to paragraph (d)(1) (i) or (ii) of this section, to determine whether such successor or transferee of the borrower meets the lender's customary credit standards.

(3) The lender shall, within thirty days of receipt of a completed credit application and any other related information provided by the successor or transferee of the borrower, determine whether such successor or transferee meets the customary credit standards of the lender and provide written notice to the successor or transferee of its decision, and the reasons in the event of a disapproval. Failure of the lender to provide such notice shall preclude the lender from exercise of its due-on-sale clause upon the sale or transfer of the property securing the loan.

(4) The lender's right to exercise a due-on-sale clause pursuant to this paragraph is in addition to any other rights afforded the lender by state law regulating window-period loans with regard to the exercise of due-on-sale clauses and loan assumptions.

§ 591.5 Limitation on exercise of due-on-sale clauses.

(a) *General.* Except as provided in §§ 591.4 (c) and (d)(4) of this Part, due-on-sale practices of Federal associations and other lenders shall be governed exclusively by the Board's regulations, in preemption of and without regard to any limitations imposed by state law on either their inclusion or exercise including, without limitation, state law prohibitions against restraints on alienation, prohibitions against penalties and forfeitures, equitable restrictions and state law dealing with equitable transfers.

(b) *Specific limitations.* With respect to any loan on the security of a home occupied or to be occupied by the borrower,

(1) A lender shall not (except with regard to a reverse mortgage) exercise its option pursuant to a due-on-sale clause upon:

(i) The creation of a lien or other encumbrance sub-ordinate to the lender's security instrument which does

not relate to a transfer of rights of occupancy in the property: *Provided*, that such lien or encumbrance is not created pursuant to a contract for deed;

(ii) The creation of a purchase-money security interest for household appliances;

(iii) A transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(iv) The granting of a leasehold interest which has a term of three years or less and which does not contain an option to purchase (that is, either a lease of more than three years or a lease with an option to purchase will allow the exercise of a due-on-sale clause);

(v) A transfer, in which the transferee is a person who occupies or will occupy the property, which is: (A) A transfer to a relative resulting from the death of the borrower; (B) a transfer where the spouse or child(ren) becomes an owner of the property; or (C) a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse becomes an owner of the property; or

(vi) A transfer into an *inter vivos* trust in which the borrower is a and remains the beneficiary and occupant of the property, unless, as a condition precedent to such transfer, the borrower refuses to provide the lender with reasonable means acceptable to the lender by which the lender will be assured of timely notice of any subsequent transfer of the beneficial interest or change in occupancy.

(2) A lender:

(i) Which is a Federal association and which originates a loan after July 31, 1976, and before [May 10, 1983], shall not impose a prepayment charge or equivalent fee in connection with acceleration of the loan by exercise of a due-on-sale clause;

(ii) Which originates a loan on or after [May 10, 1983] may impose a prepayment charge or equivalent fee in connection with acceleration of the loan by exercise of a due-on-sale clause, provided that, at the time of origination of the loan, the lender complies fully with the disclosure requirements for Federal associations set forth in § 545.33(f)(1)(ii) of this Chapter.

(3) A lender waives its option to exercise a due-on-sale clause as to a specific transfer if, before the transfer, the lender and the existing borrower's prospective successor in interest agree in writing that the successor in interest will be obligated under the terms of the loan and that interest on sums secured by the lender's security interest will be payable at a rate the lender shall request. Upon such agreement and resultant waiver, a lender shall release the existing borrower from all obligations under the loan instruments, and the lender is deemed to have made a new loan to the existing borrower's successor in interest.

(i) The waiver and release apply to all loans secured by homes occupied by borrowers made by a Federal association after July 31, 1976, and to all loans secured by homes occupied by borrowers made by other lenders after the effective date of this regulation.

(4) Nothing in paragraph (b)(1) of this section shall be construed to restrict a lender's right to enforce a due-on-sale clause upon the subsequent occurrence of any event which disqualifies a transfer for a previously-applicable exception under that subparagraph.

(c) *Policy considerations.* Paragraph (b) of this section does not prohibit a lender from requiring, as a condition to an assumption, continued maintenance of mortgage insurance by the existing borrower's successor in interest, whether by endorsement of the existing policy or by entrance into a new contract of insurance.

§ 591.6 Interpretations.

The Board periodically will publish Interpretations under Section 341 of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, 96 Stat. 1469, 1505-1507, in the **Federal Register** in response to written requests sent to the Secretary to the Board, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 341, 96 Stat. 1469, 1505-1507; Reorg. Plan No. 3 of 1947; 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-12889 Filed 5-12-83; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 444, 448, and 455

[Docket No. 79N-0341; DESI Nos. 8615, 9152, 9188, and 50168]

Oligosaccharide, Peptide, and Certain Other Antibiotic Drugs; Confirmation of Effective Dates and Further Amendment

AGENCY: Food and Drug Administration.

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

SUMMARY: The Food and Drug Administration is confirming the effective dates of amendments to the antibiotic drug regulations announced in the **Federal Register** of May 28, 1982, and is further amending the regulations to provide accepted standards for a particular formulation that was inadvertently omitted from the May 28, 1982 final rule.

DATES:

The amendment announced in this final rule is effective May 13, 1983.

Comments, objections, and requests for hearing by June 13, 1983.

Data, information, and analyses to justify a hearing by July 12, 1983.

ADDRESS: Objections and requests for hearing, supporting data and information, and other comments should be identified with the docket number appearing in the heading of this document and 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: Douglas I. Ellsworth, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 28, 1982 (47 FR 23440), as part of actions classifying various ophthalmic steroid/anti-infective combination drug products as effective and announcing conditions for their further marketing, the Director of the Bureau of Drugs and Biologics amended the antibiotic drug regulations to require a minimum of 10,000 units per milliliter or units per gram (units/mL or g) of polymyxin B in all ophthalmic combinations that contain this component. The Director also amended the antibiotic regulations to provide for the certification (now accepted public standards, see 47 FR 39155) of ophthalmic combination products that has been released pending a final determination of their effectiveness. In response to the amendments, one objection was filed but was later withdrawn. Therefore, the effective dates of the May 28, 1982 final rule are hereby confirmed.

In reviewing the products affected by the conclusions regarding steroid/anti-infective combination drug products, the Director noted that no standards had been announced for Burroughs Wellcome's Cortisporin Ophthalmic Ointment (NDA 50-416) or Kasco-Efco's Bacitracin-Polymyxin-Neomycin with Hydrocortisone Ophthalmic Ointment (NDA 60-731) each containing bacitracin zinc, neomycin sulfate, polymyxin B

sulfate (10,000 units/g), and hydrocortisone. At one time, these products contained 5,000 units/g of polymyxin B and were classified in the **Federal Register** of August 29, 1980 (45 FR 57776), as lacking substantial evidence of effectiveness because of their polymyxin B level. The August 29, 1980 notice also stated that these products would be regarded as effective if reformulation to contain 10,000 units/g. Although these products were reformulated to contain 10,000 units/g of polymyxin B, the May 28, 1982 final rule inadvertently omitted standards for these drugs. Therefore, § 448.313b of the antibiotic regulations (21 CFR 448.313b) is hereby further amended to provide standards for these drugs. Because this additional amendment is not controversial and provides notice of accepted standards for marketed products already in compliance with the standards, notice and comment procedure for the action and a delayed effective date are found unnecessary and not in the public interest.

List of Subjects

21 CFR Part 444

Antibiotics, Oligosaccharide.

21 CFR Part 448

Antibiotics, Peptide.

21 CFR Part 455

Antibiotics.

PART 448—PEPTIDE ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5110) and redelegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.78 and 47 FR 26913 published in the **Federal Register** of June 22, 1982), the July 7, 1982 effective date for the amendments to §§ 444.342a, 444.342d, and 444.542a, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment, and new §§ 444.342j and 444.342k, as announced in the May 28, 1982 final rule, is confirmed; the February 22, 1983 effective date for the amendments to §§ 444.342b, 444.342h, 444.342i, and 448.310b, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment, and the amendment to § 455.310d, as announced in the May 28, 1982 final rule, is confirmed; and Part 448 is amended in § 448.313b by revising the section heading and paragraph (a)(1)(i) and (ii) and by adding new paragraph (a)(1)(iii), to read as follows:

§ 448.313b Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone acetate ophthalmic ointment.

(a) * * *

(1) * * *

(i) 400 units of bacitracin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B with or without 10 milligrams of hydrocortisone acetate;

(ii) 500 units of bacitracin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B; or

(iii) 400 units of bacitracin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 10 milligrams of hydrocortisone.

* * * * *

Any person who will be adversely affected by the amendments to § 448.313b announced in this final rule may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before June 13, 1983; a written notice of participation and request for hearing and (2) on or before July 12, 1983 the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. 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 hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if 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 request(s) the hearing, making findings and conclusions and denying a hearing.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and granting or denying of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except comments from an individual, must be filed in four copies. An individual submitting only comments may submit one copy. All submissions must be identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (address given above).

All submissions under this order, 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.

Effective Date. This amendment is effective May 13, 1983.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357))

Dated: May 6, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-12845 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Parts 510 and 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Southern Micro-Blenders, Inc., providing for manufacturing a 10-gram-per-pound tylosin premix. The 10-gram-per-pound premix is used to make complete feeds for swine, cattle, and chickens. In addition, the firm is added to the list of sponsors of approved NADA's.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4913.

SUPPLEMENTARY INFORMATION: Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406, is the sponsor of NADA 133-833 submitted on its behalf by Elanco Products Co. This NADA provides for use of premixes containing 40 or 100 grams per pound of tylosin (as tylosin phosphate) or granulated tylosin concentrate to make a 10-gram-per-pound premix which is used to make complete feeds for swine, beef cattle, and broiler, replacement, and layer chickens. The feed is used as in 21 CFR 558.625(f)(1) (i) through (vi). The basis of approval is discussed in the freedom of information (FOI) summary. The NADA

is approved and the regulations are amended to reflect the approval.

In addition, the sponsor has not been previously added to the list of sponsors of approved NADA's in 21 CFR 510.600(c). The list is amended to add 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.

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.

List of Subjects

21 CFR Part 510

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

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), Parts 510 and 558 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
* * * * *	
Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406	049685

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
049685	Southern Micro-Blenders, Inc., 3801 North Hawthorne St., Chattanooga, TN 37406
* * * * *	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(80) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(80) To 049685: 10 grams per pound; paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. May 13, 1983.

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

Dated: May 6, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12949 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject To Certification; Methylprednisolone and Aspirin Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to codify a previously approved new animal drug application (NADA) sponsored by The Upjohn Co. providing for safe and effective use of methylprednisolone and aspirin tablets as an anti-inflammatory and analgesic agent in dogs. FDA is further amending the regulations to specify those conditions of use for which approval of applications for identical or similar products need not include certain effectiveness data. A previously approved supplemental NADA reflects compliance with the conclusions of National Academy of Sciences/National Research Council Drug Efficacy Study Implementation (NAS/NRC–DESI) evaluation of the product.

EFFECTIVE DATE: May 13, 1983.

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

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, is sponsor of NADA 11–700 providing for oral use of a tablet containing methylprednisolone and aspirin as an anti-inflammatory and analgesic agent in dogs. The NADA was originally approved on May 21, 1959. The product was the subject of a NAS/NRC–DESI notice in the **Federal Register** of March 20, 1969 (34 FR 5448). The notice stated that NAS/NRC had concluded, and FDA had concurred, that the product was probably effective as an anti-inflammatory and analgesic in treating dogs for myositis, arthritis, ocular inflammation, otitis, dermatitis, and allergic conditions; but that no documentation had been provided to substantiate the label claim that it is advantageous to combine methylprednisolone with aspirin or any salicylate.

By letter dated March 13, 1969 to the firm, FDA indicated that certain changes would be necessary in the package insert. The letter further stated that "While we believe both compounds are effective when used alone, data will need to be submitted to show an added effect when in combination." The firm was provided 6 months to make the necessary changes in the insert labeling or to submit additional information supporting the labeling used.

The Upjohn Co. responded by submitting a supplemental NADA which provided the requested changes in the insert labeling. The supplement was approved September 12, 1969. Accordingly, the NAS/NRC–DESI status of the product was upgraded to effective. The regulations are amended to codify Upjohn's previously approved NADA and to specify the NAS/NRC-approved conditions of use.

For approval of NADA's for identical or similar products having the same conditions of use, applications need not include efficacy data as specified by 21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(ii)(*a*)(*4*), but approval may require bioequivalency or similar data as suggested in the guidelines for submitting NADA's for NAS/NRC-reviewed generic drugs. The guidelines are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

This action, codification of a previously approved NADA, does not constitute reaffirmation of the safety and effectiveness data supporting the approval. Because the NADA was approved before July 1, 1975, the sponsor was not required to submit a summary of the safety and effectiveness data and information in accordance with the freedom of information provisions of §514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)).

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

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part, 520 is amended by adding new § 520.1409, to read as follows:

§ 520.1409 Methylprednisolone, aspirin tablets.

(a) *Specifications.* Each tablet contains 0.5 milligram of methylprednisolone and 300 milligrams of aspirin.

(b) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

(c) *NAS/NRC status.* The conditions of use have been NAS/NRC reviewed and found effective. New animal drug applications for approval of drugs for these conditions of use need not include effectiveness data specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

(d) *Special considerations.* (1) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(2) Systemic therapy with methylprednisolone is contraindicated in animals with tuberculosis, chronic nephritis, peptic ulcer, or Cushingoid syndrome. The presence of diabetes mellitus, osteoporosis, predisposition to thrombophlebitis, hypertension, congestive heart failure, or renal insufficiency necessitates carefully controlled use of corticosteroids.

(3) Anti-inflammatory action of corticosteroids may mask signs of infection.

(e) *Conditions of use*—(1) *Amount.* Dogs under 15 pounds, ¼ to 1 tablet daily; 15 to 60 pounds, 1 to 2 tablets daily; 60 pounds and over, 2 tablets daily.

(2) *Indications for use.* As an anti-inflammatory and analgesic agent in dogs.

(3) *Limitations.* Administer total daily dose in divided doses 6 to 10 hours apart, with a light feeding. When response is attained, dosage should be gradually reduced until maintenance level is achieved. Do not administer to cats. Do not overdose. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. May 13, 1983.

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

Dated: May 6, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12848 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Parts 520 and 524

Oral Dosage Form New Animal Drugs not Subject to Certification; Cyclothiazide Tablets; Ophthalmic and Topical Dosage Form New Animal Drugs not Subject to Certification; Flurandrenolide With Neomycin Sulfate Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing those regulations reflecting approval of a new animal drug application (NADA) providing for use of cyclothiazide tablets in dogs for their diuretic and saluretic effects and another NADA providing for use of an ointment containing flurandrenolide and neomycine on dogs for topical management of allergic dermatitis, otitis externa, and superficial pyoderma. The sponsor, Elanco Products Co., requested the withdrawal of approvals.

EFFECTIVE DATE: May 23, 1983.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of NADA 13-547 for Renazide Tablets and NADA 13-133 for Corderm Ointment, both sponsored by Elanco Products Co., a Division of Eli Lilly & Co., is withdrawn. This document amends the animal drug regulations by removing 21 CFR 520.526 and 524.1000 that reflect approval of the NADA's.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(2) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cummulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 520

Animal drugs, oral use.

21 CFR Part 524

Animal drugs, topical.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) 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 5.84), Parts 520 and 524 are amended as follows:

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

§ 520.526 [Removed]

1. Part 520 is amended by removing § 520.526 *Cyclothiazide tablets.*

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

§ 524.1000 [Removed]

2. Part 524 is amended by removing § 524.1000 *Flurandrenolide with neomycin sulfate ointment.*

Effective date. May 23, 1983.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)).)

Dated: May 2, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12545 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Glycopyrrolate Injection

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 A. H. Robins Co. providing for use of glycopyrrolate injection as a preanesthetic agent in cats.

EFFECTIVE DATE: May 13, 1983

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4330.

SUPPLEMENTARY INFORMATION: A. H. Robins Co., Research Laboratories, 1211 Sherwood Ave., Richmond, VA 23220, filed a supplement to NADA 101–777 providing for safe and effective use of glycopyrrolate injection for intramuscular use in cats as a preanesthetic agent.

A. H. Robins presently holds an approval for intramuscular, intravenous, and subcutaneous use of the drug in dogs as a preanesthetic agent. Under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplement. The Bureau required, and the sponsor submitted, safety and effectiveness studies to support the supplement. The supplement is approved and the regulations are amended to reflect the approval for the use of the product in cats. The regulations are also being amended to delete the reference to the preservation used in the product which need not be specified since it is not an active ingredient.

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.

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.

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 by revising § 522.1066 to read as follows:

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

§ 522.1066 Glycopyrrolate injection.

(a) *Specifications.* Each milliliter of aqueous solution contains 0.2 milligram of glycopyrrolate.

(b) *Sponsor.* See No. 000031 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) It is indicated as a preanesthetic agent in dogs and cats.

(2) It is administered intravenously, intramuscularly, or subcutaneously in dogs and intramuscularly in cats at a dosage level of 5 micrograms per pound of body weight (0.25 milliliter per 10 pounds of body weight).

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. May 13, 1983.

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

Dated: May 2, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12546 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 0

[Docket No. R-83-990]

Standards of Conduct for HUD Employees

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule amends the regulations prescribing Standards of Conduct for HUD employees, to bring the post-employment restrictions into conformity with the Ethics in Government Act of 1978. In accordance with section 207 of that Act, the rule also provides that persons who must file financial disclosure statements under the Act are exempt from filing additional financial disclosure reports. Finally, the rule removes the Appendix to the regulations, which lists positions for which persons must file confidential statements of employment and financial interests.

EFFECTIVE DATE: June 27, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. David D. White, Assistant General Counsel for Administrative Law, Office of General Counsel, Room 10252, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–7137. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Ethics in Government Act of 1978, Pub. L. 95–521, provides for public financial disclosure by certain Government officials. Title V of the Act, as amended, revises the provisions of 18 U.S.C. 207 relating to the activities of former Government employees. As a result, HUD is amending 24 CFR Part 0 to revise its post-employment regulations and certain financial disclosure regulations, to conform to the provisions of the Act.

Major Provisions

1. Section 0.735–213, "Prohibited activities by former employees," has been made obsolete by the Ethics in Government Act. Accordingly, this rule revises § 0.735–213 to reflect the amendments to 18 U.S.C. 207 effected by title V of the Act and to refer to regulations of the Office of Personnel Management implementing those amendments.

2. This rule amends § 0.735–403 to exempt persons required to file statements under the Ethics in Government Act of 1978 from filing any additional financial disclosure reports. This is consistent with section 207 of that Act.

3. As part of the Department's efforts to promote regulatory simplicity, this rule streamlines § 0.735–409 and removes the Appendix at the end of Part 0. The Appendix lists positions for which incumbent employees must file confidential financial disclosure reports under Subpart D of Part 0. In the future, the list of positions will not be published as an Appendix to Part 0. The rule also deletes references to the Appendix contained in §§ 0.735–401 and 0.735–404.

Since all of the changes made by this rule relate to agency management or personnel, the requirements for notice of

proposed rule making contained in 5 U.S.C. 553(b) are not applicable to this rule. Accordingly, these amendments are being adopted by final rule, to become effective as provided above, without an opportunity for public comment on the changes made by the rule.

HUD regulations published at 47 FR 56266 (1982), amending 24 CFR Part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusion for internal administrative procedures set forth in paragraph (k) of § 50.20, the preparation of an Environmental Impact Statement or a Finding of No Significant Impact is not required for this rule.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule affects only Government employees and is not expected to have any economic impact on small entities.

This rule is not listed in the Department's Semiannual Agenda of Regulations published on October 28, 1982 (47 FR 48422), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 0

Conflict of interest.

PART 0—[AMENDED]

Accordingly, the Department amends 24 CFR Part 0) by:

1. Revising § 0.735–213 to read as follows:

§ 0.735–213 Prohibited activities by former employees.

(a) No former employee, including a former special Government employee, after terminating Government employment, shall knowingly act as agent or attorney for, or otherwise represent, any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person to any agency, employee or court of the United States or the District of Columbia, in connection with any particular Government matter involving a specific party, in which matter such employee participated personally and substantially as a Department employee.

(b) No former employee, including a former special Government employee, within two years after terminating employment by the United States, shall knowingly act as agent or attorney for or otherwise represent any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any person to any agency, employee or court of the United States or the District of Columbia, in connection with any particular Government matter involving a specific party, if such matter was actually pending under the employee's official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility.

(c) No former Senior Employee, as defined in 5 CFR § 737.3(a)(6), within two years after terminating employment by the United States, shall knowingly represent or aid, counsel, advise, consult, or assist in representing any other person by personal presence at any formal or informal appearance before any agency, employee or court of the United States or the District of Columbia, in connection with any particular Government matter involving a specific party, in which matter he or she participated personally and substantially.

(d) For a period of one year after terminating employment by the United States, no former Senior Employee, other than a special Government employee who serves for fewer than sixty days in a calendar year, shall knowingly act as an agent or attorney for, or otherwise represent, anyone in any formal or informal appearance before, or with the intent to influence, make any written or oral communication on behalf of anyone to the Department or any of its officers or employees, in connection with any particular Government matter, whether or not involving a specific party, which is pending before the Department, or in which it has a direct and substantial interest.

(e) The prohibitions set forth in paragraphs (a) through (d) of this section will be applied in accordance with regulations of the Office of Government Ethics as set forth in 5 CFR Part 737.

2. Revising the introductory language of paragraph (b) and paragraphs (c) and (d) of § 0.735–401 to read as follows:

§ 0.735–401 Employees required to submit statements.

* * * * *

(b) Employees classified at GS–13 or above who are in positions the incumbents of which are responsible for making a Government decision or taking a Government action in regard to: * * *

(c) Employees classified at GS–13 or above who are in positions which the Department has determined have duties and responsiblities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and carry out the purpose of law, Executive order, and this part.

(d) Employees classified below GS–13 who are in positions which otherwise meet the criteria in paragraphs (b) or (c) of this section. These positions have been approved by the Office of Government Ethics as exceptions that are essential to protect the integrity of the Government and avoid employee involvement in a possible conflicts-of-interest situation.

3. Revising paragraph (b) of § 0.735–403 to read as follows:

§ 0.735–403 Employees not required to submit statements.

* * * * *

(b) A statement of employment and financial interest is not required by this subpart from the Secretary; a full-time member of a committee, board, or commission appointed by the President; or a person required to file a financial disclosure report under the Ethics in Government Act of 1978 (the Act). These employees are subject to separate reporting requirements under Section 401 of Executive Order 11222 or Title II of the Act.

4. Revising § 0.735–404 to read as follows:

§ 0.735–404 Time and place for submission of employees' statements.

(a) An employee required to submit a statement of employment and financial interest as required in § 0.735–401 shall submit that statement on Form HUD–844 (Revised) to the official designated in paragraph (b) of this Section not later than thirty days after the employee's entrance on duty, and annually as provided in § 0.735–405.

(b) All employees shall submit their statements to the Assistant General Counsel for Administrative Law, or to any other Deputy Counselor who may be designated by the Department Counselor. Such statements shall be enclosed in sealed envelopes marked "Standards of Conduct—Department Counselor-Administratively Confidential."

5. Revising § 0.735–409 to read as follows:

§ 0.735-409 Confidentiality of employees' statements.

Each statement of employment and financial interest, and each supplementary statement, shall be held in confidence by the Department. To insure this confidentiality:

(a) The Department Counselor or his or her designee shall review and retain employees' statements;

(b) Officials and employees designated under paragraph (a) of this Section are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purposes of this Part; and

(c) The Department may not disclose information from a statement except as the Office of Personnel Management or the Secretary may determine for good cause shown.

Appendix [Removed]

6. Removing the Appendix, *List of Positions Subject to Subpart D.*

Authority: Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)) (18 U.S.C. 207) The Ethics in Government Act of 1978 (Pub. L. 95-521).

Dated: May 9, 1983.

Samuel R. Pierce, Jr.

Secretary, Department of Housing and Urban Development.

[FR Doc. 83-12957 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-83-1096]

Mortgage Insurance Loans; Changes in Interest Rates

AGENCY: Office of Assistant Secretary of Housing—Federal Housing Commissioner; HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA maximum allowable finance charge on Title I mobile home loans, combination and mobile home lot loans, property improvement loans, and historic preservation loans. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: May 16, 1983.

FOR FURTHER INFORMATION CONTACT: Jim L. Anderson, Director, Operations Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202-755-6880).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. Maximum finance charges on property improvement loans have been lowered from 16.00 percent to 15.50 percent, the finance charge on mobile home loans lowered from 14.50 percent to 14.00 percent, and the finance charge on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been lowered from 14.00 percent to 13.50 percent. The maximum charge on historic preservation loans has been lowered from 16.00 percent to 15.50 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

List of Subjects in 24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Mobile homes, Manufactured homes and lots.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS SUBPART A—ELIGIBILITY REQUIREMENTS—PROPERTY IMPROVEMENT LOANS

1. Section 201.4(a) is revised to read as follows:

§ 201.4 Financing charges

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 15.50 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart B—Eligibility Requirements—Mobile Home Loans

1. Section 201.540(a) is revised to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 14.00 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

2. Section 201.1511(a), subparagraph (1) is revised to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.* * * *

(1) 13.50 percent per annum.

* * * * *

Subpart E—Eligibility Requirements—Historic Preservation Loans

4. Section 201.1625(a) is revised to read as follows:

§ 201.1625 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge, exclusive of fees and charges as provided by paragraph (b) of this section, which may be directly or indirectly paid to, or collected by the insured in connection with the loan transaction, shall not exceed an 15.50 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

(Sec. 3(a), 82 Stat. 113; 12 U.S.C. 1709–1; sec. 7, Department of Housing and Urban Development Act, 42 U.S.C. 35354(d))

Dated: May 5, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-12958 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-27-M

---

24 CFR Parts 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242 and 244

[Docket No. R-83-1095]

Mortgage Insurance Loans; Changes in Interest Rates

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

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the HUD/FHA interest rates on insured loans. This action by HUD is designed to bring the maximum interest rates into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: May 9, 1983.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202–426–4667).

SUPPLEMENTARY INFORMATION: The following amendments have been made to this chapter to decrease the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA insured home mortgage insurance programs has been lowered from 12.00 percent to 11.50 percent for level payment (including operative builder) and from 12.00 percent to 11.75 percent for graduated payment home loan programs (GPM). For insured multifamily project mortgage loan programs, the maximum interest rate has been lowered from 13.00 percent to 12.50 percent. The maximum interest rate for multifamily construction and Title X land development loans has been lowered from 14.00 percent to 12.50 percent.

The secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

List of Subjects in 24 CFR Parts 203, 205, 207, 213, 220, 221, 232, 234, 235, 236, 241, 242 and 244

Mortgage insurance.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Subpart A—Eligibility Requirements

1. Section 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

2. Section 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.75 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

3. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.75 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

Subpart A—Eligibility Requirements

4. Section 205.50 is revised to read as follows:

§ 205.50 Maximum interest rate.

Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum. Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the 12.50 percent rate, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

5. Section 207.7 paragraph (a) is revised to read as follows:

§ 207.7 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the

applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

6. Section 213.10 paragraph (a) is revised to read as follows:

§ 213.10 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

Supart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

7. Section 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart C—Eligibility Requirements—Projects

8. Section 220.576 paragraph (a) is revised to read as follows:

§ 220.576 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

9. Section 221.518 paragraph (a) is revised to read as follows:

§ 221.518 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

10. Section 232.29 paragraph (a) is revised to read as follows:

§ 232.29 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these istances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

Subpart C—Eligibility Requirement—Supplemental Loans To Finance Purchase and Installation of Fire Safety Equipment

11. Section 232.560 paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) On or after May 9, 1983, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.50

percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

12. Section 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.50 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

13. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.75 percent per annum, except that where an application for commitment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

14. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 11.75 percent per annum, except that where an application for comm.tment was received by the Secretary before May 9, 1983, the mortgage may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart D—Eligibility Requirements—Rehabilitation Sales Projects

15. Section 235.540 paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) On or after May 9, 1983, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.50 percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Subpart A—Eligibility Requirements for Mortgage Insurance

16. Section 236.15 paragraph (a) is revised to read as follows:

§ 236.15 Maximum interest rate.

(a) Effective on or after may 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Subpart A—Eligibility Requirements

17. Section 241. 75 is revised to read as follows:

§ 241.75 Maximum interest rate.

Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Subpart A—Eligibility Requirements

18. Section 242.33 paragraph (a) is revised to read as follows:

§ 242.33 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

Subpart A—Eligibility Requirements

19. Section 244.45 paragraph (a) is revised to read as follows:

§ 244.45 Maximum interest rate.

(a) Effective on or after May 9, 1983, the mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed:

(1) 12.50 percent per annum with respect to permanent financing;

(2) 12.50 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Applications for conditional or firm commitments received on or after May 9, 1983, will be processed at the rates specified above, with the exception of applications submitted pursuant to unexpired site appraisal and market analysis (SAMA) or feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

* * * * *

(Sec. 3(a), 82 Stat. 113 (12 U.S.C. 1709–1); sec. 7, Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: May 5, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-12959 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-27-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

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

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

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

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

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

EFFECTIVE DATE: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Office of the General Counsel, Code 210, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006, 202–254–4895 (not a toll-free number).

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

When published as part of the final regulation, Appendix B contained interest rates and factors for valuing benefits in plans that terminated during the period from September 2, 1974 through April 1, 1981. Subsequently, the PBGC adopted additional rates and factors for valuing benefits in plans that terminated on or after April 1, 1981 and before April 1, 1983 (46 FR 26765, 46 FR 31257, 46 FR 36693, 46 FR 45761, 46 FR 50788, 46 FR 55958, 46 FR 61084, 47 FR 2313, 47 FR 6426, 47 FR 20761, 47 FR 30757, 47 FR 40541, 47 FR 46273, 47 FR 51393, 47 FR 56134, 48 FR 1715).

On March 15, 1983, the PBGC published rates for plans that terminate on or after April 1, 1983 (48 FR 10819). That rate has remained in effect until now and will remain in effect for plan terminations through the end of May, 1983. At this time, however, changes in the financial and annuity markets require a decrease in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for plans that terminate on or after June 1, 1983. This interest rate and these factors will remain in effect until such time as PBGC publishes another amendment concerning the rates.

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

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that

will terminate on or after February 1, 1983, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

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

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

PART 2619—[AMENDED]

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

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

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

2. Rate Set 41 of Appendix B is revised and Rate Set 42 of Appendix B is added to read as follows:

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

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

Rate set	For plans with a valuation date		Immediate annuity rate	Deferred annuities				
	On or after	And before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*	*	*
41	4-1-83	6-1-83	9.50	1.0675	1.0750	1.0400	7	8
42	6-1-83		9.25	1.0650	1.0725	1.0400	7	8

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-13007 Filed 5-12-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Kentucky Permanent Program; Removal of Condition of Approval and Consideration of Additional Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 917 by (1) removing a condition of approval of the Kentucky permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), regarding a plan for the processing of permit applications; (2) approving additional amendments to the Kentucky program, relating to hydrologic information in permit applications and incidental boundary revisions; and (3) creating two new conditions of approval, relating to the deferral of contemporaneous reclamation and the definition of "principal shareholder."

EFFECTIVE DATE: The removal of this condition and the approval of these program amendments are effective on May 13, 1983.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Kentucky Field Office, Office of Surface Mining, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, Telephone (606) 233-7327.

SUPPLEMENTARY INFORMATION:

Background on the Kentucky Program Submission and Conditional Approval

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of twelve minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404-21435).

Information pertinent to the general background, revisions and modifications to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register.**

Deficiency (1) of the Kentucky program for which the Secretary required correction as a condition of approval is as follows:

(1) Kentucky did not have a plan which includes: (1) A process for prompt completeness determinations of permit applications from existing operators who expect to continue mining past the eighth month of primacy; (2) assurances that operators who have not submitted complete applications by eight months after primacy will be immediately advised that they may not continue mining until being issued an approved permit, and (3) a policy that permit applications for new areas will not be given priority for processing over those for existing operations which are continuing to mine under the interim program when such existing mine applications are one year or older.

Submission of Material To Satisfy Condition and Additional Program Amendments and Revisions

On May 28 and July 29, 1982, OSM received from the Commonwealth of Kentucky material intended to satisfy conditions (b) and (c). On May 28, 1982, OSM also received, pursuant to the 30 CFR 732.17 State program amendment procedures, certain revisions to the State regulations and laws. Further, on June 18, 1982, OSM received from Kentucky a letter attempting to clarify certain statements in the May 18, 1982 **Federal Register** notice (47 FR 21404-21435) announcing the approval of the State program.

One of the points made in the clarification letter is that on page 21426 of the May 18, 1982, notice in Item No. 3, related to permitting, in response to a public comment, the Secretary defined "incidental boundary revisions" as incidental to whatever revision is being sought. Kentucky interprets its statute to allow boundary revisions incidental to the mining operation as a whole.

OSM published a notice in the **Federal Register** on July 23, 1982, announcing receipt of these provisions and inviting public comment on whether the proposed program amendments corrected these deficiencies, and whether the Secretary should approve the additional amendments and clarifications to the State program (47

FR 31890–31896). The public comment period ended August 23, 1982. A public hearing was held on August 12, 1982. OSM published a second notice in the **Federal Register** on September 8, 1982, announcing receipt of provisions to satisfy conditions (k) and (l), and inviting public comment on whether the proposed amendments corrected these deficiencies (47 FR 38536–39537). The public comment period ended October 8, 1982. A public hearing scheduled for September 22, 1982, was not held because no one expressed a desire to present testimony.

On January 4, 1983 (48 FR 245–252), OSM published a notice in the **Federal Register** which: (1) Removed and amended certain conditions; (2) approved certain other program amendments; (3) deferred Secretarial action on the following proposed Kentucky rule revisions: 405 KAR 7:020 Section 1(86), 8:050 Section 2, 16:020 Section 4 and 16:190 Section 2(2); (4) deferred Secretarial action on the following proposed Kentucky statutory revisions: KRS 350.060 Sections 5(21) and 5(22), 350.093 Section 10(2), and 350.062(9), contained in Senate Bill 218; (5) approved certain clarifications to the Kentucky program contained in the letter from the State, dated June 18, 1982; (6) deferred Secretarial action on the clarification in the June 18, 1982, letter relating to incidental boundary revisions; and (7) deferred Secretarial action on whether the material submitted by Kentucky satisfies condition (1).

Subsequent to the close of the second public comment period, OSM Field Office personnel and Kentucky regulatory officials met in executive session on November 5, 1982, and November 8, 1982 (Administrative Record KY–471). Kentucky has submitted clarifying material to OSM in letters, dated October 29, 1982, November 5, 1982, and December 17, 1982. Further, Kentucky has issued Reclamation Advisory Memorandum #53, dated November 17, 1982, and #55, dated December 1, 1982 (Administrative Record KY–475). The summaries of these two meetings, the two reclamation advisory memoranda and the new material submitted by Kentucky relate to certain of the items listed above on which the Secretary deferred action in the January 4, 1983 **Federal Register** notice, as follows:

(a) Revisions to KRS 350.050 Section 5(g) and 405 KAR 7:020 Section 1(86).

(b) Revisions to 405 KAR 16:020 Section 4,

(c) Revisions to KRS 350.093 Section 10(2),

(d) Revisions to KRS 350.062 (9),

(e) The satisfaction of condition (1), and

(f) The clarification in the June 18, 1982, letter relating to incidental boundary revisions.

Secretary's Findings

1. The Secretary finds the following material submitted by Kentucky satisfies condition (1): The program amendment procedures submitted on July 29, 1982; the further information contained in the letters dated November 5 and 8, 1982; the information obtained at meetings between OSM Field Office personnel and Kentucky regulatory officials on November 5 and 8, 1982 (Administrative Record KY–471); and the procedures set forth in Reclamation Advisory Memorandum #53, dated November 17, 1982, and Memorandum #55, dated December 1, 1982 (Administrative Record KY–475). These materials, taken together, provide:

(1) A process for prompt completeness determinations of permit applications from existing operators who expect to continue mining past the eighth month of primacy. This process is described in detail in Technical Reclamation Memorandum #53, Memorandum #55, and the material submitted on July 29, 1982.

(2) Assurances that operators who have not submitted complete applications by eight months after primacy will be immediately advised that they may not continue mining until being issued an approved permit. This policy is specifically stated in Technical Memorandum #53 and in the material submitted on July 29, 1982.

(3) A policy that permits applications for new areas will not be given priority for processing over those from existing operations which are continuing to mine under the interim program when such existing mine applications are one year old or older. In the material submitted on July 29, 1982, Kentucky states that, "For those applications still in the backlog as of P+20 (1/18/84), the first priority of review will become the backlog of applications with new permanent program permits taking a second priority." Since P+20 represents 20 months from primacy, it is also the date on which applications from existing operations will be one year old as applications are due 8 months from primacy, and almost all applications were complete as of 8 months from primacy. Thus, permit applications for new areas will not be given priority for processing over those from existing operations when such existing mine applications are one year old or older.

2. The Secretary finds that the following program amendments submitted by Kentucky on May 28, 1982, and as further clarified, are not fully consistent with SMCRA and hereby imposes additional conditions of program approval related thereto:

a. Amendments to KRS 350.060 Section 5(g) and 405 KAR 7:020 Section 1(86) to change the definition of "principal shareholder" to, "any person who is the record or beneficial owner of ten (10) percent or more interest of the applicant." As explained in the letter, dated November 5, 1982, the Kentucky definition may require reporting in an instance when individuals own more shares of voting stock in a corporation which has issued voting and non-voting stock; but the Kentucky definition applies to owners of non-voting stock because it is based on ownership and not classes of voting stock as in the Federal definition at 30 CFR 770.5 and SMCRA Section 507(b)(4). Thus, individuals owning 10 percent of non-voting stock would be identified in the application, whereas under the Federal standard such individuals need not be identified.

Because the revised Kentucky definition would allow permit applications to not identify persons owning 10 percent of the outstanding voting shares of a class of stock in all instances, it is not consistent with SMCRA Section 507(b)(4). That section of SMCRA is clear in its requirement that for corporate applicants, each person owning 10 percent or more of a class of voting stock must be identified. Thus, the Secretary finds KRS 350.060 Section 5(g) and 405 KAR 7:020 Section 1(86) to be inconsistent with SMCRA Section 507(b)(4).

On April 12, 1983, the State was advised of the need to amend KRS 350.060 Section 5(g) and 405 KRS 7:020 Section 1(86) so that these provisions are consistent with SMCRA Section 507(b)(4).

By letter dated April 14, 1983, the State agreed to amend its statute by May 1, 1984 and its regulations by October 31, 1984. In the interim, Kentucky agreed to require reporting in a manner consistent with SMCRA Section 507(b)(4), and to require corporate operators to amend their permit applications to include the identification of appropriate individuals.

b. Amendments to KRS 350.093 Section 2 and 405 KAR 16:020 Section 4 to allow an operator to defer contemporaneous reclamation requirements if the operator can demonstrate that the deferment is necessary to address adverse conditions, combined surface and underground activities, or coal

marketing problems. Such deferments may not exceed an aggregate of 30 months.

SMCRA Section 515(b), in part, provides:

> (b) General performance standards shall be applicable to all surface coal mining and reclamation operations and shall require the operation as a minimum to—(16) insure that all reclamation efforts proceed *in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations* . . . (Emphasis added.)

The Secretary finds that the Kentucky amendments only partially provide that reclamation efforts proceed in an "environmentally sound manner" as required by SMCRA Section 515(b)(16). First, by the terms of KRS 350.093 Section 10(2) and 405 KAR 16:020 Section 4(4), the department is required to periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation. Second, in a letter dated December 17, 1982 (Administrative Record KY–477), Kentucky states that it intends to consider any site granted a contemporaneous reclamation deferment as an active site, thus requiring monthly partial and quarterly complete inspections Further, where an inspection indicates that remedial measures should be taken which may involve partial or total withdrawal of the deferment, the need for abatement will supersede such deferment.

The Secretary also finds that these amendments are only partially consistent with the requirement that reclamation efforts proceed "as contemporaneously as practicable with surface coal mining operations." 405 KAR 16:020 Section 4 and KRS 350.093 Section 10(2) allow the deferment of coal removal and contemporaneous reclamation only if the permittee can demonstrate at least one of the following:

1. Adverse conditions including weather, labor and other conditions are present which are clearly beyond the permittee's control. If reclamation is delayed under any of these circumstances, such reclamation would still occur as contemporaneously as "practicable" with mining operations because the permittee would be unable to proceed with reclamation until such adverse conditions no longer existed.

2. Combined surface and underground mining activities subject to the provisions of 405 KAR 8:050 Section 7 and 405 KAR 20:020, and other mining operations pursuant to KRS 350.080 are involved. This deferment of contemporaneous reclamation is also provided for in SMCRA Section 515(b)(16).

3. Coal marketing problems are present. While this deferment is not listed in the category of "adverse conditions", the Secretary believes that it is the same in effect. The alternative to deferment of reclamation may very well be abandonment of the site since the permittee will likely not be able to afford reclamation activities. Under Kentucky's amendments, the site will be inspected on a regular basis so that it is maintained in an environmentally sound manner. By keeping the operator in control of the site, the State will be spared bond forfeiture action and the necessity of hiring a third party to perform the reclamation.

In the discussion of the OSM rule, 30 CFR 816.100, regarding contemporaneous reclamation in the March 13, 1979 **Federal Register** notice at 44 FR 15225, it is stated:

> The Office considered an alternative approach of attempting to quantify the term "contemporaneously", for all activities and to enumerate maximum delay periods after which, if an activity has not been undertaken, this standard would be breached. This alternative approach was rejected, in favor of general language. The alternative selected should allow the regulatory authority the necessary flexibility to approve mine plans with varying reclamation timetables, based on specific site conditions.

The Secretary finds, however, that these amendments are not sufficiently clear as to the State's discretion and control in allowing such deferrals. Further, to the extent that the provisions of KRS 350.093(2) allow the State to grant deferrals from the distance criteria of contemporaneous reclamation requirements, the statute is inconsistent with SMCRA Section 515(b)(16). Therefore, the Secretary conditions his approval of these amendments on Kentucky submitting material to provide:

(1) Clarification that at all times the applicant for a reclamation deferral pursuant to KRS 350.093 Section 2 has the burden of proof in establishing the need for such a deferral;

(2) Criteria that operators must meet in order to obtain such deferrals;

(3) A requirement that the applicant must demonstrate that: (a) reclamation on the site is contemporaneous as of the date of the request for deferral; and (b) the distance requirements of 405 KAR 16:020 Section 2, regarding backfilling and grading requirements, will be met during the period of deferral;

(4) Re-evaluation of the bond on all deferrals issued to assure sufficiency thereof.

Further, Kentucky must agree that all deferrals previously issued will be re-evaluated on the basis of this condition and, in the interim, the State will meet the terms of this condition as a matter of policy.

On April 12, 1983, the State was advised of the need to amend its statute by May 1, 1984, and its regulation by October 31, 1984, to meet this condition. By letter dated April 14, 1983, the State agreed to so amend its program. In the interim, Kentucky agreed to satisfy the terms of this condition as a matter of policy.

3. The Secretary finds that program amendments to KRS 350.062(g) submitted by Kentucky on May 28, 1982, and as further clarified, are fully consistent with SMCRA and hereby approves them. These amendments state that the Kentucky Department for Natural Resources and the Environment shall not unreasonably deny or delay a permit application if certain hydrologic information contained in the application is processed or analyzed in a manner different from prescribed technical guidelines if such manner contains a sampling and testing program based on all available information on a site-specific basis. Further, certain hydrologic information requirements in the application may be waived if the information is already available to the State. In the November 5, 1982, meeting between OSM and Kentucky personnel (Administrative Record KY–471), Kentucky stated such waivers apply only to test borings and core samples and not to any other data required to be supplied under KRS 350.062(3). As clarified, the amendment is consistent with SMCRA Section 507(b)(15) and is no less effective than 30 CFR 779.14(B)(3).

4. The Secretary finds the statement regarding incidental boundary revisions in the June 18, 1982, letter from the State to be acceptable, and hereby approves it as a clarification to the Kentucky program. In that letter, Kentucky stated that its law allows boundary revisions incidental to the mining operation as a whole. Further, by letter, dated October 29, 1982, Kentucky clarifies its interpretation of an "incidental boundary revision." First, as stated in Kentucky's definition of the term, such a revision must be necessary for reasons unforeseen at the time the original application was prepared, and must be small in relation to the permit area. The cumulative acreage may not exceed: 1) 10% of the permit area or 5 acres, whichever is less, when the extension includes new areas from which coal will be removed, or 2) 10% of the permit area

or 2 acres, whichever is less, when the extension is for new areas not involving coal extraction.

Second, all incidental boundary revisions entailing the extraction of additional coal are subject to the requirements for major revisions under the State's rules. 405 KAR 8:010 Section 20(2)(b) provides: "Major revisions shall be subject to all the requirements of Sections 5, 7 through 12, 13(1), 13(2), 14(1) through 14(6), 14(8), 14(10) through 14(15), 15, 16, 18, and 24." An examination of the listed requirements reveals that all major revisions are subject to all of the public participation requirements and almost all of the findings required to be made by the regulatory authority upon the issuance of a permit.

Third, all incidental boundary revisions not entailing the extraction of additional coal are subject to the requirements for minor revisions under the State's rules. 405 KAR 8:010 Section 20(3)(a) provides: "All revisions which are not determined by the department to be major revisions are minor revisions. Minor revisions shall be subject to Sections 5, 7, 12, 13(1), 13(2), 14(1) through 14(6), 14(8), 14(10) through 14(15), 15, 16(1), 16(3), 16(4)(a), 16(5), 18 and Section 24." An examination of the listed requirements reveals that all minor revisions are subject to almost all of the public participation requirements and almost all of the findings required to be made by the regulatory authority upon the issuance of a permit. The only requirements missing from those for major revisions are contained in 405 KAR 8:010 Sections 16(2), (4)(b) and (6), and are: (1) The department need not provide copies of written findings of any permit conferences; (2) the department need not publish a summary of its decision in the newspaper; and (3) the department need not notify the city or county of the land to be affected.

For these reasons, the Secretary finds Kentucky's treatment of incidental boundary revisions to be consistent: (1) With the State's authority to establish guidelines for a determination of the scale or extent of a revision request under SMCRA Section 511(a)(2), and (2) with SMCRA Section 511(a)(3).

Kentucky has incorporated this definition of "incidental boundary revision" in its regulations at 405 KAR 7:020 Section 1(57). On January 27, 1983, OSM published a notice in the **Federal Register** (48 FR 3779–3780), requesting public comment on this proposed amendment to the Kentucky program. The decision on the regulation will be made at a later date.

Public Comments

1. The Appalachian Research and Defense Fund of Kentucky, Inc. (ARDFK) expressed its concern that the State's use of "incidental boundary revisions" will allow additional lands to be bootstrapped onto permit areas in a deliberate and impermissible fashion. Further, ARDFK states that OSM cannot, under SMCRA Section 511, approve incidental boundary revisions where the objective is the extension of the permit area.

The Secretary believes that Kentucky's definition of "incidental boundary revisions" is limited enough by its own terms to allay any fears that there will be proportionately large areas bootstrapped onto permit areas. For the reasons set forth above in Finding 4, the Secretary finds Kentucky's treatment of incidental boundary revisions to be consistent with SMCRA Section 511.

2. ARDFK comments that the material submitted by Kentucky fails to satisfy condition (1) as it: (1) Allows for a backlog of permit applications for transition operations from the interim program by January 18, 1984, 20 months after primacy, and (2) provides that new applications may take priority in processing over applications from transition operations before the backlog of applications from transition operations has been reduced or controlled through the first 20 months of primacy.

First, the Secretary never established an absolute cutoff date of 20 months for processing the applications from transition operations. The 20 month period was set as a goal to be attained. The Secretary imposed condition (1), "to ensure that the goals for receipt and review of complete applications are not pushed forward indefinitely because of work on new applications . . . ." (47 FR 21417, Finding 17.19). It was always contemplated that Kentucky's plan for transition to primacy would have to be based on the realities of processing such a large number of applications from transition operations. The Secretary continues to believe that it is most important that Kentucky adequately review applications and issue permits only after thorough consideration, rather than rush applications through to meet an absolute deadline.

Second, Kentucky's plan for transition to primacy and the Secretary's imposition of a condition do not prohibit the State from giving priority to the processing of new permit applications. In the November 5, 1982, meeting between OSM and Kentucky personnel (Administrative Record KY–471), the State indicated that it does not anticipate a backlog of new permits that could not be considered along with priority interim permits.

On these bases and for the reasons set forth above in Finding 1, the Secretary finds that Kentucky has submitted material to satisfy condition (1).

3. ARDFK objects to Kentucky's definition of "principal shareholder" at KRS 350.060 Section 5(g) and 405 KAR 7:020 Section 1(86), claiming that these amendments are less inclusive because they do not include those individuals who own less than 10 percent of the aggregate interest of the applicant entity, but who in fact have a substantial interest in terms of control and decisional authority. Further, ARDFK states that these amendments are not in accordance with SMCRA Section 507(b)(4).

For the reasons set forth above in Finding 2(a), the Secretary agrees with the commenter, and finds KRS 350.060 Section 5(g) and 405 KAR 7:020 Section 1(86) not to be consistent with SMCRA Section 507(b)(4).

4. ARDFK asserts that the amendments to KRS 350.093 Section 2 and 405 KAR 16:020 Section 4, regarding contemporaneous reclamation, are in direct violation of SMCRA. According to the commenter, SMCRA is clear that reclamation, including backfilling, grading, replacement of topsoil, and revegetation occur as soon in time as possible following coal removal. SMCRA provides only one variance from this requirement where the applicant proposes to combine surface mining and underground operations, and submits specific, feasible plans for the underground operations. ARDFK states that the amendment is overboard in allowing up to 30 months delay in reclamation for coal marketing problems. ARDFK maintains that Kentucky has attempted to remedy the illegality of these provisions by allowing a simultaneous deferral of coal removal so that the State can argue that reclamation is occurring in a contemporaneous manner when coal removal resumes. According to ARDFK, this attempt does not save the provisions because the legislative history of SMCRA clearly reflects a concern with allowing unreclaimed surface disturbances to remain for any time beyond that physically necessary for removal of the exposed seam.

The commenter states further that the deferral of reclamation or coal removal is in violation of the mining and reclamation plan requirements of SMCRA, and has none of the safeguards of 30 CFR 785.18 or Part 818 for soil and

topsoil protection, protection against off-site impacts, and none of the aspects of planning that accompany concurrent surface and underground operations. ARDFK asserts that such deferral lacks the aspects of planning and limited scope and duration of the permissible variance. The lack of planning by operators seeking such deferrals should not be rewarded with further exemptions from planning to avoid evironmental impacts.

ARDFK adds that these deferrals constitute a wide-open waiver with no environmental safeguards. Further, the power to grant these deferrals is in the State field offices so there is no mechanism for accountability. At a minimum, there should be review and concurrence by the OSM field office.

The Secretary believes that some of the commenter's concerns are provided for by the fact that reclamation must be contemporaneous as of the time of the approval of the deferral, and that these sites will continue to be inspected on a monthly basis. In regard to planning, the operator seeking a deferral must plan in order to meet the conditions required for granting a deferral. Finally, as set forth above in Finding 2(b), the Secretary finds KRS 350.093 Section 2 and 405 KAR 16:020 Section 4 to be unacceptable in their present form, and has conditioned his approval of these amendments upon further clarifications as described in that finding.

5. ARDFK further objects to the amendments regarding the deferral of contemporaneous reclamation as follows:

a. There is no delineation between waivers for market conditions and those for unmarketability of the coal itself (high sulfur, high ash, etc.).

The Secretary does not believe that such a delineation could ever be made, or that it should. Given the vagaries of the market, one cannot totally define why particular types, grades or qualities of coal cannot be sold at any one time, other than the fact that no one is willing to buy it at what is an economic price to the producer. Therefore, all such problems are ones of coal marketing. The Secretary believes that if the conditions he has imposed on these amendments are satisfied, Kentucky's program will be consistent with SMCRA and no less effective than the Federal regulations.

b. There is no regulatory authority for withdrawal of the deferral on other grounds, once issued.

The Secretary disagrees with this comment. KRS 350.050(1) and (5) enumerate the enforcement and inspection authority of the department. KRS 350.130 describes the consequences to an operator of noncompliance with an order of the department. The Kentucky regulations of 405 KAR 12:020 spell out the State's enforcement powers. The Secretary believes that these enforcement powers constitute sufficient authority for the withdrawal of any deferral, and would only approve these amendments on that basis.

6. ARDFK charges that 30 CFR 732.17(h)(6) requires that OSM make a decision on all program amendments within 30 days of the close of the public comment period, and that OSM has exceeded the 30-day periods for these amendments which closed on August 23 and October 8, 1982. Instead, OSM did not approve some amendments until January 4, 1983, and deferred the rest until they could be "cured" by Federal rule change.

The Secretary admits that OSM did not meet the 30-day requirement in 30 CFR 732.17(h)(6). Kentucky submitted an amendment package which was extremely large and complex, and contained both amendments to meet conditions and unsolicited amendments. The number and complexity of the issues raised by these amendments required additional time, and for certain amendments, eventually necessitated the submission of further, clarifying material from the State.

Two amendments, regarding the definition of preparation plants and augering on premined lands, raise issues OSM has been working on for years. OSM is presently in rulemaking in these areas, and the Secretary feels that it would be unwise for him to reach a decision regarding Kentucky's amendments prior to his final decision on the Federal rules. The final Environmental Statement (January 1983), discussing the alternatives under consideration in these rule revisions, reveals the complexity and the number of choices in these areas.

7. ARDFK makes a number of demands to enforce a recent OSM memorandum as follows:

a. Request an inventory by Kentucky of all "coal marketing deferrals."

The Secretary believes that the conditions he has imposed on these amendments in Finding 2(b), above, adequately meet the commenters' request. Further, OSM is continuing to review these deferrals as part of its oversight responsibility.

b. Take appropriate enforcement action against deferrals.

OSM intends to take appropriate enforcement action where it detects violations.

c. Require Federal permits for all off-site crushing and sizing facilities.

As explained in response to comment number 6, above, OSM,'s jurisdicton regarding preparation plants is presently under rulemaking. The Secretary also believes that Kentucky's amendment is not clearly inconsistent with existing Federal law or regulations. Therefore, the Secretary finds that it would be inappropriate to require Federal permits for all off-site crushing and sizing facilities in Kentucky at this time.

d. Require Kentucky to ask operators to amend their permit applications to include owners of 10% of any class of stock.

The Secretary agrees with this comment, and has required Kentucky operators to so amend their permit applications (See Finding 2(a), above).

e. Take appropriate steps to cure other deficiencies in the Kentucky program.

When such deficiencies are detected, OSM will take appropriate steps to cure them.

8. ARDFK charges that OSM offered statutory language to the Kentucky legislature regarding these amendments, and acquiesced in the enactment of statutes on the definition of a preparation plant and the granting of contemporaneous reclamation deferrals.

OSM did testify before the Kentucky legislature regarding these amendments, but warned the State Legislature that any decision by OSM, on amendments submitted by the State would be subject both to analysis by OSM and to public comments. Thus, OSM never approved any amendments prior to their submission.

9. The Kentucky Coal Association commented supporting the State's interpretation of its law as allowing incidental boundary revisions to the mining operation as a whole, but felt that such revisions should be limited to 10 percent of the permit area acreage with no 5-acre maximum.

For the reasons set forth in Finding 3, above, the Secretary finds Kentucky's treatment of incidental boundary revisions to be consistent with SMCRA Section 511. Since Kentucky has not submitted an amendment limiting such revisions as the Coal Association urges, it is unnecessary to comment on such a proposal.

Approval of Amendment To Satisfy Condition and Additional Program Amendments

Accordingly, condition (1) is hereby removed.

Revisions to the following Kentucky statutory provision is hereby approved pursuant to 30 CFR 732.17: KRS 350.062(9), contained in Senate Bill No. 218. The statements in the June 18 and October 29, 1982, letters, regarding incidental boundary revisions are approved as a clarification to the Kentucky program.

30 CFR 917.11 is amended to indicate approval of the program amendment

and clarifications, and to impose two new program conditions, regarding contemporaneous reclamation deferrals and the definition of "principal shareholder." 30 CFR 917.10 incorporates approval of the corresponding amendment and clarifications. The removal of this condition and the approval of the additional amendment and clarifications to the Kentucky program are effective May 13, 1983.

Additional Findings

1. *Compliance with the National Environmental Policy Act:* Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental document need be prepared on this rulemaking as State program decisions are exempt from compliance with the National Environment Policy Act, 42 U.S.C. 4321 *et seq.*

2. *Executive Order No. 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, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any new requirements; rather, it ensures 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 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 917 of Title 30 is amended as set forth herein.

Dated: May 9, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

PART 917—KENTUCKY

Part 917 of title 30 is amended as follows:

§ 917.11 [Amended]

1 Section 917.11 is amended by removing and reserving paragraph (l).

2. Section 917.11 is amended by adding paragraphs (m) and (n) as follows:

* * * * *

(m) Termination of the approval found in 30 CFR 917.10 will be initiated unless Kentucky submits to the Secretary: By May 1, 1984, copies of enacted laws amending KRS 350.093(2) consistent with SMCRA Section 515(b)(16); and by October 31, 1984, copies of promulgated regulations amending 405 KAR 16:020 Section 4 to be no less effective than 30 CFR 816.101. Specifically, changes to the law and regulations must provide:

(1) Clarification that at all times the applicant for a reclamation deferral pursuant to KRS 350.093 Section 2 has the burden of proof in establishing the need for such a deferral;

(2) Criteria that operators must meet in order to obtain such deferrals;

(3) A requirement that the applicant must demonstrate that: (i) reclamation on the site is contemporaneous as of the date of the request for deferral; and (ii) the distance requirements of 405 KAR 16:020 Section 2, regarding backfilling and grading requirements, will be met during the period of deferral; and

(4) Re-evaluation of the bond on all deferrals issued to assure sufficiency thereof.

Further, all deferrals previously issued will be re-evaluated on the basis of this condition; and in the interim, the State will meet the terms of this condition as a matter of policy.

(n)(1) Termination of the approval found in 917.10 will be initiated unless Kentucky submits to the Secretary: (i) by May 1, 1984, copies of enacted laws amending KRS 350.060 Section 5(g) to be consistent with SMCRA Section 507(b)(4); and (ii) by October 31, 1984, copies of promulgated regulations amending 405 KAR 7:020 Section 1(86) to be no less effective than 30 CFR 770.5.

(2) In the interim, the State has agreed to require: (i) reporting in a manner consistent with SMCRA Section 507(b)(4), and (ii) corporate operators to amend their permit applications to include the identification of appropriate individuals.

§ 917.15 [Amended]

3. Section 917.15 is amended to add the following paragraph (c):

* * * * *

(c) The following amendments are approved effective on May 13, 1983. Revisions submitted on May 28, 1982, to KRS 350.062(9) and KRS 350.093 Section 2, contained in Senate Bill No. 218; Revisions submitted on May 28, 1982, to 405 KAR 16:020 Section 4.

[FR Doc. 83-12960 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 2328-8; Docket No. ME 586]

Approval and Promulgation of Implementation Plans; Maine; Revision to the Ozone Attainment Plan, Pioneer Plastics

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Maine Department of Environmental Protection (DEP). This revision will reduce volatile organic compound (VOC) emissions from Pioneer Plastics, Auburn, Maine. The intended effect of this action is to reduce VOC emissions in an area where air quality is worse than National Ambient Air Quality Standards for ozone. We are approving this action under Section 110 of the Clean Air Act.

EFFECTIVE DATE: July 31, 1983.

ADDRESSES: Copies of the submittal are available for public inspection at the U.S. Environmental Protection Agency, Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW, Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, D.C. 20408 and the Maine Department of Environmental Protection, State House, Augusta, Maine 04330.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, (617) 223-5130.

SUPPLEMENTARY INFORMATION: EPA is approving a revision that requires Pioneer Plastics, a paper coating operation located in Auburn, Maine, to install a volatile organic compound (VOC) incinerator that will reduce VOC emissions by at least 85%. EPA considers this reduction to be reasonably available control technology because it is consistent with the Control Technology Guidelines (CTG's) published by EPA in May, 1977. Except for the issues discussed below, this revision and EPA's rationale for approving it are discussed in detail in

the Notice of Proposed Rulemaking published on October 18, 1982 (47 FR 46335) and will not be restated here.

In the NPR we stated that we would approve the air emissions license issued to Pioneer Plastics as a SIP revision. However, in this final action we are approving only the license conditions that limit VOC emissions. All other conditions of the license are not pertinent to the ozone attainment plan. EPA and DEP have determined that the effective date of this action, July 31, 1983, is as expeditious as practicable.

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

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 1983. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Authority: Section 110(a) and Section 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

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

Dated: May 4, 1983.

Lee L. Verstandig,

Acting Administrator.

PART 52—[AMENDED]

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

1. Section 52.1020 is amended by adding paragraph (c)(18) as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(18) On May 12, 1982 and February 11, 1983 the Maine Department of Environmental Protection submitted an emission limit contained in an air emissions license which requires Pioneer Plastics, Auburn, Maine to reduce its volatile organic compound emissions by at least 85%.

[FR Doc. 83-12917 Filed 5-12-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 59, Supp. 1]

Subcontracting Report Forms, Standard Forms 294 and 295

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of Federal Procurement Regulations Temporary Regulation 59 (46 FR 33270, June 29, 1981). This extension reflects the continued applicability of Standard Form 294, Subcontracting Report for Individual Contracts, and Standard Form 295, Summary Subcontract Report, to provide a basis for evaluating the effectiveness of subcontracting programs. The effect will be to continue the requirement to use these forms until further refinements are made and published in a permanent amendment to the FPR.

DATES:

Effective date: April 1, 1983.

Expiration date: This regulations will continue in effect until April 1, 1985, unless canceled earlier.

FOR FURTHER INFORMATION CONTACT: Mr. Frank T. Van Lierde, Office of Federal Acquisition and Regulatory Policy (202-523-4768).

CHAPTER 1—[AMENDED]

In 41 CFR Chapter 1, FPR Temporary Regulation 59, Supplement 1 is added to the appendix at the end of the chapter.

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

Federal Procurement Regulations, Temporary Regulation 59, Supplement 1

To: Heads of Federal agencies

Subject: Subcontracting report forms, Standard Forms 294 and 295

1. *Purpose.* This supplement extends the expiration date of FPR Temporary Regulation 59.

2. *Effective date.* This regulation is effective April 1, 1983.

3. *Expiration date.* FPR Temporary Regulation 59 and this supplement will expire on April 1, 1985, unless canceled earlier.

4. *Explanation of changes.* Paragraph 3 of FPR Temporary Regulation 59 is revised to delete the expiration date of April 1, 1983, and to prescribe the revised expiration date which appears in paragraph 3, above.

Dated: May 5, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-12876 Filed 5-12-83; 8:45 am]

BILLING CODE 6820-61-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6519]

Suspension of Community Eligibility Under the National Flood Insurance Program; Arkansas et al.

AGENCY: Federal Emergency Management Agency, FEMA

ACTION: Final Rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division (202) 287-0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management

measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6 month, 90 days, and 30 days notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date [1]
Arkansas: Pulaski	Unincorporated areas	050179	Mar. 6, 1979, emergency, July 16, regular, 1981, May 16, 1983, suspended.	July 16, 1981	May 16, 1983.
Colorado: Gunnison	Gunnison, city of	060080	June 18, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Dec. 26, 1975	Do.
Illinois:					
Jackson	Grand Tower, city of	170300	Apr. 30, 1974, emergency, May 16, 1983, regular, May 16, 1983, suspended.	June 8, 1979	Do.
Franklin	West Frankfort, city of	170239	May 13, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Oct. 13, 1978	Do.
Kansas: Barton	Great Bend, city of	200019	Feb. 24, 1977, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Mar. 19, 1976	Do.
Maryland: Worcester	Ocean City, town of	245207	June 18, 1971, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Feb. 6, 1976	Do.
Massachusetts:					
Worcester	Fitchburg, city of	250304	July 9, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Oct. 3, 1975	Do.
Kalamazoo	Portage, city of	260577	May 20, 1976, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Sept. 19, 1975	Do.
Missouri: Jefferson	Unincorporated areas	290806	June 10, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	July 29,1980	Do.
New Jersey:					
Ocean	Island Heights, borough of	340374	Sept. 6, 1974, emergency, June 15, 1979, regular, May 16, 1983, suspended.	July 19, 1974, Dec. 12, 1975 and June 15, 1979.	Do.
Bergen	Norwood, borough of	340057	May 30, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	July 23, 1976	Do.
New York:					
Steuben	Avoca, village of	360765	July 5, 1974, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Mar. 5, 1976	Do.
Nassau	Baxter Estates, village of	360459	July 15, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Oct. 24, 1975	Do.
Steuben	Cohocton, town of	360771	May 6, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	May 28, 1976	Do.
Do	Cohocton, village of	360556	Jan. 15, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Jan. 2, 1976	Do.
Wayne	Galen, town of	361225	Aug. 2, 1976, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Nov. 19, 1976	Do.
Nassau	Lawrence, village of	360476	June 27, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Aug. 6, 1976	Do.
Oneida	New York Mills, village of	360537	May 23, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	June 7, 1974	Do.
Greene	Prattsville, town of	360296	Nov. 14, 1975, emergency, May 16, 1983, regular, May 16, 1983, suspended.	Apr. 11, 1975	Do.
Nassau	North Hempstead, town of	360482	Dec. 17, 1971, emergency, Apr. 1, 1980, regular, May 16, 1983, suspended.	Apr. 15, 1977	Do.
Westchester	Rye, city of	360931	Apr. 23, 1974, emergency, Apr. 1, 1980, regular, May 16, 1983, suspended.	Apr. 1, 1980	Do.
Tennessee:					
Knox	Knoxville, city of	475434	Aug. 14, 1970, emergency, May 1, 1970, regular, May 16, 1983, suspended.	Feb. 11, 1977	Do.
Do	Unincorporated areas	475433	Aug. 14, 1970, emergency, July 23, 1971, regular, May 16, 1983, suspended.	Mar. 18, 1977	Do.
New Hampshire: Sullivan	Newport, town of	330161	May 12, 1975, emergency, Apr. 18, 1983, regular, May 16, 1983, suspended.	June 18, 1980	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Special flood hazard area identified	Date [1]
Michigan: Calhoun	Battle Creek, city of	260051	July 2, 1977, emergency, Apr. 4, 1983, regular, May 16, 1983, suspended.	Nov. 7, 1985	Do.
Minnesota: Marshall	Stephen, city of	270273	Apr. 26, 1974, emergency, Sept. 16, 1982, regular, May 15, 1983, suspended.	June 4, 1976 and May 17, 1974	May 15, 1983.
Illinois: Tazewell	Marquette Heights, city of	170650	Dec. 2, 1982, emergency, May 16, 1983, suspended.	Sept. 28, 1979	May 16, 1983.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 6, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12890 Filed 5-12-83; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6517]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; California et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP) and eligible for second layer insurance coverage. These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the regular program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A–95.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
California: Fresno County	Colvis, city of	060044	790212, emergency; 830316, regular.	770823
Colorado: Delta County	Paonia, town of	080045	750610, emergency; 830316, regular.	740524
Iowa: Cedar County	West Branch, city of	190058	751215, emergency; 830316, regular.	740301
Kansas: McPherson County	McPherson, city of	200217	750320, emergency; 830316, regular.	740315
New Jersey: Mercer County	East Windsor, township of	340244	731219 emergency; 830316, regular.	740215
New York:				
Steuben County	Bath, village of	360767	730413, emergency; 830316, regular.	770915
Suffolk County	Belle Terre, village of	361532	760323, emergency; 830316, regular.	741227
Herkimer County	Dolgeville, village of	360301	750327, emergency; 830316, regular.	740215
Wayne County	Lyons, village of	360891	751006, emergency; 830316, regular.	740503
Niagara County	Niagara Falls, city of	360506	730509, emergency; 830316, regular.	740329
Erie County	Orchard Park, town of	360255	750801, emergency; 830316, regular.	740809

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Westchester County	Ossining, town of	361241	751120, emergency; 830316, regular.	770225
Ulster County	Rochester, town of	360881	750401, emergency; 830316, regular.	740621
Montgomery County	St. Johnsville, town of	360456	770309, emergency; 830316, regular.	740816
Wayne County	Walworth, town of	361228	800117, emergency; 830316, regular.	741213
Tioga county	Waverly, village of	361343	740627, emergency; 830316, regular.	741101
Ohio: Lucas County	Lucas County [2]	390354	770304, emergency; 830316, regular.	770520
Pennsylvania: York County	Warrington, township of	422232	790531, emergency; 830316, regular.	741227
Tennessee: Rutherford County.	Smyrna, town of	470169	741107, emergency; 830316, regular.	740531
Texas: Dallas County	Dallas, city of	480171	700630, emergency; 830316, regular.	750110
Virginia: Chesterfield County	Chesterfield County [2]	510035	730126, emergency; 830316, regular.	750110
New Jersey:				
Sussex County	Lafayette, township of	340532	751124, emergency; 830318, regular.	741220
Warren County	Liberty, township of	340469	760121, emergency; 830318, regular.	740809
Burlington County	Mansfield, township of	340102	750724, emergency; 830318, regular.	740726
Bergen County	Moonachie, borough of	340053	750430, emergency; 830318, regular.	740628
Sussex County	Walpack, township of	340458	770616, emergency; 830318, regular.	770722
New York:				
Cattaraugus County	Carrollton, town of	360063	770218, emergency; 830318, regular.	740920
Chautauqua County	Forestville, village of	361501	770218, emergency; 830318, regular.	770701
Broome County	Maine, town of	360051	750616, emergency; 830318, regular.	740517
Pennsylvania:				
Carbon County	Lausanne, township of	421454	800109, emergency; 830318, regular.	750103
Berks County	North Heidelberg, township of	421086	761223, emergency; 830318, regular.	740913
New Jersey:				
Hudson County	Secaucus, town of	340226	720204, emergency; 830325, regular.	731005
Cumberland County	Upper Deerfield, township of	340175	750325, emergency; 830325, regular.	740602
California: San Mateo County.	Brisbane, city of	060314	720407, emergency; 830329, regular.	740524
Vermont: Franklin County	Swanton, village of	500060	750910, emergency; 830383, regular.	830316

Total is:
[1] Key for reading 4th column (effective date): First two digits designate the year; Middle two digits designate the month; Last two digits designate the day.
[2] Disaster Community.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: May 2, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-12891 Filed 5-12-83; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 81

[FR Docket No. 80-144; SS Docket No. 78-145; FCC 83-199]

Amendment of the Commission's Rules To Delete Those Provisions That Limit the Entry of New Stations Into the VHF Public Coast Station Market, and To Require Applicants for Public Coast Stations To Meet Certain Financial Qualifications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends Part 81 to delete exclusivity provisions, require applicants for public coast stations to construct and operate within 8 months and declines to impose a requirement that applicants meet certain financial qualifications. These actions were staff initiated and were intended to improve public coast station service.

EFFECTIVE DATE: June 13, 1983.

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

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Part 81

Coast stations.

Report and Order

Proceedings Terminated

In the matter of amendment of the Commission rules to delete those provisions that limit the entry of new stations into the VHF public coast station market; and amendment of Part 81 of the Commission's rules to require applicants for public coast stations to meet certain financial qualifications; PR Docket No. 80-144, SS Docket No. 78-145.

Adopted: April 27, 1983.

Released: May 6, 1983.

By the Commission: Commissioner Jones absent.

1. On April 24, 1980, the Commission released a Notice of Proposed Rule Making in PR Docket No. 80-144 [45 FR

28781) proposing to delete from its rules Section 81.303(b). This rule section provides territorial market protection to the licensees of existing stations. Prior to issuing the Notice of Proposed Rule Making in PR Docket No. 80–144, the Commission had released, on May 9, 1978, a Notice of Proposed Rule Making in SS Docket No. 78–145 (43 FR 20026) to amend its rules to require an applicant for a new public coast station to demonstrate its financial ability to construct the station and to operate the station for one year. Because this rule would operate to restrict entry into the VHF public coast station market, the Commission felt that it should be reconsidered in the context of the proposal to delete § 81.303(b). Thus it reopened the comment periods in SS Docket No. 78–145 to run concurrently with the comment period in PR Docket No. 80.144. The Commission has received comments and reply comments on both proposals and the comment periods are now closed.

Background

2. Public coast radiotelephone stations are land stations in the maritime mobile service that are open to public correspondence. In general these stations are interconnected to the public wireline telephone system. By utilizing the services of these stations, ships may make and receive telephone calls to and from any telephone which has access to the nationwide telephone network, including calls overseas and to other ships. Public coast stations are classified under the Commission's rules as "high seas", "regional" or "local service (VHF)" depending upon the frequency bands from which their channel assignments are drawn. The important difference among these classes of stations is the distance over which each can communicate.

3. Local service (VHF) public coast stations, which are the subject of PR Docket No. 80–144, provide service which is local in coverage. These stations operate in the VHF–FM band of 156–162 MHz and are capable of good transmission quality over distances up to 30–80 kilometers (20–50 miles). Generally, propagation in the marine VHF band follows a nearly line-of-sight path between the antennas of the two stations desiring to communicate with each other. Thus, VHF coverage is limited by the height of the antennas of the two stations communicating.

4. Under present Commission rules, there are nine VHF public correspondence channels which are assigned on a priority basis to public coast station applicants. Initially, only one public correspondence channel is assigned to a station. The channels are assigned on a priority basis as set forth in § 81.304(b)(22). Channels 26 and 28 are assigned interchangeably as the first priority number and are considered the primary public correspondence channels. The Commission will attempt to assign one of these two channels to a public coast station before it assigns one of the remaining seven channels. If channel occupancy reaches a certain level, the Commission will allow an additional channel.

5. Because of the limited range of VHF and the number of VHF channels available, local service (VHF) public coast stations offer greater possibilities for superior marine radiotelephone communications along the seacoasts and inland waterways than the other two classes with longer range propagation.[1] Stations can be spaced along the coast and waterways at intervals necessary to eliminate interference between stations operating on the same channel. The short range characteristic of the stations allows the same channel to be used at many different localities, thus, making more stations possible. Moreover, the fact that there are nine different VHF public correspondence channels permits a maximum of nine different stations to be located relatively close to each other.

6. Because marine VHF–FM radio communication developed later than marine communication in the medium and high frequencies, the local service (VHF) public coast stations were the last of the three classes of stations to be established. Even after marine VHF–FM radio communication became feasible, new applicants were reluctant to establish VHF public coast stations until traffic potential became sufficient to sustain the expense of operating such facilities. On the other hand, vessel owners were reluctant to invest in VHF radio installations which would not, in the absence of sufficient VHF public coast stations, afford them the communication service they required. To remedy this situation, the Commission amended its rules to encourage the use of marine VHF and to relieve the congestion that was becoming prevalent on the medium and high frequencies. First, the rules were amended to require ship stations having the capacity to communicate with regional service coast stations to also have the capacity to communicate with local service VHF coast stations. Further, the Commission prohibited communications to regional stations by vessels within range of local service stations. Second, in Docket No. 19360, the rules were amended to limit overlap of the coverage areas between local service (VHF) stations to not more than 20%, with certain exceptions.[2]

7. This latter amendment, which is set forth in Section 81.303(b) of the Commission's rules, was explicitly intended to offer protection to existing stations from the encroachment on their service areas by applicants for new stations. It bars the application for a public coast station which would duplicate more than 20% of the service area of an existing station, with two exceptions. The first exception, § 81.303(b)(1), requires a showing by the applicant that the proposed station would be at least 30 miles from the existing station and would primarily serve another boating locality. A boating locality is a port, marina or harbor with docking facilities for not less than 10 commercial or 50 noncommercial radio equipped vessels. The second exception, § 81.303(b)(2), requires a detailed showing that the channel occupancy rate of the existing station exceeds 50% during its busiest hours of operation.

8. When discussing this amendment in Docket No. 19360, the Commission stated that "we believe these new stations should be given a reasonable opportunity to commence and continue operations and, along with earlier stations, become economically viable. As our VHF program develops and the nature and extent of the need for additional types of service becomes more clear we can reconsider the matter".[3] Since Docket 19360 was adopted and released, local service (VHF) public coast stations have become well established along the seacoasts and inland waterways of the contiguous 48 states. They provide the public correspondence service that most small noncommercial and recreational vessels now use. Commercial vessels and their related interests also use these stations extensively.

---

[1] High seas public coast stations provide a telecommunication service which is world-wide in coverage. This service is primarily used by ocean-going vessels for both commercial and personal traffic. Regional public coast stations provide coastal harbor service. The coverage varies widely with the time of day and other factors which affect propagation such as season, atmospheric conditions, sun spots, etc. Distances in excess of 1000 miles are possible at certain times, but may be limited to less than 100 miles at other times.

[2] Report and Order, Docket No. 19360, 35 FCC 2d 642 (1972).

[3] Id. at 648.

Deletion of § 81.303(b)

PR Docket No. 80–144

9. In the Notice of Proposed Rule Making in PR Docket No. 80–144, the Commission proposed to delete from the rules § 81.303(b) and its two exceptions. The Commission felt that this would provide multiple coverage, especially in high density areas, thus permitting a choice of service to users which would operate to reduce costs and generally improve service. Under this proposal, applicants desiring to establish public coast stations and to compete in a specific service area would be licensed until the nine channels are exhausted without regard to duplication of service. Channels would be assigned on a first-come first-served basis, and no showing of channel occupancy would be required of an applicant intending to establish a new station in the service area of an existing station.

10. The proposed rule changes substantially differ from the existing scheme. The proposed changes favor new entry. The existing rules disfavor new entry. This is so because an applicant for a first frequency in a market where there is an existing station presently needs to show a 50 percent frequency occupancy at the existing station under § 81.303(b)(2). An existing station, however, to be eligible for an additional frequency, must make a 40 percent occupancy showing under § 81.304(b)(22)(ii). Thus, an existing station is always eligible for an additional frequency before a new applicant is eligible for its first frequency assignment.

11. Under the proposed rule changes, which we are adopting, new entry is favored because a new station applicant need make only a general public interest showing while an existing station must make the 40 percent occupancy showing before it can obtain an additional frequency. Many existing coast station operators understandably strongly opposed this arrangement. Moreover, many comments by existing coast station licensees suggested that they be given preferences in applying for remaining frequencies on the theory that they be given an incentive to improve their services. We feel that the marketplace, particularly a competitive one, should provide adequate incentive to do so.

12. We believe that competition and free entry are in the public interest where the circumstances warrant it. The VHF public coast station market is such a case. The capital cost of entering this market is relatively low, allowing ease of entry if there are no regulatory barriers. Many existing coast station licensees, suggested that the Commission should not adopt competition and free entry "in the abstract" but should consider the peculiar aspects of the coast station market structure, the peculiarities of interconnect arrangements and the potential for "cream skimming" due to such factors as seasonal traffic peaks. We are reluctant to reflect such considerations in our rules. These variables may not be universally found in all markets. In most cases, we expect that the availability of more than one service offeror to a ship in a given area will result in either lower costs or improved services. This should be particularly the case in the maritime service where the special needs and characteristics of the maritime communicator are more likely to be responded to in a competitive environment. However, these applications will continue to be subject to and processed in accordance with Section 309 of the Act.

Thus any existing station will continue to be able to petition to deny a specific application based on facts peculiar to a given situation which would raise a substantial and material question of fact whether the public interest would be served by the grant of the application. See Section 1.962 of our rules.

13. To alleviate the concerns of existing coast stations about speculative or undercapitalized entry we are adopting a rule which will require all recipients of these frequencies to place them in operation within eight months of grant. This was suggested to us in the comments as a deterrent to speculative or undercapitalized new entry. This approach has been successfully used in the land mobile and maritime services with respect to initial frequency assignment.

14. One of the commenters expressed the concern that easing entry might invite "captive use" of these frequencies, that is limited coast station eligible might apply for these duplex, dedicated frequencies with no real intention of being open for public correspondence.[4] We do not believe this is a serious concern. This abuse is theoretically possible under the existing rule yet we have no evidence that it has occurred. Moreover, the rules clearly require stations of this class to be open to the public. Failure to provide a public correspondence service would be grounds for forfeiture of the license.

15. One of the commenters suggested that in easing entry, the Commission should also ease exit where automated interconnected systems, such as the one authorized on the Mississippi River, will compete with the current manually operated system. We are not adopting this suggestion at this time because we feel it is premature.[5] It appears there will remain some demand for manual service. Whether the demand will be sufficient to support all existing manual stations is unclear because we have no experience where automated and manual operations have been in direct competition for a large number of vessels. As we acquire experience in this area, we will be willing to revisit this concern.

16. One commenter, station WAH, suggested that it be given special protection from competitive entry because it uniquely receives competition from foreign coast station operations. We are not adopting this suggestion because we do not believe that foreign competition is materially different from domestic competition in the context of this rule making.

Financial Qualifications

SS Docket No. 78–145

17. In SS Docket No. 78–145, the Commission proposed to amend its rules to require an applicant for a new public coast station to demonstrate financial ability to construct the station and to operate the station for one year.

This standard had been applied to past applicants for public coast stations and, in effect, had become Commission policy.[6] This rulemaking would have incorporated this policy into the rules. Of the eight commenters responding to our original proposal to incorporate the financial standard for public coast station applicants into the rules, four supported it without any changes while the other four recommended certain

[4] A limited coast station is a private station on land which communicates only with the licensee's vessels for business or operational purposes. It is not open to public correspondence.

[5] Pursuant to Section 214 of the Communications Act, 47 U.S.C. 214, coast station licensees may discontinue service by obtaining from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby.

[6] See *In the Matter of West Indies Communications*, et al., Docket No. 19367, 33 FCC 2d 851, 853 (1979); the Review Board stated that the test to determine the financial qualifications of a public coast station applicant should be: "(1) that it has available sufficient funds for construction, and (2) that the operation can be financed for a period of one year after construction." The one year test was taken from the standard the Commission established for commercial broadcast applicants. The standard for commercial broadcast applicants has subsequently been shortened to three months and is merely certified to by the applicant, see *In the Matter of Revision of Application for Construction Permit for Commercial Broadcast Stations*, released October 19, 1981, FCC 81–278, at page 2.

modifications to ease the standards. In response to our reopening of Docket 78–145 for additional comment, four commenters addressed the issue and all favored some form of financial qualification.

18. We feel that adoption of the proposed financial showing might constitute a potential barrier to entry into this service particularly with respect to VHF local service stations, many of which are licensed to relatively small scale entrepreneurs. They would certainly impose additional paperwork burdens on applicants. We feel that the eight month requirement to construct and begin operation should be a deterrent to "frequency hoarding" or undercapitalized speculative entry. Further, ordinary business prudence will operate to discourage frivolous ventures. For these reasons, we are not adopting the rule amendments proposed in Docket 78–145.[1]

19. For the reasons set forth above, it is ordered, That the rule amendments proposed in Docket 78–145 are not adopted and the proceeding is terminated.

20. It is further ordered, That the proposed amendments to § 81.303 of the rules in Docket 80–144, as modified above, are adopted effective June 13, 1983, in accordance with the attached appendix and the proceeding is terminated.

21. For further information on this proceeding, contact Robert DeYoung at (202) 632–7175.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 81.61 is revised to read as follows:

§ 81.61 Time in which station is placed in operation.

In those cases in which a new license is issued, or in which additional operating frequencies have been authorized, if the station or frequencies authorized have not been placed in operation within 8 months from the date of the grant, the authorization shall be invalid and must be returned to the Commission for cancellation.

§ 81.303 [Amended]

2. In § 81.303, paragraphs (b), (d) and (e) are removed and designated [Reserved].

[FR Doc. 83–12854 Filed 5–12–83; 8:45 am]

BILLING CODE 6712–01–M

[1] The Commission has also eliminated the financial qualifications requirement in the Public Mobile Radio Services, see Report and Order, CC Docket No. 80–55, adopted September 10, 1980, 82 FCC 2d 152.

Proposed Rules

Federal Register
Vol. 48, No. 94
Friday, May 13, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Miscellaneous Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes several editorial changes and clarifications to the August 20, 1982, final Child Care Food Program (CCFP) regulations. In addition, some substantive changes to those regulations are being proposed. The number of reviews of child care facilities which State agencies are required to conduct is reduced. The appeal process is clarified. The application of alternate approval procedures in backlog situations is rescinded. Limitations are placed on the State agency's authority to waive certain overclaims. Restrictions on sponsoring organizations' use of interest bearing accounts are removed. State agencies' administrative flexibility is increased in several areas. Family-style meal service is presented as an option for institutions. Certain institution responsibilites with respect to licensing and tax-exempt status are emphasized.

Interested parties are invited to comment on this proposal.

DATES: Comments must be received on or before July 12, 1983 to be assured of consideration in the final rule.

ADDRESS: Written comments should be sent to Beverly Walstrom, Chief, Policy and Program Development Branch, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Beverly Walstrom or Mary Lou Wheeler at the above address or by telephone at (703) 756-3688. Copies of all written comments will be made available for review during business hours at Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302.

SUPPLEMENTARY INFORMATION:

Classification

This rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment productivity, innovation or on the ability of U.S. enterprises to compete with foreign based enterprises. This rule has also been reviewed with regard to the requirements of Pub. L. 96-354. The Administrator of the Food and Nutrition Service has certified that this 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 or 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. The Department is now proposing to clarify and amend several provisions in the Child Care Food Program regulations in response to recommendations from those involved in Program administration.

1. Review Requirements

At the present time, State agencies are required by Federal regulations at 7 CFR 226.6(k) to review 33.3 percent of all institutions annually. With respect to centers, the State agency is to review 15 percent of all child care centers under each sponsoring organization reviewed, and 10 percent of the first 1,000 homes and five percent of all homes over 1,000 operated by each sponsoring organization reviewed. The Department finds, however, that this requirement strains the resources of many State agencies to the point that they have insufficient staff time to respond to special review problems. For example, it is frequently desirable to have reviewers make more than one visit to large sponsors, problem facilities or new facilities, but because of the necessity to meet the review requirements in the regulations, it is not possible to make additional visits. Moreover, the workload posed by the current requirement sometimes does not allow sufficient time for detailed and thorough reviews.

In response to this situation, the Department is proposing to reduce the State agency monitoring requirements in § 226.6(k). The Department proposes to require States to review 15 percent of the sponsor's first 25 centers or three centers, whichever is less, provided at least one center is reviewed. If the sponsor has more than 25 centers, the State agency will review eight percent of the centers in excess of 25, up to a maximum of 25 reviews. The review requirements for sponsors of day care homes are proposed as follows: 10 percent of the first 50 homes, with a minimum of two reviews (unless the sponsor operates only one home), seven percent of the next 150 homes, five percent of the next 800 homes, and two percent of all remaining homes. Under this system, the number of reviews required of State agencies would be reduced for nearly all sponsors. The greatest reductions, however, would be in the case of very large sponsors. For example, when reviewing a sponsor with 500 homes, the State agency would be required to review 30 homes rather than the 50 currently required, a reduction of 40 percent.

These reductions will allow State agencies greater flexibility to reallocate their resources to such areas of the Program as training, technical assistance or administration, which, in turn, can result in a more efficient and effective operation. The Department does not believe that Program accountability will be compromised by this change. Reviews of centers will be only slightly reduced. While the reduction in home reviews is somewhat greater, the Department's experience suggests that trends in a sponsor's operations can be determined from a smaller number of reviews. Moreover, States will have greater flexibility to concentrate review activity in problem areas or to follow up on corrective action. In many cases, therefore, this

provision will actually enhance Program accountability.

The Department is proposing to revise the specified content of reviews. Currently, § 226.6(K) specifies that Program reviews shall assess institutional compliance with meal requirements, family-size and income documentation where applicable, financial management standards, and non-discrimination regulations. In order to provide State agencies with greater flexibility, the Department is proposing to amend the rule to require that State agencies conduct reviews to ensure compliance with the CCFP regulations and with any applicable instructions of FNS and the Department.

The Department is also proposing to amend § 226.16 (d) (4) (ii), the requirements for sponsoring organizations to review the day care homes they sponsor. The current regulations require that each home be visited by the sponsor at least three times annually. However, the Department considers that the number of visits can be varied to some degree, depending upon the extent to which individual providers need assistance from the sponsor. Some providers need to be visited more often than three times a year, while others do not need such frequent visits. The Department is proposing, therefore, that with FNSRO approval, State agencies may allow sponsors to make an average of three annual visits to their homes, provided that each home is visited at least twice a year. FNSRO approval of a State agency's request to exercise this option will be based on a finding that the ability to reallocate visits will enable affected sponsors to allocate their resources more efficiently and to manage their providers more effectively.

2. Interest Bearing Accounts

Section 226.16(j) requires sponsoring organizations to maintain all Program payments in non-interest bearing accounts between the date of receipt from the State agency and the date of disbursement. This provision was intended to ensure that advance payments and start-up payments were not misused by participants but were disbursed in accourdance with Program regulations. However, Departmental Regulations (7 CFR 3015) do not establish such a restriction for State agency administered programs. Therefore, the Department is proposing to delate this paragraph from the regulations. Sponsors wishing to open interest bearing accounts will be subject to the laws and policies of the States in which they operate, unless they are participating in a Program administered directly by FNS. In these latter cases, sponsors will be subject to OMB circulars, which require that any interest earned on advance payments or start-up payments must be returned to FNS.

3. Appeals Procedures

The Department is proposing to clarify several provisions dealing with appeals. First, in § 226.6(j)(3) the Department proposes to emphasize that the State agency may, if it chooses, be represented at the appeal proceeding. The Department never intended that the State agency should be excluded from these proceedings. The State agency's presence can, in fact, prevent needless confusion, because a representative can explain the State's reason for taking the action being reviewed and can answer questions posed by the review official. As a result of this amendment, the Department is also proposing to amend paragraph (j)(4) to require that the State agency, as well as the appellant, be given 10 days notice of the time and place of any hearing.

Second, in § 226.6(j)(9) the Department is proposing to clarify the procedure governing reimbursement for meals served during appeals of terminations. At the present time, terminated institutions which appeal the termination action and continue serving meals according to CCFP regulations during the period of the appeal are eligible for reimbursement for those meals regardless of the outcome of the appeal. The Department is proposing to allow reimbursement in these instances only if the institution's appeal is successful; whenever the appeal officer sustains the State agency's termination action, reimbursement will not be paid. This policy is already in affect in the Summer Food Service Program, and the Department considers it desirable to have appeal procedures as consistent as possible for the two programs. Moreover, institutions are terminated only if they have been found to be seriously deficient and have failed to correct their deficiency within a reasonable period of time. Since the grounds for termination frequently involve financial mismanagement or fraud, the Department does not believe it is prudent to continue paying Program monies to such institutions unless an administrative review has determined that the State agency acted improperly in terminating the institution. This amendment will not impose an inordinate hardship on institutions which were improperly terminated, since they will receive reimbursement for eligible meals served. This provision will, however, prevent reimbursement for meals served by institutions which are seriously deficient in their operation of the Program.

The Department also proposes to amend § 226.6(j) to specify that States which have their own appeal procedures may use these procedures rather than the CCFP procedures, as long as the following conditions are fulfilled: (1) Appellants are assured of a fair and impartial hearing before an independent offical, at which they are allowed to be represented by legal counsel, (2) decisions are rendered in a timely manner, (3) appellants are afforded the right to either a review of the record with the right to file written information, or a hearing which they may attend, and (4) adequate notice is given of the place, date and procedures of the hearing.

Also, the Department is proposing to steamline the appeal procedure by requiring State agencies to advise participants of the appeal procedures only once each year rather than each time an appealable action is taken, as is currently the case. The Department believes that all participants in the Program must be aware of the proper procedures to be followed in requesting an administrative review of a State agency's action. The Department also recognizes, however, that providing a complete description of the appeal process each time an appealable action is taken can be very time consuming for the State agency without providing necessary information to the participant. Therefore, the Department is proposing to amend paragraph (j) to require State agencies to advise participants annually of all appeal procedures. The Department recommends that this information be made available with other application renewal material. Paragraph (j)(1) will then be revised to delete the requirement that the appeal procedure be explained each time an adverse action is taken. The proposed revision, however, will still require State agencies to advise participants of their right to appeal each time an adverse action is taken.

Finally, a change has been made in this rule in order to clarify the status of Federal audit findings as they relate to the appeals process. Section 226.6(j) lists various types of State agency actions which may be appealed. These include the review of a denial of an application for participation, a denial of a start-up payment or an advance payment, a denial of a claim for reimbursement, or a termination action, among others.

The review procedure is intended to provide administrative redress to participants who believe they have been adversely affected by arbitrary or capricious State agency actions. In some

instances, however, action must be taken because of situations or events beyond the jurisdiction of a State agency, specifically as a result of Federal Audit findings.

It was never intended that, under the appeals procedures, State hearing officials would be able to waive Federal Claims against State agencies by overturning the State's action which has been taken against an institution as a result of Federal audit findings. While the hearing official's determination is the final administrative determination to be afforded to the appellant, only the Secretary has the authority to adjust, settle, compromise or deny any Federal claim arising under the Program. Federal claims against a State cannot be dismissed by State hearing officials.

This rule, therefore, proposes a new provision (§ 226.6(j)(11)), which clarifies that when an appeal results in the dismissal of a claim against a sponsor which the State agency asserted based upon Federal audit findings, FNS may assert a claim against the State agency in accordance with the procedures outlined in § 226.14(b).

4. Audit Disregard

The proposed regulation would amend § 226.8(e) to allow FNS or the Office of the Inspector General to disregard an overpayment which does not exceed $100. In the case of State agency administered programs, the amount will be established by State law, regulations or procedures. The level in the current regulations ($35) has not been adjusted for several years, and the Department is proposing this change in recognition of that fact. The disregard level for the Summer Food Service Program (SFSP) is $100. The Department considers, therefore, that raising the level for the CCFP is appropriate at this time.

5. Meal Requirements

The Department is proposing to make three amendments to the meal pattern requirements, all of which represent clarifications of existing policies. The first two amendments are minor editorial changes. In discussing supplements, the current regulations state in § 226.20(a)(3) that "supplemental food shall be served between other meal types * * *" This statement could be interpreted as prohibiting supplemental food in the morning or evening. The Department did not intend such a prohibition, however, and this proposed rule deletes the words "be served between other meal types and." It must be noted, however, that the time restrictions governing meal service would still apply. Secondly, § 226.20(d)(2) currently indicates that additional food may be served for lunches and suppers but makes no mention of supplements. There was no intention to leave supplements out of this passage, and the Department is proposing to correct this oversight.

Finally, the proposed regulations state the department's position that family style meal service may be employed by institutions. The CCFP has long been recognized as a means not only for providing nutritious meals to children, but also for helping them to develop good eating habits which they will retain in later years. Both of these nutritional objectives can be effectively pursued through family style meal service, especially when those objectives are stressed by supervising adults through personal example and assistance to children during the meal. While no provision on family style service appears in the current regulations, the Department did not intend to preclude institutions from employing this technique, provided that meal requirements are observed. Therefore, the Department is proposing to add § 226.20(o) for clarification.

6. Waiver of Claims

Section 226.14(b) authorizes State agencies to waive disallowances or collection of overpayments for meal pattern violations in the case of institutions which prepare their own meals if the State determines that the institution has taken appropriate corrective action. This provision was intended to give State agencies a degree of flexibility to deal with situations in which the interests of the Program would be served through corrective action. This authority, however, does not extend to overpayments established by Federal audits. Federal audits are independent of the State, and the findings of those audits are beyond the State's jurisdiction. Therefore, the Department is adding a statement to this provision specifying that a State's waiver authority may not be exercised if the overpayment in question was established by a Federal audit. this prohibition extends to situations in which an administrative review officer dismisses a claim against an institution which has been asserted because of a Federal audit finding. As noted in the discussion of appeal provisions above, FNS may assert a claim against the State agency in such situations.

7. Eligibility Requirements

The Department is proposing two amendments which affect eligibility criteria. The proposed amendment to § 226.6(d)(1) is designed to ensure that institutions admitted to the Program on the basis of Federal approval by another program continue to maintain a safe and healthy environment for children. The Department has traditionally allowed institutions to satisfy the licensing/approval criterion for Program eligibility by demonstrating that they are participating in another Federal program, such as Head Start. This policy was adopted because institutions must meet performance standards in order to be admitted to these programs, and these standards require participants to obtain State or local licensing, where available. It has come to the Department's attention, however, that institutions participating in Federal programs have occasionally continued their participation in those programs despite having had their licenses revoked. As a result, they have continued to participate in the CCFP as well. This situation has the potential of permitting participation by institutions whose environments are detrimental to the health and safety of enrolled children, and the Department considers that it has an obligation to ensure that Program benefits are made available only to institutions which offer high quality child care. Therefore, the Department is proposing in § 226.6(d)(1)(i) that institutions will not be eligible for the CCFP unless they maintain their compliance with State or local licensing requirements where available, regardless of participation in other Federal programs. Institutions which are found to be no longer in compliance with licensing requirements will be disqualified from the CCFP unless they obtain licensing.

The second proposal amends § 226.15(a) to clarify the situation when an institution is moving toward obtaining tax-exempt status from the Internal Revenue Service (IRS). Currently, institutions which have not yet received their nonprofit certification from IRS may participate pending consideration of their applications. If IRS has not acted within 12 months, the institution is terminated from the CCFP unless it can demonstrate that it has complied with all requests from IRS for additional information. Ultimately, the responsibility for obtaining evidence of compliance rests with the institution, not with the administering agency. There has, however, been some confusion on this point. Therefore, the Department is proposing to add a clarification to § 226.15(a) emphasizing that obtaining evidence of compliance is the institution's responsibility.

8. Administrative Flexibility/Program Simplification

Finally, the Department is proposing several amendments designed to increase State agencies' flexibility in administering the Program, to simplify Program administration and to reduce paperwork.

a. *Readmission of seriously deficient institutions.* The first proposal is intended to give State agencies greater authority in determining when to readmit institutions which have been terminated because they have been seriously deficient in operating the Program. Currently, § 226.6(c) specifies that an institution which has been terminated because it has been seriously deficient shall not be eligible to participate in the Program for the remainder of the fiscal year of its termination and the next two fiscal years unless the State agency, with FNS concurrence, determines that appropriate corrective action has been taken. Some State agencies have expressed concern that this passage can be interpreted as requiring the institution's readmission after the second subsequent fiscal year regardless of whether or not the serious deficiency has been corrected. The Department has no wish to restrict State agencies'ability to enforce the provisions of the regulations. Since serious deficiencies warranting termination generally involve fiscal mismanagement or health and safety violations, the Department considers that institutions which have such problems and do not correct them should not be permitted to operate in the Program. Therefore, the sentence specifying a waiting period for readmission to the Program is being deleted in order to emphasize that institutions terminated for serious deficiencies cannot be readmitted to the Program unless they satisfy the State that corrective action has been taken.

b. *Health/sanitation and fire/safety inspections.* A second proposal aimed at Program simplification involves the health, fire and safety permits required of facilities which are admitted to the Program using the alternate approval provision. Currently, § 226.6(d)(2)(C) (1) and (2) require either current health/sanitation and fire/building safety permits or satisfactory reports of inspections conducted by local authorities within the past 12 months. It has come to the Department's attention, however, that local authorities will not always conduct health or fire and safety inspections annually. Consequently, many facilities which have been admitted to the Program after an initial inspection can find themselves threatened with termination despite the fact that they are maintaining a healthful and safe environment for children. Therefore, to avoid unnecessary complications for both facilities and State agencies, the Department is proposing to replace the 12 month requirement with a 36 month requirement in both passages. This change will allow State or local officials a greater degree of flexibility to determine what constitutes a current permit or approval while still ensuring that facilities are inspected periodically.

c. *Commodities/cash-in-lieu of commodities.* The Department is proposing to delete the provision in § 226.6(g) of the current regulations permitting institutions to switch from receiving commodities to receiving cash or vice versa during the school year. Because commodities are provided in advance to State distributing agencies on the basis of the initial annual preferences stated by institutions, it is highly unlikely that any distributing agency would approve an institution's request for a switch during the school year. The current option, therefore, serves only to create additional paperwork for State agencies and State distributing agencies to no purpose.

d. *Corrective action plans.* Currently, § 226.7(c) requires State agencies to submit a plan for correcting serious deficiencies noted during management evaluations within 60 days of receiving the management evaluation report. The Department considers that the 60-day time limit may be too restrictive in some cases, depending on the nature and extent of the deficiency. The Department is proposing, therefore, to allow a greater time limit for submission of corrective action plans when the State demonstrates good cause as to why such plans cannot be developed within 60 days. The Department considers that this provision will allow for greater flexibility on the part of both the States and FNS in correcting serious and complicated deficiencies.

e. *Sponsor/home agreements.* Section 226.18(b) of the regulations currently requires State agencies to develop written agreements for sponsoring organizations to execute with their day care providers. These agreements specify the rights and responsibilities of both parties and cover such areas as training, review activity, meal pattern responsibility, etc. The Department considers such agreements essential to the proper administration of the day care home segment of the CCFP. However, it is not always necessary for such agreements to be developed by State agencies. In many instances, it can be advantageous for sponsors to have the authority to develop their own agreements. For example, many State and county government organizations already have their own agreements, which can be as effective as an agreement developed by the State agency. Therefore, in the interest of potential paperwork reduction for State agencies and increased State and local flexibility, the Department is proposing to make the development of sponsor/home agreements a State option. State agencies can elect to continue developing this agreement, or States may require that sponsors develop the agreement themselves, subject to the approval of the State agency.

The current regulations at § 226.18(b)(8) also specify that sponsor/provider agreements shall contain a clause permitting either party to terminate the agreement for reasons of convenience at any time. This provision was intended to cover situations in which a sponsor could no longer continue its operations or a home provider no longer wished to participate in the Program. It has come to the Department's attention, however, that in some situations, providers are terminating their association with one sponsor and executing new agreements with another sponsor with little or no notice and without cause. While the Department does not wish to abridge providers' freedom to change sponsors, it must be noted that such a situation increases the potential for dual participation of homes in the Program. It can, moreover, be unfair to sponsors, who project their budgets over an entire year, based on the number of homes they expect to administer, and often incur expenses early in the year for training and materials. If, after incurring these expenses, sponsors lose a substantial number of homes, it might not be possible for them to recoup their outlays. For these reasons, some States have indicated that they wish to limit terminations for convenience, and the Department is proposing to amend § 226.18(b)(8) to specify that States may take such action if they so elect. The Department emphasizes that this amendment would not affect the right of either party to terminate the agreement for cause. The Department considers that this latter clause sufficiently protects providers in the event their sponsor is not fulfilling its responsibilities.

f. *Alternate approval in backlog situations.* Section 226.6(d)(4) of the current regulations requires State agencies to apply alternate approval

criteria to otherwise eligible facilities which have applied for licenses but have not received determinations because of a backlog at the licensing agency. This provision was intended to mitigate situations in which facilities offering adequate child care might be delayed in receiving CCFP benefits through no fault of their own. The Department's experience has shown, however, that this provision creates a significant administrative burden for State agencies. Moreover, this requirement places the State agency in the untenable position of deciding on the adequacy of facilities for which licensing is available. The Department believes this function should rest solely with licensing agencies. Therefore, since this employment of alternate approval is not mandated by the legislation governing the CCFP, the Department is proposing to rescind this provision. The Department will also delete the reference to this provision in § 226.6(d)(3)(iii).

9. Clarifications/Editorial Changes

The Department is proposing two editorial amendments. The first of these would specify in § 226.6(m) that institutions are responsible for ensuring that all deficiencies identified during reviews are corrected. This passage is somewhat ambiguous, as currently written, and the Department is proposing this minor amendment in order to avoid any possible misunderstanding. The second such amendment is intended to streamline the regulations by deleting the list of items in § 226.6(b) which are required to be considered during the application approval process. Since all of these annual requirements are discussed in detail in § 226.6(e), the Department does not consider that their reiteration in § 226.6(b) serves any useful purpose.

10. State Agency Review Systems

While the Department is not proposing a specific amendment at this time, it wishes to receive comments on whether or not States should be permitted the option to substitute their own review systems for the review requirements in § 226.6(k), provided they first receive approval from the Food and Nutrition Service (FNS). The Department considers that such a provision could better enable States to respond to their own unique situations. For example, State agencies may wish to develop a system of statistical sampling which is reliable but does not correspond to the minimum requirements in these regulations, or for some States fewer visits may be justified because most of the State's sponsors operate effectively and efficiently.

Listing of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Surplus agricultural commodities.

PART 226—[AMENDED]

Accordingly, the Department is proposing to amend 7 CFR 226 as follows:

1. By amending § 226.6 as follows: Revising paragraph (b); in paragraph (c), revising the third sentence; in paragraph (d), adding a clause at the end of paragraph (1)(i), in paragraphs (2)(i)(C)(*1*) and (2)(i)(C)(*2*), replacing the phrase "within the past 12 months" with "within the past 36 months"; in paragraph (3), placing a period after the word "standards" in clause (ii) of the second sentence, and removing clause (iii); and removing paragraph (d)(4); in paragraph (g), removing the last sentence; in introductory paragraph (j), adding two sentences after the first sentence and revising the last sentence; revising paragraph (j)(1); in paragraph (j)(3), adding a sentence at the end of the present text; revising paragraph (j)(4); placing a period after the word "action," removing the word "and," and adding a clause at the end of the third sentence in paragraph (j)(9); and adding a new paragraph (j)(11); in paragraph (k), removing the third and fourth sentences and adding four new sentences; and revising the first sentence of paragraph (m), to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(b) *Application approval.* Each State agency shall establish an application procedure to determine the eligibility under this part of applicant institutions, and facilities for which applications are submitted by sponsoring organizations. State agencies, by written consent of the State agency and the institutions, shall renew agreements with institutions not less frequently than annually. A State agency may not execute an agreement to be effective during two fiscal years but may nevertheless establish an ongoing renewal process for the purpose of reviewing and approving applications from participating institutions throughout the fiscal year. Any institution applying for participation in the Program shall be notified of approval or disapproval by the State agency in writing within 30 calendar days of filing a complete and correct application. If an institution submits an incomplete application, the State agency shall notify the institution within 15 calendar days of receipt of the application and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application. Any disapproved applicant shall be notified of its right to appeal under paragraph (j) of this section.

(c) *Denial of applications and termination of institution.* * * * Following such termination, the institution shall not participate in the Program until such time as the State agency, with FNS concurrence, determines that the institution has taken appropriate corrective action to prevent recurrence of the deficiencies that led to termination from the Program. * * *

(d) *Licensing/Approval.* * * *

(1) *General.* * * *

(i) Are licensed or approved by Federal, State, or local authorities, provided that institutions which are approved for Federal programs on the basis of State or local licensing shall not be eligible for the Child Care Food Program if they are out of compliance with licensing requirements; or

* * * * *

(2) *CCFP child care standards.*

(i) * * *

(C) *Safety and Sanitation. (1)* A current health/sanitation permit or satisfactory report of an inspection conducted by local authorities within the past 36 months shall be submitted.

(2) A current fire/building safety permit or satisfactory report of an inspection conducted by local authorities within the past 36 months shall be submitted.

* * * * *

(g) *Commodity distribution.* The State shall annually inquire as to the preference of each institution for commodities or cash-in-lieu of commodities. Each institution electing cash-in-lieu of commodities shall receive such payments. Each institution which elects to receive commodities shall have commodities provided to it unless the State agency, after consultation with the State commodity distribution agency, demonstrates to FNS that distribution of commodities to the number of such institutions would be impracticable. The State agency may then, with the concurrence of FNS, provide cash-in-lieu of commodities for all institutions. A State agency request for cash-in-lieu of all commodities shall be submitted to FNS not later than May 1 of the school year preceding the school year for which the request is made. The State agency shall, by June 1 of each year, submit a list of institutions which have elected to

receive commodities to the State commodity distribution agency, unless FNS has approved a request for cash-in-lieu of commodities for all institutions. The list shall be accompanied by information on the average daily number of lunches and suppers to be served to children by each such institution.

* * * * *

(j) *Institution appeal procedures.* * * * State agencies may use State appeal procedures provided they meet the following requirements: Appellants are assured of a fair and impartial hearing before an independent official at which they may be represented by legal counsel, decisions are rendered in a timely manner, appellants are afforded the right to either a review of the record with the right to file written information, or a hearing which they may attend in person, and adequate notice is given of the place, date and procedures of the hearing. The State's procedures for conducting administrative reviews shall be made available in writing to all participants at least once each year. If the State has not established appeal procedures or the procedures do not meet these four criteria, the State agency shall observe the following procedures at a minimum:

(1) The institution shall be advised in writing of the grounds on which the State agency based its action. The notice of action, which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the institution has the right to appeal the action;

* * * * *

(3) * * * A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and to answer questions posed by the review official;

(4) If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 10 calendar days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;

* * * * *

(9) * * * Institutions electing to continue operating while appealing terminations shall not be reimbursed for any meals served during the period of the appeal if the State agency's action is upheld; and

* * * * *

(11) In cases where an appeal results in the dismissal of a claim against an institution which was asserted by the State agency based upon Federal audit findings, FNS may assert a claim against the State agency in accordance with the procedures outlined in § 226.14(c).

(k) *Program assistance.* * * * Program reviews shall assess institutional compliance with the provisions of this Part and with any applicable instructions of FNS and the Department. The State agency shall annually review 33.3 percent of all institutions, including reviews of facilities operated by sponsoring organizations. With respect to sponsors of centers, the State agency shall review as follows: for the first 25 centers, the lesser of three centers or 15 percent of the Program's centers (with a minumum of one center) shall be reviewed; for all remaining centers, eight percent of the centers in excess of 25 shall be reviewed, up to a maximum of 25 centers reviewed. For sponsors of day care homes, the State agency shall review 10 percent of the first 50 homes, with a minumum of two reviews (unless the sponsor has only one home), seven percent of the next 150 homes, five percent of the next 800 homes, and two percent of all homes over 1,000. * * *

* * * * *

(m) *Child Care Standards Compliance.* The State agency shall, when conducting administrative reviews of child care centers, outside-school-hours care centers, and day care homes approved by the State agency under paragraph (d)(3) of this section, determine compliance with the child care standards used to establish eligibility, and the institution shall ensure that all violations are corrected. * * *

* * * * *

2. In § 226.7(c), by adding a sentence between the second and third sentences, to read as follows:

§ 226.7 State agency responsibilities for financial management.

* * * * *

(c) *Management Evaluations and Audits.* * * * If a State makes a showing of good cause, however, FNS may allow more than 60 days in which to submit a plan. * * *

* * * * *

3. By revising the first sentence of § 226.8(e), to read as follows:

§ 226.8 Audits.

* * * * *

(e) In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed $100 or, in the case of State agency administered programs, does not exceed the amount established by State law, regulations or procedures as a minimum for which claims will be made for State losses generally. * * *

* * * * *

4. By amending § 226.14 as follows: by adding a new sentence to the end of paragraph (b), to read as follows:

§ 226.14 Claims against institutions.

* * * * *

(b) * * * However, the State agency shall not disregard any overpayments or waive collection action arising from the findings of Federal audits.

* * * * *

5. By amending § 226.15 as follows: In 226.15(a) by adding a sentence between the second and third sentences, to read as follows:

§ 226.15 Institution provisions.

(a) *Tax-exempt status.* * * * It shall, however, be the responsibility of the institution to document that it has complied with all requirements of IRS and has provided all information requested. * * *

* * * * *

6. By amending § 226.16 as follows: By revising paragraph (d)(4)(ii); by removing paragraph (j), and by redesignating paragraph (k) as paragraph (j) to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(d) * * *

(4) * * *

(ii) Three times each year at each day care home, provided at least one review is made during each day care home's first four weeks of Program operations and not more than six months elapse between reviews. However, subject to FNSRO approval, based on a finding that improved efficiency and more effective management warrant such approval, State agencies may allow some or all of their sponsors to conduct reviews an average of three times each year per day care home, provided that each day care home is reviewed at least twice each year and at least one review is made during each day care home's first four weeks of Program operations; and

* * * * *

7. By amending § 226.18 as follows: Adding a new sentence after the second sentence of introductory paragraph (b) and revising paragraph (b)(8), to read as follows:

§ 226.18 Day care home provisions.

* * * * *

(b) * * * The agreement may be developed either by the State agency or, if the State agency elects, by the sponsor

with the approval of the State agency. * * *

* * * * *

(8) The right of the sponsoring organization or the day care home to terminate the agreement for cause or, subject to stipulations by the State agency, convenience; and

* * * * *

8. By amending § 226.20 as follows: In introductory paragraph (a)(3), by removing the words "be served between other meal types and"; in paragraph (d)(2), by revising the title; and by adding paragraph (o) to read as follows:

§ 226.20 Requirements for meals.

(a) * * *

(3) Supplemental food shall contain two of the following four components:

* * * * *

(d) *Additional food* * * *

(2) Lunch, supper or supplemental food. * * *

* * * * *

(o) *Family-style meal service.* Meals may be served in a family-style setting.

(Sec. 2, Pub. L. 95-627, 92 Stat. 3603, 42 U.S.C. 1766 and Pub. L. 97-35)

Dated: May 6, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-12919 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

Nonimmigrant Classes; Petition for Alien To Perform Temporary Services or Labor

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would transfer the authority to make determinations on temporary labor certifications for the island of Guam from the Secretary of Labor to the Governor of Guam. This change will provide for closer control on the certification process and provide for local informational input to a greater degree.

DATE: Comments must be in writing and received on or before June 15, 1983.

ADDRESS: Please submit comments in duplicate to the Commissioner, Immigration and Naturalization Service, 425 I Street, NW., Room 7100, Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

For Specific Information: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3946.

SUPPLEMENTARY INFORMATION: The present 8 CFR 214.2(h)3)(i) vests the Secretary of Labor with the authority to make determinations of availability and adverse impact on the local labor market of the importation of temporary workers (H-2's) to the United States under section 101(a)(15)(H)(ii) of the Immigration and Nationality Act, 8 U.S.C 1101(a)(15)(H)(ii). These temporary labor certifications are used by prospective employers to support petitions for the importation of temporary laborers. While the service ultimately must judge availability and impact questions, considerable weight is given to the Secretary's determinations. Generally, only in a case when the Secretary issues a notice that the certification cannot be made, will the Service make an independent determination, and even then, will consult with the Secretary prior to rendering a decision.

Because of its unique geographic location and the local conditions in Guam, accurate appraisal of prevailing wages and the impact of imported labor has been difficult to determine. The Governor of Guam has suggested that local conditions can best be appraised through closer examination of those conditions on a local basis. Consultation with the Secretary of Labor has resulted in his concurrence with the Governor's proposal.

It is anticipated that under this proposed change the Governor of Guam will establish a system which would include a designated governing body to make determinations of prevailing wages and availability of U.S. resident workers, as well as adverse impact determinations concerning the importation of temporary foreign labor. The regulation would transfer this function currently performed by the Secretary of Labor to the Governor of Guam or his designated representative. The Commissioner of Immigration and Naturalization, in consultation with the Secretary of Labor, will determine the suitability and validity of the Governor's systems for making the required determinations. Any proposed changes to the systems must be reported to the Commissioner for review and approval prior to implementation.

This proposed change will not materially affect determinations for temporary labor certifications in Guam, but merely transfers the authority to do them.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule, if promulgated, will not have significant impact on a substantial number of small entities. The proposed rule will not be a major rule as defined in section 1(b) of E.O. 12291. It will not have an effect on the economy of $100 million or more; result in an increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Crime, Employment, Passports, Visas.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 214—NONIMMIGRANT CLASSES

In § 214.2, it is proposed to revise paragraph (h)(3) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(3) *Petition for alien to perform temporary service or labor.*—(i) *Labor certifications, general.* Either a certification from the Secretary of Labor or his designated representative stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect wages and working conditions of workers in the United States similarly employed, or a notice that such certification cannot be made, shall be attached to every nonimmigrant visa petition to classify an alien under section 101(a)(15)(H)(ii) of the Act, except for employment on Guam. If there is attached to the petition a notice from the Secretary of Labor or his designated representative that certification cannot be made, the petitioner shall be permitted to present countervailing evidence that qualified persons in the United States are not available and that the employment

policies of the Department of Labor have been observed. All such evidence submitted will be considered in the adjudication of the petition.

(ii) *Labor certifications, Guam.* Every nonimmigrant visa petition filed on behalf of an alien for classification under section 101(a)(15)(H)(ii) of the Act for employment on Guam shall be accompanied by either:

(A) Certification from the Governor of Guam or his designated representative stating that qualified residents in the United States are not available to perform the required services and that the employment of a nonimmigrant alien will not adversely affect the wages and working conditions of United States resident workers who are similarly employed on Guam; or

(B) A notice detailing the reasons why the certification required in paragraph (h)(3)(ii)(A) of this section cannot be made.

(iii) *Criteria for Guam labor certifications.* The Governor of Guam shall establish systematic methods for detemining the prevailing wage rates and working conditions for individual occupations on Guam and for making labor certification determinations. The wages and working conditions determination need only be made for those occupations where a prospective employer requests a certification to file with a nonimmigrant visa petition based on section 101(a)(15)(H)(ii) of the Act. The wages and working conditions system must consider the prevailing wage rates and working conditions for occupations in both the private and public sectors, in Guam and/or in the "United States", as defined in section 101(a)(38) of the Act, and may not consider wages and working conditions outside of the United States. The system must require that the prospective employer:

(A) Advertise the availability of the position for a minimum of 3 consecutive days in the newspaper of largest circulation on Guam;

(B) Place a job offer with an appropriate agency or the Governor's designated representative at least 30 days in advance of the need for the services to commerce;

(C) Report to the appropriate agency or Governor's designated representative the names of all United States resident workers who applied for the position, indicating those hired or the job-related reasons for not hiring;

(D) Offer all special considerations to all United States resident workers that the employer provides to nonimmigrant workers such as the payment of transportation expenses;

(E) Meet the prevailing wage rates and working conditions determined under the wages and working conditions system by the Governor or his designated representative; and,

(F) Agree to meet all Federal and State requirements relating to employment, such as nondiscrimination, occupational safety, and minimum wage requirements.

(iv) *Approval and publication of employment systems on Guam.* The systems and any modifications of the systems must be approved by the Commissioner of Immigration and Naturalization prior to implementation. If the Commissioner, in consultation with the Secretary of Labor, finds the systems or modified systems meet the requirements of this subsection, the Commissioner shall publish them in the **Federal Register**, and the Governor shall publish them as a public record in Guam. The Governor shall notify the Commissioner of all determinations under the wages and working condition system, including the specific data used in the computations. This information must be submitted quarterly beginning on the first day following the third full month after approval of the wages and working conditions system.

(v) *Multiple beneficiaries.* When the petitioner seeks the services of more than one beneficiary and all the beneficiaries are not included in a single certification, a separate visa petition must be submitted for the beneficiary or beneficiaries covered in each certification.

(vi) *Statement of need.* A statement shall be furnished with the visa petition describing in detail the situation or conditions which make it necessary to bring the alien to the United States, and whether the need is temporary, seasonal, or permanent; if temporary or seasonal, the statement shall indicate whether the situation or conditions are expected to be recurrent.

* * * * *

(Secs. 103 and 214, Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1184))

Dated: February 17, 1983.

Alan C. Nelson,

Commissioner, Immigration and Naturalization.

[FR Doc. 83-12950 Filed 5-12-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Ch. V

Proposed Rules Under The Wagner-Peyser Act (29 U.S.C. 49 et seq.)

AGENCY: Employment and Training Administration, Labor.

ACTION: Advance notice of proposed rulemaking; notice of availability of document.

SUMMARY: This advance notice alerts interested persons to forthcoming rulemaking and offers an opportunity to request informational, draft copies of proposed rules covering the Wagner-Peyser Act (29 U.S.C. 49 et seq.), as amended by Title V of the Job Training Partnership Act (Pub. L. 97–300). Release of the draft regulations is intended to alert interested persons to issues which will be submitted for public comment in the forthcoming proposed rules.

ADDRESS: Requests for draft copies, including self-addressed envelope and/or mailing label, should be addressed to the Assistant Secretary of Labor for Employment and Training, U.S. Department of Labor, 601 D Street, NW., Room 9000, Washington, D.C. 20213. Attention: Patrick J. O'Keefe, Acting Administrator, Office of Strategic Planning and Policy Development.

FOR FURTHER INFORMATION CONTACT: Patrick J. O'Keefe, Telephone: (202) 376–6600.

SUPPLEMENTARY INFORMATION: On October 13, 1982, the President signed the Job Training Partnership Act, Pub. L. 97–300. This statute includes amendments to the Wagner-Peyser Act (29 U.S.C. 49 et seq.). These amendments take effect October 1, 1983.

To provide basic program planning information as early as possible, the Department is making available to interested persons, upon written request, a preliminary draft of the proposed regulations implementing the Wagner-Peyser Act, as amended. Release of the draft regulations is intended to alert interested persons to issues which will be submitted for public comment in the forthcoming proposed rules.

Signed this 9th day of May 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-12949 Filed 5-12-83; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 148

[Docket No. 82N-0261]

Quick Frozen Peaches; Termination of Consideration of Codex Standard

Correction

In FR Doc. 83-8299 beginning on page 14001 in the issue of Friday, April 1, 1983, make the following corrections on page 14002, the first column:

1. In the first line, insert "20204" immediately following "Washington, D.C.".

2. In the fourth line, the date "September 3, 1882" should read "September 3, 1982".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Implementing Legislation

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendments.

SUMMARY: The VA (Veterans Administration) is proposing to amend its adjudication regulations to implement pertinent provisions of the Veterans' Compensation, Education, and Employment Amendments of 1982. These regulatory changes will affect the definition of active duty for training, extend burial allowance eligibility, increase special monthly compensation for certain blinded veterans, and extend dependency and indemnity compensation eligibility to certain surviving spouses and children.

DATES: Comments must be received on or before June 13, 1983. We propose to make these changes effective October 1, 1982.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding these changes to Administrator of Veterans' Affairs (271A), Veterans' Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until June 23, 1983. Any person visiting Central Office for the purpose of inspecting comments will be received by the Central Office Veterans' Services Unit in room 132. Visitors to a VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: Robert M. White (202) 389-3005.

SUPPLEMENTARY INFORMATION: The Veterans' Compensation, Education, and Employment Amendments of 1982, Pub. L. 97-306, amended title 38, United States Code, requiring several regulatory changes in Part 3 of Title 38 CFR. A discussion of pertinent provisions of this new law is presented below together with the proposed regulatory changes required for implementation.

Section 113 of the new law amended 38 U.S.C. 101(22) to include within the definition of the term "active duty for training" any duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under chapter 103 of title 10, United States Code. Effective October 1, 1982, it also repealed 38 U.S.C. 403 which previously provided, among other things, for dependency and indemnity compensation eligibility for survivors of ROTC members who died as a result of annual training duty to which they had been ordered for a period of 14 days or more.

The effect of this new provision is to confer veteran status on all Senior ROTC members who are disabled as a result of injury or disease incurred or aggravated during such specified duty, or who die as a result of such duty as long as they are discharged or released therefrom under conditions other than dishonorable. This status makes such members basically eligible for disability compensation and makes their survivors basically eligible for dependency and indemnity compensation.

This new provision applies only with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982. In addition, Senior ROTC members who become eligible for veterans' benefits based on this provision of law are no longer eligible for benefits under subchapter I of chapter 81 of title 5, United States Code.

To implement section 113 we propose to amend 38 CFR 3.6(c)(4). The current language of subparagraph (4) will be deleted in its entirety and new language will be substituted indicating that duty to which a member of a Senior ROTC program is ordered for the purpose of field training or a practice cruise is included within the definition of active duty for training.

Section 112 of the new law corrected a technical error in 38 U.S.C. 410(b)(1) relating to eligibility for death benefits at the rate payable for DIC (dependency and indemnity compensation). Section 410(b)(1) previously granted such eligibility if a veterans' nonservice-connected death was not the result of his or her own willful misconduct and if the veteran was in receipt of (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that was rated totally disabling for a specified period of time.

An opinion by the VA General Counsel (Op. G.C. 2-81) published on May 21, 1981, held, however, that 38 U.S.C. 410(b)(1) "does not provide a basis for finding entitlement to survivors' benefits where a veteran, at death, had been in receipt of compensation for total disability but not for the requisite duration solely because of VA error in the rating assigned." Therefore, the requirements of § 410(b)(1) have been amended to include as basically eligible the survivors of veterans who were entitled to receive compensation at the total disability rate for the specified period, but who, for some reason, were not actually in receipt of such benefits.

Although this amendment to 38 U.S.C. 410(b)(1) is effective October 1, 1982, it also has retroactive application to those who would have been entitled to DIC payments for any part of the period beginning on October 1, 1978, and ending on September 30, 1982, if this amendment had taken effect on October 1, 1978. We propose to implement this new provision by appropriately amending 38 CFR 3.22(a)(2).

Section 111(a) of Pub. L. 97-306 increased the rate of special monthly compensation payable for service-connected blindness without light perception in both eyes to the rate payable under 38 U.S.C. 314(n). The rate of special monthly compensation payable for this degree of blindness is now equal to the rate payable for anatomical loss of both eyes.

Under the authority of 38 U.S.C. 314(p) the rate payable under § 314(n) was previously granted in cases of bilateral blindness without light perception only if accompanied by phthisis bulbi, evisceration, or other obvious deformity or disfigurement. Since those additional conditions are no longer required for entitlement under § 314(n), we propose to implement this new provision by amending 38 CFR 3.350(d) to include the

disability of blindness without light perception in both eyes as one of the entitling criteria and by deleting 38 CFR 3.350(f)(2)(iv) which is no longer appropriate.

Since bilateral blindness without light perception has been equated for special monthly compensation purposes with anatomical loss of both eyes, we also propose to amend 38 CFR 3.350(f)(2)(ii) and (iii) to reflect that blindness without light perception in one eye is the equivalent of anatomical loss of one eye for the purposes of subdivisions (ii) and (iii). The proposed amendments required by section 111(a) of the new law will be effective October 1, 1982.

Section 111(b) of the new law has amended 38 U.S.C. 314(p) to provide, in part, that "[i]n the event the veteran has suffered service-connected blindness, with 5/200 visual acuity or less and * * * has also suffered service-connected total deafness in one ear or service-connected anatomical loss of use of one hand or one foot, the Administrator shall allow the next intermediate rate."

In presenting the compromise agreement on this legislation to the House of Representatives, the Chairman of the House Veterans' Affairs Committee stated with regard to section 111(b) that "[w]e feel this increased compensation is warranted because the loss of an extremity has a far greater impact on a blinded veteran's mobility than such loss would have on an individual who has not lost his or her sight." 131 Cong. Rec. H 7774 (daily ed. Sep. 28, 1982) (remarks of Rep. Montgomery). Based on this statement, it seems clear that the purpose of this amendment to 38 U.S.C. 314(p) was to increase the rate of special monthly compensation payable for the specified disability combinations above the rate formerly authorized by law or regulation.

We propose to implement section 111(b) of Pub. L. 97-306 by amending 38 CFR 3.350(f)(2)(v), as redesignated subdivision (iv), to include three new provisions. This amendment will provide that veterans with service-connected blindness in both eyes accompanied by service-connected loss or loss of use of one hand, or loss or loss of use of one foot which by itself or in combination with another compensable disability would be ratable at 50 percent or more will be entitled to the next higher statutory rate (or next higher intermediate rate if already entitled to an intermediate rate), and that veterans with service-connected blindness in both eyes accompanied by service-connected loss or loss of use of one foot which is ratable at less than 50 percent, and which is the only other compensable disability, will be entitled to the next higher intermediate rate (or next higher statutory rate if already entitled to an intermediate rate).

These proposed amendments would be consistent with current rating procedures and would provide increased special monthly compensation to all veterans with the specified disability combinations. These changes will be effective October 1, 1982.

Section 403 of the law provides for burial allowance eligibility in the case of a deceased veteran who had wartime service or was discharged or released from active duty because of a service incurred or aggravated disability, and whose body is held by a State (or political subdivision of a State) if the VA determines that there is no next of kin or other person claiming the body of the deceased veteran and there are insufficient resources available to cover the burial and funeral expenses. This provision reestablishes in certain cases the burial allowance eligibility previously lost under the provisions of the Omnibus Budget Reconciliation Act of 1981.

We propose to implement section 403 by appropriately amending 38 CFR 3.1600 and 3.1601. In addition, we have amended 38 CFR 3.1603 to clarify that it applies only to the authority for burial of unclaimed bodies where eligibility is not based on the new provisions of 38 U.S.C. 902(a)(2). These amendments will apply with respect to burial and funeral expenses incurred after September 30, 1982.

Section 404 of Pub. L. 97-306 provides burial allowance eligibility in the cases of veterans who die in an institution where they were receiving nursing home care under the authority of 38 U.S.C. 620 at the expense of the United States at the time of death. This amendment is effective with respect to deaths occurring after September 30, 1982. We propose to implement section 404 by appropriately amending 38 CFR 3.1600 and 3.1605.

The Administrator hereby certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that the proposed regulations would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these proposed regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, we have determined that these proposed regulation changes are nonmajor for the following reasons:

(1) They will not have an effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance Program numbers are 64.101, 64.109, and 64.110.)

Approved: May 2, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 3—ADJUDICATION

The Veterans Administration proposes to amend 38 CFR Part 3 as follows:

1. In § 3.6, paragraph (c)(4) is revised as follows:

§ 3.6 Duty periods.

* * * * *

(c) *"Active duty for training".* * * *

(4) Duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under chapter 103 of title 10, United States Code (38 U.S.C. 101(22); Pub. L. 97-306, 96 Stat. 1429); and

* * * * *

2. In § 3.22, paragraph (a)(2) (introductory portion preceding subdivision (i)) is revised as follows. The introductory portion of paragraph (a) is shown for reader convenience.

§ 3.22 Benefits at DIC rates in certain cases when death is not service-connected.

(a) *Entitlement criteria.* Benefits authorized by section 410(b) of title 38, United States Code shall be paid to a deceased veteran's surviving spouse (see § 3.54(c)(2)) or children in the same manner as if the veteran's death is service connected when the following conditions are met:

* * * * *

(2) The veteran was in receipt of or for any reason (including receipt of military retired or retirement pay or correction of a rating after the veteran's death based on clear and unmistakable error) was not in receipt of but would have been entitled to receive compensation at the time of death for a service-connected disablement that either:

* * * * *

3. In § 3.350, paragraphs (d) (introduction), (d)(4) and (f)(2) are revised as follows:

§ 3.350 Special monthly compensation ratings.

* * * * *

(d) *Ratings under 38 U.S.C. 314(n).* The special monthly compensation provided by 38 U.S.C. 314(n) is payable for any of the conditions which follow. Amputation is a prerequisite except for loss of use of both arms and blindness without light perception in both eyes. If a prosthesis cannot be worn at the present level of amputation but could be applied if there were a reamputation at a higher level, the requirements of this paragraph are not met; instead, consideration will be given to loss of natural elbow or knee action.

* * * * *

(4) Anatomical loss of both eyes or blindness without light perception in both eyes.

* * * * *

(f) *Intermediate or next higher rate.*

* * *

(2) *Eyes, bilateral, and blindness in connection with deafness.* (i) Blindness of one eye with 5/200 visual acuity or less and blindness of the other eye having only light perception will entitle to the rate between 38 U.S.C. 314 (l) and (m).

(ii) Blindness of one eye with 5/200 visual acuity or less and anatomical loss of, or blindness having no light perception in the other eye, will entitle to a rate equal to 38 U.S.C. 314(m).

(iii) Blindness of one eye having only light perception and anatomical loss of, or blindness having no light perception in the other eye, will entitle to a rate between 38 U.S.C. 314 (m) and (n).

(iv) Blindness in both eyes rated under 38 U.S.C. 314 (l), (m) or (n), or under the intermediate or next higher rate provisions outlined above, when accompanied by:

(*a*) Service-connected total deafness in one ear, will afford entitlement to the next higher intermediate rate or if the veteran is already entitled to an intermediate rate to the next higher statutory rate under 38 U.S.C. 314, but not higher than the (o) rate; or

(*b*) Bilateral deafness rated at no less than 40 percent, and the hearing impairment in one or both ears is service connected, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or if the veteran is already entitled to an intermediate rate to the next higher intermediate rate, but in no event higher than the rate for (o); or

(*c*) Service-connected loss or loss of use of one hand, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or, if the veteran is already entitled to an intermediate rate, to the next higher intermediate rate, but in no event higher than the rate for (o); or

(*d*) Service-connected loss or loss of use of one foot which by itself or in combination with another compensable disability would be ratable at 50 percent or more, will afford entitlement to the next higher statutory rate under 38 U.S.C. 314 or, if the veteran is already entitled to an intermediate rate, to the next higher intermediate rate, but in no event higher than the rate for (o); or

(*e*) Service-connected loss or loss of use of one foot which is ratable at less than 50 percent and which is the only compensable disability other than bilateral blindness, will afford entitlement to the next higher intermediate rate or, if the veteran is already entitled to an intermediate rate, to the next higher statutory rate under 38 U.S.C 314, but in no event higher than the rate for (o). (38 U.S.C. 314(p); Pub. L. 97–306, 96 Stat. 1429)

* * * * *

4. Section 3.1600 is amended as follows:

(a) By removing the word "and" and inserting the word "or" at the end of paragraph (b)(2)(ii).

(b) By adding a new paragraph (b)(3) and redesignating the former paragraph (b)(3) as paragraph (b)(4) and by revising paragraph (c) so that the added and revised material reads as follows. The introductory portion of (b) is shown for reader convenience.

§ 3.1600 Payment of burial expenses of deceased veterans.

* * * * *

(b) *Nonservice-connected death burial allowance.* If a veteran's death is not service connected, an amount not to exceed $300 (or if entitlement is under § 3.8 (c) or (d), a rate in Philippine pesos equivalent to $150) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement is subject to the following conditions:

* * * * *

(3) The deceased was a veteran of any war or was discharged or released from active military, naval, or air service for a disability incurred or aggravated in line of duty, and the body of the deceased is being held by a State (or a political subdivision of a State), and the Administrator determines

(i) That there is no next of kin or other person claiming the body of the deceased veteran, and

(ii) That there are not available sufficient resources in the veteran's estate to cover burial and funeral expenses; and (38 U.S.C. 902(a); Pub. L. 97–306, 96 Stat. 1429)

(4) The applicable further provisions of this section and §§ 3.1601 through 3.1610. (38 U.S.C. 210(c), 902)

(c) *Death while properly hospitalized.* If a person dies from non-service-connected causes while properly hospitalized by the Veterans Administration, there is payable an allowance not to exceed $300 for the actual cost of the person's funeral and burial, and an additional amount for transportation of the body to the place of burial. For burial allowance purposes, the term "hospitalized by the Veterans Administration" means admission to a Veterans Administration facility (as defined in 38 U.S.C. 601(4)) for hospital, nursing home, or domiciliary care under the authority of 38 U.S.C. 610 or 611(a), or admission (transfer) to a nursing home under the authority of 38 U.S.C. 620 for nursing home care at the expense of the United States. (38 U.S.C. 903(a)) (If the hospitalized person's death is service connected, entitlement to burial benefits falls under paragraph (a) of this section instead of this paragraph.

5. Section 3.1601 is amended as follows:

(a) By adding a parentheses around the words "other than a § 3.1604(d) claimant" in the introductory portion of paragraph (b).

(b) By adding paragraph (b)(5) as follows:

§ 3.1601 Claims and evidence.

* * * * *

(b) *Supporting evidence.* * * *

(5) *Entitlement under § 3.1600(b)(3).* In addition to the other evidentiary requirements of this subparagraph, there must be written certification over the signature of a responsible official of the State (or political subdivision of the State) where the body was held that—

(i) There is no next of kin or other person claiming the body of the deceased veteran, and

(ii) There are not available sufficient resources in the veteran's estate to cover burial and funeral expenses. (38

U.S.C. 902(a); Pub. L. 97-306, 96 Stat. 1429)

6. Section 3.1603 is revised as follows:

§ 3.1603 Authority for burial of certain unclaimed bodies.

If the body of a deceased veteran is unclaimed, there being no relatives or friends to claim the body, and there is burial allowance entitlement which is not based on § 3.1600(b)(3), the amount provided for burial and plot or interment allowance will be available for the burial upon receipt of a claim accompanied by a statement showing what efforts were made to locate relatives or friends. The question of escheat of any part of such deceased veteran's estate is not a factor in such a claim. Burial allowance may be authorized for cost of disinterment and reburial of unclaimed remains originally accorded pauper burial but not for initial expenses of a burial in a potter's field. Burial in a prison cemetery is not considered a pauper burial.

7. Section 3.1605 (the introductory portion preceding paragraph (a)) is amended by adding the cross reference "(see § 3.1600(c))" after the words "authority of the Veterans Administration" at the end of the first sentence.

[FR Doc. 83-12915 Filed 5-12-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 320

[SWH-FRL 2361-2]

Financial Responsibility Requirements for Facilities Handling Hazardous Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent and request for comments.

SUMMARY: Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 *et seq.*, the Environmental Protection Agency is beginning the process of identifying classes of facilities involved in the production, treatment, storage or disposal of hazardous substances, and assessing the risk of injury associated with the production, treatment, storage or disposal of hazardous substances at those classes of facilities, for purposes of promulgating financial responsibility requirements. The purpose of this notice is to inform the public of those activities and invite comments on the issues involved.

DATE: Comments will be accepted until July 12, 1983.

ADDRESS: Comments may be mailed to Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should identify the regulatory docket as follows: "Docket 108(b), Financial Responsibility Requirements for Facilities."

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA/Superfund hotline, Office of Solid Waste (WH-562, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (800) 424-9346, or in Washington, D.C., 382-3000.

For information on the work being done by EPA contact: Peter Guerrero, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, telephone (202) 382-4604.

SUPPLEMENTARY INFORMATION:

I. Background

Section 108(b)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA" or "the Act") requires that, not earlier than December 11, 1985, the President begin to promulgate financial responsibility requirements for classes of facilities involved in the production, transportation, treatment, storage and disposal of hazardous substances. Hazardous substances, as defined in the Act, include not only hazardous wastes identified or listed under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), but also a variety of substances regulated under the Clean Air Act, the Clean Water Act, and the Toxic Substances Control Act. A hazardous substance may be flammable, corrosive or explosive; it may cause cancer, physical disability or serious illness in people; it may cause damage to animals, plants, or other parts of the environment.

Under the section 108(b) requirements, the owner or operator of a facility involved in the production, treatment, storage or disposal of hazardous substances would be required to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the hazardous substances at the facility. EPA does not expect that these financial responsibility standards will duplicate financial responsibility requirements under RCRA (see 40 CFR 264.140-264.151 and 265.140-265.151) by requiring that an owner or operator demonstrate financial responsibility twice for the same risks.

Section 108(b)(1) further requires that the President publish a notice in the **Federal Register** by December 11, 1983, identifying those classes of facilities for which requirements will be first developed. Priority is to be accorded to those classes of facilities, owners, and operators which present the highest level of risk of injury.

Executive Order 12316, issued on August 14, 1981, delegated authority under section 108(b) for transportation-related facilities to the Department of Transportation. The Environmental Protection Agency was delegated the authority for all other facilities covered by section 108(b).

II. Request for Comments

In order to gather information for the development of a **Federal Register** notice identifying classes of facilities, owners, and operators, and to encourage public participation in this process, the Environmental Protection Agency is today inviting comments on the issues outlined below as well as related issues which respondents may wish to bring to the attention of the Agency. All policies mentioned below are intended only as examples; they are not recommendations by the Agency.

III. Issues

A. What Sources of Data Exist to Help Identify Types of Facilities Involved in the Production, Treatment, Storage or Disposal of Hazardous Substances?

EPA is not at this time seeking to identify specific facilities at which hazardous substances are handled. Rather, the Agency seeks to identify industries, types of facilities, and processes which involve the production, treatment, storage or disposal of hazardous substances. EPA recognizes that its own data collection efforts and regulatory programs are a major source of information on hazardous substances. However, EPA is interested in any additional sources of information which may help the Agency determine the types of facilities covered by section 108(b) of CERCLA.

B. How Should the Population of Facilities Be Divided Into Classes?

Once the Agency has identified the types of facilities involved in the production, treatment, storage and disposal of hazardous substances, the Agency expects to divide these facilities into classes. The reason for this is twofold. First, section 108(b) requires that the Agency identify the classes of

facilities for which financial requirements will be first developed. Second, classification may help EPA to assign similar financial requirements to facilities which present similar risks. In order to evaluate classification systems, EPA would like comments on the following questions:

i. What criteria should be used to select a classification system, and how should those criteria be weighted? For instances, classification systems could be evaluated on the basis of their ability to divide the facility population into a manageable number of classes, to reduce to a minimum the variation in risk of injury within classes, and to classify a facility quickly, with a minimal need for new information. If one system does not prove best in relation to all the criteria, then the criteria must be weighted or ranked in order of importance in order to select a classification system.

ii. What alternatives might be used for classifying facilities? It is possible to divide the population of facilities in many different ways. for instance, facilities could be classified according to their Standard Industrial Classification (SIC) codes so that all hazardous substance facilities in a given industry would be subject to the same financial responsibility requirement. Facilities also could be classified according to the types of hazardous substances present at the facility, the proximity to human population, and other factors or combinations of factors.

C. What Constitutes Risk of Injury?

Section 108(b) requires that EPA rank classes of facilities according to the risk of injury associated with the production, treatment, storage or disposal of hazardous substances. Therefore, EPA expects to examine the meaning of the term "risk of injury."

As mentioned above, the term "hazardous substance" includes a wide variety of substances with many different effects on human health, welfare, and the environment. In addition to the effects of the substances themselves, the potential for adverse effects may depend on such factors as the design and environmental setting of the facility, the quantity of the substance present at the facility, the proximity and density of human population, and the environmental pathways which the substance may contaminate and travel through (air, soil, surface water, ground water). The potential for and extent of injury may further depend on the degree and duration of exposure, as well as the type of exposure (inhalation, ingestion, or external exposure to skin or eyes).

The ability of the Agency to consider all possible adverse effects and all possible scenarios of exposure to hazardous substances form production, treatment, storage or disposal facilities is constrained both by the limits of technical knowledge as well as by the limits of available time and resources to perform the required analyses. Therefore, EPA would like comments on at least the following questions:

i. What types of effects upon human health, welfare, and the environment should be included in the definition of "injury"? What effects, if any, are so minor as to be not worth considering?

ii. What factors contribute to the risk that a hazardous substance will cause injury? What factors are most important in determining risk of injury, and what factors, if any, make a negligible contribution to risk?

D. How Should "Risk of Injury" Be Used To Rank Classes of Facilities?

The potential for damage to human health, welfare, and the environment will vary from one facility to another, even among similar facilities handling similar hazardous substances. However, in ranking classes of facilities in order of risk of injury, EPA expects to assess the risk associated with classes of facilities, not individual sites. The following questions are of particular importance:

i. What sources of data exist on the effects of exposure to hazardous substances, the sources and causes of releases of hazardous substances, and other issues of importance in the assessment of risk of injury?

ii. What type of system is most appropriate for assessing the risk of injury associated with a class of facilities? Should a class be characterized by the safest facilities, the most dangerous facilities, an average of the two extremes, or by some other method? What, if any, risk assessment systems or models mights be of use to EPA in these analyses?

IV. Conclusion

EPA is issuing this notice in order to encourage public comment and participation, and to clarify for the public some of the important issues in listing and ranking classes of facilities, owners and operators covered by section 108(b) of CERCLA. Members of the public are urged to comment on the issues outlined above, and on any other issues relatd to section 108(b) of CERCLA. In particular, we invite suggestions for alternative approaches, opinions on their strengths and weaknesses, and discussion of sources of data.

List of Subjects in 40 CFR Part 320

Air pollution control chemicals, hazardous materials, intergovernmental relations, natural resures, oil pollution, reporting and recordkeeping requirements, superfund, waste treatment and disposal, water pollution control, water supply.

Dated: April 29, 1983.

Lee M. Thomas,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 83-12923 Filed 5-12-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[PR Docket No. 83-429; FCC 83-204]

Amendment of Part 83 of the Commission's Rules To Implement the First Set of Amendments to the Safety of Life at Sea (SOLAS) Convention of 1974 and Conform Commission Rules in Other Matters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a Notice to inform the public and to propose rules implementing the first set of amendments adopted by the International Maritime Organization (IMO) at the 45th Session of its Maritime Safety Committee and address other treaty related matters. The amendments will modify the 1974 Safety of Life at Sea (SOLAS) Convention to provide a VHF radio watch on vessels outside harbor and port areas.

DATES: Comments must be received on or before June 13, 1983, and Reply Comments must be received on or before June 28, 1983.

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

FOR FURTHER INFORMATION CONTACT: Robert C. McIntyre, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Part 83

Communication equipment, Marine safety, Vessel, Distress.

In the matter of Amendment of Part 83 of the Commission's rules to implement the first set of amendments to the Safety of Life at Sea Convention of 1974 and conform Commission rules in other treaty matters; PR Docket No. 83-429.

Adopted: April 27, 1983.

Released: May 6, 1983.

By the Commission: Commissioner Jones absent.

Summary

1. In this Notice of Proposed Rule Making we propose to amend Part 83 of the Commission's rules to implement the first set of amendments to the Safety of Life at Sea (SOLAS) Convention of 1974 adopted by the International Maritime Organization (IMO), and to align the Commission's rules concerning daily testing of the reserve transmitter in accordance with the SOLAS Convention. The proposed rules are contained in Appendix A.

Implementation of Amendments to SOLAS Convention

2. The 1974 SOLAS Convention came into force May 25, 1980,[1] replacing and abrogating the 1960 SOLAS Convention which was signed in London on June 17, 1960.[2] The 1974 SOLAS Convention modified the articles of the convention relating to the amendment process and included in the regulations all the draft amendments developed during the 1960–1974 period to improve the safety of life at sea.

3. Amendments adopted by the expanded Maritime Safety Committee (MSC) of the IMO come into force in a prescribed period of time, nominally two years, without further action required on the part of Contracting Governments.[3] The first set of amendments will come into force on September 1, 1984. The Commission in this notice is proposing rules which provide for implementation of that portion of the first set of amendments to the 1974 SOLAS Convention which were not brought into force by a previous Commission action.[4] The new IMO Chapter IV regulations which are part of this first set of amendments to the 1974 SOLAS Convention are attached as Appendix B. This document is provided in order to aid commenters in responding to this notice.

VHF Watch and Radio Logs Proposals

4. The requirements for a Channel 16 (156.8 MHz) aural watch (See Appendix B, Regulation 8) and the VHF radio log requirements (See Appendix B, Regulation 19) were not addressed in the earlier Commission action in Docket 21089. IMO has determined that a Channel 16 watch would improve the Safety of vessels navigating outside ports and harbors in the same way that the existing bridge-to-bridge radiotelephone operations on Channel 13 aid vessels operating on the navigable waters of the United States—by making available an agreed channel for communication between the bridges of proximate vessels. We recognize that vessels on international voyages, particularly while traveling the high seas away from ports, harbors and coastal areas, will generally be widely separated and out of VHF communication range. Nevertheless, it is important that should the need arise, a common channel should be agreed upon to provide immediate bridge-to-bridge communications.

5. We considered whether this watch should additionally be made applicable to vessels subject to Parts II and III of Title III of the Communications Act of 1934, as amended. These vessels are generally engaged in voyages which ply the same waters as those vessels subject to the SOLAS Convention. Further, vessels on domestic voyages operate primarily in congested coastal waters and have a greater need for bridge-to-bridge communications than vessels on high seas voyages. For these reasons the appended rules require that vessels subject to Part II and III, Title III of the Communications Act of 1934, as amended, maintain a Channel 16 watch when in the open sea outside port and harbor areas.

6. We expect that these rules will significantly improve safety at sea and not impose an economic burden on vessels which are expected to become subject to these watch requirements. Vessels subject to the Communications Act or the Bridge-to-Bridge Radiotelephone Act are required under the present rules to fit with a VHF installation and most, if not all, such installations will operate on Channel 16. Vessels subject to the 1974 SOLAS Convention are required under the present rules to fit with a VHF installation and such installations will operate on Channel 16. We are proposing to permit the watch requirement to be satisfied by using VHF installations which meet the requirements of the Part III of Title III of the Communications Act, Bridge-to-Bridge Radiotelephone Act or the 1974 SOLAS Convention. With regard to the VHF watch we have permitted the watch requirements to be satisfied by monitoring Channel 16 with a receiver having a properly adjusted squelch circuit to reduce the amount of noise on the bridge which could possibly affect the safety of navigation. We do not envisage satisfaction of the watch requirement to be burdensome to the vessel owner or operator.

7. The log requirements for ship VHF radiotelephone stations subject to the Communications Act of 1934 or to the provisions of the SOLAS Convention of 1974 have been designed to minimize the burden on operators and still provide the necessary information required of stations used for safety purposes. We propose to require:

Entry of safety related communications;

The times when the watch is begun, interrupted, and ended;

A daily statement concerning the operating condition of the VHF radiotelephone equipment;

Details of service or maintenance work.

These log requirements are the same as those presently specified for vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act.

Conforming Commission Rules in Other Matters

8. In other matters relating to the SOLAS Convention it has come to the Commission's attention that the tests required in the Commission's rules (§ 83.449(a)(4)) concerning reserve installations are not in agreement with the convention (See Chapter IV, Regulation 10(s)). The Commission's rules require that the reserve transmitter be tested prior to a vessel's departure from a port and on each day the vessel is outside a port or harbor. The SOLAS Convention requires such tests if the transmitter is not used daily for communications and permits use of a suitable artificial antenna when testing of the reserve transmitter is required. The convention also requires the transmitter to be tested at least once during each voyage with the reserve antenna if it is installed. The Commission in reviewing this matter is of the opinion that the test procedure set forth in the convention is acceptable and somewhat more flexible than our existing rules in Part 83. We are proposing to modify the Commission's rules to align them with the less stringent requirements of the SOLAS Convention.

9. The proposed amendments to the Commission's rules as set forth in the attached Appendix A are issued under the authority contained in Sections 4(i) and 303(r) of the Communications Act of

---

[1] Docket 80–87, Report and Order adopted June 25, 1980, FCC 80–360, 45 FR 46409.

[2] Docket 15034, Report and Order adopted October 30, 1963, FCC 63–1002, 28 FR 11889.

[3] These amendments will automatically come into force in the United States without specific Senate ratification.

[4] Docket 21089, Report and Order, adopted March 15, 1979, FCC 79–162, 44 FR 18501. In this proceeding the Commission considered the IMO Resolution A. 335 concerning fitting of radiotelegraph ships with radiotelephone stations to be such a significant improvement in safety that Resolution A. 335 was implemented prior to being mandatorily required by the 1974 SOLAS Convention.

1934, as amended, 47 U.S.C. 4(i) and 303(r).

Comments

10. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before June 13, 1983, and reply comments on or before June 28, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

11. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's Staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

13. Pursuant to Section 605 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), we certify that the proposed rules will not have a significant economic on a substantial number of small entities. Most vessels subject to these rules are operated by large concerns rather than small businesses. Additionally, because the large majority of vessels currently possess adequate equipment to comply with these rules, no additional cost should be incurred.

14. Regarding questions on matters in this document contact Robert C. McIntrye, 202/632-7175.

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

Federal Communications Commission.

William J. Tricario,

Secretary.

Appendix A

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.202 footnotes 1 and 2 are removed; paragraphs (a), (b) and (c) are revised to read as follows:

§ 83.202 Watch required on vessels subject to the Communications Act.

(a) Each ship of the United States which is equipped with a radiotelegraph station for compliance with Part II of Title III of the Communications Act shall while being navigated in the open sea outside a harbor or port:

(1) Keep a continuous and efficient watch on 500 kHz by means of radio officers. In lieu thereof, on a cargo ship equipped with a radiotelegraph auto alarm in proper operating condition, an efficient watch on 500 kHz shall be maintained by means of a radio officer for at least 8 hours per day in the aggregate, i.e., for at least one-third of each day or portion of each day that the vessel is navigated in the open sea outside of a harbor or port;

(2) Keep a continuous and efficient watch on the radiotelephone distress frequency 2182 kHz from the principal radio operating position or the room from which the vessel is normally steered. A radiotelephone distress frequency watch receiver having a loudspeaker and a radiotelephone auto-alarm facility shall be used to keep the continuous watch on 2182 kHz if such watch is kept from the room from which the vessel is normally steered. Except that the radiotelephone auto-alarm facility may only be used after a determination by the master that conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship;

(3) Keep a continuous and efficient watch on the VHF distress frequency 156.8 MHz from the room from which the vessel is normally steered. The watch shall be maintained by a designated member of the crew who may perform other duties, relating to the operating or navigation of the vessel, which do not interfere with the effectiveness of the watch. Use of a properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or efficiency of the required watch on the VHF distress frequency. This watch need not be maintained:

(i) When the vessel is keeping the required watch on the bridge-to-bridge radiotelephone frequency; or

(ii) When the vessel is participating in a Vessel Traffic Service (VTS) system as required or recommended by the U.S. Coast Guard and an efficient watch is maintained on the VTS frequency.

(b) Each cargo ship of the United States which is equipped with a radiotelephone station for compliance with Part II of Title III of the Communications Act shall while being navigated outside of a harbor or port:

(1) Keep a continuous and efficient watch on 2182 kHz in the room from which the vessel is normally steered while at sea, whenever such station is not being used for authorized traffic. Such watch shall be maintained by at least one officer or member of the crew of the vessel who has been designated by the master to do so. The person designated by the master may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. A radiotelephone watch receiver having a loudspeaker and a radiotelephone auto alarm facility shall be used to keep the continuous watch on 2182 kHz. Except that the radiotelephone auto alarm facility may

only be used after a determination by the master that conditions are such that maintenance of the listening watch would interfere with the safe navigation of the ship;

(2) Keep a continuous and efficient watch on the VHF distress frequency 156.8 MHz from the room from which the vessel is normally steered. The watch shall be maintained by a designated member of the crew who may perform other duties, relating to the operation or navigation of the vessel, which do not interfere with the effectiveness of the watch. Use of properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or effectiveness of the required watch on the VHF distress frequency. This watch need not be maintained:

(i) When the vessel is keeping the required watch on the bridge-to-bridge radiotelephone frequency; or

(ii) When the vessel is participating in a Vessel Traffic Service (VTS) system as required or recommended by the U.S. Coast Guard and an efficient watch is maintained on the VTS frequency.

(c) Each vessel of the United States transporting more than six passengers for hire, which is equipped with a radiotelephone installation for compliance with Part III of Title III of the Communications Act shall, while being navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to the open sea, keep a continuous and efficient watch on 2182 kHz while the vessel is beyond VHF communication range of the nearest VHF coast station, whenever such installation is not being used for authorized traffic. A VHF watch shall be kept on 156.8 MHz whenever such installation is not being used for authorized traffic. The VHF watch shall be maintained at the vessel's steering station actually in use by the qualified operator as defined by § 83.155(e) of this part, or by a designated member of the crew who has been instructed in radio operation and voice procedure by the radio operator. The crew member so designated may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch. The use of a properly adjusted squelch is not considered to adversely affect the continuity or the effectiveness of the required watch on the VHF distress frequency. The VHF watch need not be maintained:

(1) When the vessel is keeping the required watch on the bridge-to-bridge radiotelephone frequency; or

(2) When the vessel is participating in a Vessel Traffic Service (VTS) System as required or recommended by the U.S. Coast Guard and an efficient watch is being maintained on the VTS frequency.

2. In § 83.203 the heading is revised and a new paragraph (d) is added to read as follows:

§ 83.203 Watch required on vessels subject to the Safety Convention.

* * * * *

(d) Each ship of the United States subject to the Safety Convention shall maintain a continuous and efficient watch while being navigated in the open sea outside a harbor or port on the VHF distress frequency 156.8 MHz. The watch shall be maintained by a designated member of the crew who may perform other duties, relating to the operation or navigation of the vessel, which do not interfere with the effectiveness of the watch. Use of properly adjusted squelch or brief interruptions due to other nearby VHF transmissions are not considered to adversely affect the continuity or effectiveness of the required watch on the VHF distress frequency. This watch need not be maintained:

(1) When the vessel is keeping the required watch on the bridge-to-bridge radiotelephone frequency.

(2) When the vessel is participating in the system described in paragraph (c) of this section or in a Vessel Traffic Service (VTS) system as required or recommended by the U.S. Coast Guard and an efficient watch is maintained on the frequency appropriate to one of these systems.

3. In § 83.368 paragraph (e) is revised to read as follows:

§ 83.368 Radiotelephone station log.

* * * * *

(e) The log of the bridge-to-bridge station required by the vessel Bridge-to Bridge Radiotelephone Act and the log of ship VHF radiotelephone stations subject to Part II of Title III, of the communications Act of 1934 or to the provisions of the Safety Convention shall include the following entries:

* * * * *

4. In § 83.449 paragraph (a)(4) is revised to read as follows:

§ 83.449 Tests of reserve installation and automatic radiotelegraph alarm signal keyer.

(a) * * *

(4) On days when not used for communication the reserve transmitter energized by the reserve power supply shall be tested by actual operation when connected to the main antenna, an artificial antenna or a reserve antenna (if installed, the reserve antenna must be used at least once each voyage), noting antenna currents:

* * * * *

5. In Subpart BB the title is revised to read as follows:

Subpart BB—VHF Radiotelephone Stations Provided for Compliance With Part II of Title III of the Communications Act or the Provisions of the Safety Convention

6. In § 83.851 paragraph (a) is revised to read as follows:

§ 83.851 VHF radiotelephone station.

(a) The provisions of this subpart are applicable to the VHF radiotelephone station required to be provided on all passenger ships irrespective of size and all cargo ships of 300 gross tons and upwards subject to Part II, Title III of the Communications Act or to the Safety Convention. Vessels subject only to the Communications Act may use VHF radiotelephone installation complying with the Bridge-to-Bridge Radiotelephone Act in Subpart X of this Chapter provided that the equipment can transmit and receive on 156.8 MHz.

* * * * *

Appendix B.—Chapter IV.—Radiotelegraphy and Radiotelephony

The following new Regulation is added:

Regulation 4–1.—VHF radiotelephone installation

(a) Passenger ships irrespective of size and cargo ships of 300 tons gross tonnage and upwards shall be fitted with a VHF radiotelephone installation complying with the provisions of Regulation 17.

(b) The provisions of Regulation 17 shall also apply for VHF radiotelephone installations required by a Contracting Government for all ships to which Chapter V applies navigating in an area under its jurisdiction and for which a VHF radiotelephone installation is not made compulsory by paragraph (a).

The existing text of Regulation 7 is replaced by the following:

Regulation 7.—Watches—radiotelephone

(a) Each ship which is fitted with a radiotelephone station in accordance with Regulation 4 shall, for safety purposes while at sea, maintain continuous watch on the radiotelephone distress frequency in the place on board from which the ship is usually navigated, by use of a radiotelephone distress frequency watch receiver, using a loudspeaker, a filtered loudspeaker or radiotelephone auto alarm.

(b) Each ship referred to in paragraph (a) shall carry qualified radiotelephone operators (who may be the master, an officer or a member of the crew) as follows:

(i) if of 300 tons gross tonnage and upwards but less than 500 tons gross tonnage, at least one operator;

(ii) if of 500 tons gross tonnage and upwards but less than 1,600 tons gross tonnage, at least two operators. If such a ship carries one radiotelephone operator exclusively employed for duties related to radiotelephony, a second operator is not obligatory.

(c) Each ship which in accordance with Regulation 3 or Regulation 4 is fitted with a radiotelegraph station shall, while at sea, maintain continuous watch on the radiotelephone distress frequency in a place to be determined by the Administration, by use of a radiotelephone distress frequency watch receiver, using a loudspeaker, a filtered loudspeaker or radiotelephone auto alarm.

The existing text of Regulation 8 is replaced by the following:

Regulation 8.—Watches—VHF radiotelephone

Each ship which is fitted with a VHF radiotelephone installation in accordance with Regulation 4–1 shall at sea maintain a continuous listening watch on the navigating bridge:

(i) on 156.8 MHz (channel 16) when practicable; and/or

(ii) for such periods and on such channels as may be required by the Contracting Government referred to in Regulation 4–1(b).

Regulation 10.—Radiotelegraph installations

The existing text of paragraph (g) is replaced by the following:

(g–1) The main and reserve transmitters shall, when connected to the main antenna, have a minimum normal range as specified below, that is to say, they must be capable of transmitting clearly perceptible signals from ship to ship by day and under normal conditions and circumstances over the specified ranges.* (Clearly perceptible signals will normally be received if the R.M.S. value of the field strength at the receiver is at least 50 microvolts per metre.)

	Minimum normal range in miles	
	Main transmitter	Reserve transmitter
All passenger ships and cargo ships of 1,600 tons gross tonnage and upwards	150	100
Cargo ships below 1,600 tons gross tonnage	100	75

(g–2) The radiotelegraph installation shall include facilities for radiotelephone transmission and reception on the radiotelephone distress frequency. This requirement may be fulfilled by including such facilities in the main or reserve installation or other installed equipment. The transmitter power and receiver sensitivity of the radiotelephony part of the installation shall comply with Regulation 16(c)(i) and (f) respectively if that part is fitted after September 1, 1986. For installations fitted prior to that date, such transmitter power and receiver sensitivity shall be as determined by the Administration. The location and other conditions of the radiotelephony facilities required by this Regulation shall be as determined by the Administration, except when they form part of the main or reserve radiotelegraph installation.

In the absence of a direct measurement of the field strength the following data may be used as a guide for approximately determining the normal range:

A. In the case of antennae other than self-supporting types.

	Metre-amperes [1]
Normal range in miles:	
200	128
175	102
150	76
125	58
100	45
75	34

[1] The product of the distance (in metres) from the highest part of the antenna to the deepest load water-line and the antenna current (in amperes).

The values given in the second column of the table correspond to an average value of the ratio

$$\frac{\text{effective antenna height}}{\text{maximum antenna height}} = 0.47$$

This ratio varies with local conditions of the antenna and may vary between about 0.3 and 0.7.

B. In the case of self-supporting transmitting antennae:

	Metre-amperes [2]
Normal range in miles:	
200	305
175	215
150	150
125	110
100	85
75	55

[2] The product of the distance (in metres) from the highest part of the antenna to the deepest load water-line and the current (in amperes) measured at the base of the radiating portion of the antenna. The values given in the second column are based on the propagation curves given in CCIR Recommendation 368–2 and also the method, experimental results and calculations in CCIR Report 502–1 and Opinion 43–1. The necessary value of metre-amperes varies considerably with local conditions of the antenna.

The existing text of sub-paragraph (h)(iv) is replaced by the following:

(h)(iv)(1) The radiotelephone transmitting facility required by paragraph (g–2) shall be fitted with an automatic device for generating the radiotelephone alarm signal, so designed as to prevent actuation by mistake, and complying with the requirements of Regulation 16(e). The device shall be capable of being taken out of operation at any time in order to permit the immediate transmission of a distress message. For installations fitted prior to September 1, 1986, the fitting of automatic devices for generating the radiotelephone alarm signal shall be as determined by the Administration.

(2) Arrangements shall be made to check periodically the proper functioning of the automatic device for generating the radiotelephone alarm signal on frequencies other than the radiotelephone distress frequency using a suitable artificial antenna. An exception shall be made for radiotelephone emergency equipment having only the radiotelephone distress frequency in which case a suitable artificial antenna shall be employed.

Note: While all reasonable steps shall be taken to maintain the apparatus in an efficient condition, malfunction of the radiotelephone transmitting facilities required by this Regulation shall not be considered as making the ship unseaworthy or as a reason for delaying the ship in ports where repair facilities are not readily available.

The existing text of sub-paragraph (1)(ii) is deleted.

The existing text of sub-paragraph (m)(iv) is replaced by the following:

(m)(iv) The VHF installation in accordance with the provisions of Regulation 17(c):

Regulation 16.—Radiotelephone installations

The existing text of paragraph (b) is amended by deleting A3H, A3A and A3J.

The existing text of paragraph (c) is replaced by the following:

(c)(i) In the case of cargo ships of 300 tons gross tonnage and upwards but less than 1,600 tons gross tonnage the transmitter shall have a minimum normal range of 150 miles, i.e. it shall be capable of transmitting clearly perceptible signals from ship to ship by day and under normal conditions and circumstances over this range.*

*In the absence of field strength measurements, it may be assumed that this range will be obtained by a power in the antenna of 15 watts (unmodulated carrier) with an antenna efficiency of 27 percent for double sideband emissions or 60 watts peak envelope power for single sideband full carrier emissions when 100 percent modulated by a single sinusoidal oscillation. (Clearly perceptible signals will normally be received if the R.M.S. value of the field strength produced at the receiver by an unmodulated carrier is at least 25 microvolts per metre for double sideband and single sideband full carrier emissions.)

(ii) In the case of existing installations using double sideband emissions on cargo ships of 300 tons gross tonnage and upwards but less than 500 tons gross tonnage, the transmitter shall have a minimum normal range of at least 75 miles.

The existing text of sub-paragraph (j)(iv) is replaced by:

(iv) the VHF installation in accordance with the provisions of Regulation 17(c).

The existing text of Regulation 17 is replaced by the following:

Regulation 17.—VHF radiotelephone installation

(a) The VHF radiotelephone installation shall be in the upper part of the ship complying with the provisions of this Regulation and comprising a transmitter and receiver, a source of energy capable of actuating them at their rated power levels, and an antenna suitable for efficient radiating and receiving signals at the operating frequencies.

(b) On board passenger ships irrespective of size and cargo ships of 500 tons gross

tonnage and upwards it shall be possible to operate the VHF radiotelephone installation from a source of energy which is situated in the upper part of the ship and has sufficient capacity for at least six hours of operation.

(c) The Administration may authorize the use of the reserve source of energy of the radiotelegraph installation or the radiotelephone installation respectively referred to in Regulation 10(m) and Regulation 16(j) to supply the VHF radiotelephone installation. In this case the reserve source of energy is required to be of a capacity sufficient to operate simultaneously the VHF radiotelephone installation and:

(i) the reserve radiotelegraph transmitter and receiver for at least six hours unless a switching device is fitted to ensure alternate operation only; or

(ii) the radiotelephone transmitter and receiver for at least six hours unless a switching device is fitted to ensure alternate operation only.

(d) The VHF radiotelephone installation shall conform to the requirements laid down in the Radio Regulations for equipment used in the VHF maritime mobile radiotelephone service and shall be capable of operation on those channels specified by the Radio Regulations and as may be required by the Contracting Government referred to in Regulation 4–1(b).

(e) The Contracting Government referred to in Regulation 4–1(b) shall not require the transmitter R.F. carrier power output to be greater than 10 watts. The annual shall, in so far as is practicable, have an unobstructed view in all directions.*

*For guidance purposes, it is assumed that each ship is fitted with a vertically polarized unity gain antenna at a nominal height of 9.15 m above water, a transmitter R.F. power output of 10 watts, and a receiver sensitivity of 2 microvolts across the input terminals for 20 dB signal-to-noise ratio.

(f) Control of the channels required for navigational safety shall be immediately available on the navigating bridge convenient to the conning position and, where necessary, facilities should be available to permit radiocommunications from the wings of the navigating bridge.

Regulation 19.—Radio logs

The following paragraph is added to the existing text and the existing paragraph (c) is relettered as paragraph (d):

(c) On each ship fitted with a VHF radiotelephone installation in accordance with Regulation 4–1:

(i) the entries required by the Radio Regulations shall be recorded in the radio log in accordance with the requirements of the Administration;

(ii) a summary of all communications relating to distress, urgency and safety traffic shall be recorded in the ship's log.

[FR Doc. 83-12853 Filed 5-12-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Reclassification of Utah Prairie Dog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to reclassify the Utah prairie dog from Endangered to Threatened status under the Endangered Species Act of 1973, and to issue a special regulation that would allow a maximum of 5,000 animals of the species to be taken annually between June 1 and December 31 in parts of the Cedar and Parowan Valleys in Utah under a permit system developed by the Utah Division of Wildlife Resources. Such taking would be in the best interest of the conservation of the Utah prairie dog, and would not be allowed to be inconsistent with the conservation of the populations in question. The populations have increased substantially in recent years, and are now straining the carrying capacity of available habitat. They are thus vulnerable to outbreaks of disease (sylvatic plague) such as have occurred among overcrowded rodents elsewhere. There is also a serious conflict developing between these populations and human agricultural interests, which will result in antagonism from local ranchers, and possibly mass illegal killing of the prairie dogs as unwanted nuisances. A program of transplanting to public land has not been able to relieve population pressures, and regulated taking is now seen as the only way to relieve the situation. Comments from the public are solicited on this proposal.

DATE: Comments on this proposed rule must be submitted by July 12, 1983. Requests for a public hearing must be received by June 27, 1983.

ADDRESSES: Interested persons or organizations are requested to submit comments to Regional Director, U.S. Fish and Wildlife Service, Region 6, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80255. Comments and materials relating to this rule are available for public inspection by appointment during business hours at the Service's Regional Office in Denver. Requests for a public hearing should be addressed to the Regional Director at the above address.

FOR FURTHER INFORMATION CONTACT: Regional Director, U.S. Fish and Wildlife Service, Region 6, Denver, Colorado (303/234–2209), or John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Utah prairie dog (*Cynomys parvidens*) was listed as an Endangered species on June 4, 1973 (38 FR 14678), pursuant to the Endangered Species Conservation Act of 1969. On November 5, 1979, the Utah Division of Wildlife Resources petitioned the U.S. Fish and Wildlife Service to remove the Utah prairie dog from the U.S. list of Endangered and Threatened wildlife. The Service has found that this petition contains substantial data, and warrants the present proposal to reclassify the species from Endangered to Threatened status.

The Utah prairie dog is a burrowing rodent in the squirrel family (Sciuridae) that occurs only in southern Utah. Its total numbers have fallen from an estimated 95,000 individuals in the 1920's to a 1982 spring estimate of about 10,000 adults (Note.—Actual census counts are about half the size of the estimates cited in this proposal, since only about half the animals are above ground at the time of a census count). This decline was caused by disease, habitat alteration, and poisoning by people because the prairie dog was considered to compete with domestic livestock for forage. At present, the Utah prairie dog is still threatened over much of its range by loss of habitat to human residential and agricultural development.

The Utah prairie dog, however, is not in danger of extinction. Despite the above problems, the over-all numbers of the species appear to have been relatively stable since 1972. The total area occupied by the Utah prairie dog at present encompasses some 456,000 acres. The spring estimate of the number of adult animals in the Cedar and Parowan Valleys (encompassing about 113,000 acres) in eastern Iron County, actually increased from 1,200 in 1976 to 7,300 in the spring of 1982. It should be clearly noted at this point that these population estimates are deceptive. They are based on early spring censuses and constitute only the adult animals that have successfully survived the winter. In the summer, after the young are born and become active, the numbers of Utah prairie dogs are much higher. This is the time at which it is necessary to reduce population pressures in the Cedar and Parowan Valleys. Female Utah prairie dogs give

birth to an average of 4.8 young in April (Pizzimenti and Collier, 1975). Assuming that half the adult population is female and each produces an average annual litter of only 4 young, the total adult and juvenile population of the species throughout its whole range in the summer would be at least 30,000 animals (5,000 adult females × 4 pups + 10,000 adults). In the Cedar and Parowan Valleys alone, the summer population would be well in excess of 20,000 animals (3,650 females × 4 pups + 7,300 adults). The adult prairie dogs cease surface activity in late August and September, but the young animals continue surface activity and feeding for several months thereafter. These young prairie dogs suffer a high mortality rate in the fall and winter, but those that do survive over the winter contribute to the steady increase in the numbers of adult Utah prairie dogs noted since 1976. The problem that has developed is that the large number of juvenile animals present during the summer in the Cedar and Parowan Valleys is straining the carrying capacity of available habitat there, and each year there may be an increasing danger of the outbreak of disease (sylvatic plague) among them. Moreover, there is serious conflict in the Cedar and Parowan Valleys between the Utah prairie dog and human agricultural interests. About 62 percent of all Utah prairie dog colonies occurred on private land in 1982; about 88 percent of the total number of animals occurred on private land. In the Cedar and Parowan Valleys, 98 percent of all prairie dogs occur on private land. The major crop on this private land is alfalfa, which is also a preferred food of the prairie dog. Crop losses are extensive where large prairie dog towns have developed; the mounds of the animals damage haying equipment, and the burrows drain irrigated fields. It is estimated that the large summer populations of these prairie dogs cost local ranchers 1.5 million dollars annually in crop losses and damage to equipment.

Farmers in the area traditionally poisoned, shot, or trapped nuisance prairie dogs. Since the Utah prairie dog has been protected by the Endangered Species Act of 1973, however, these methods of control have no longer been legal. Damage in the Cedar and Parowan Valleys has now reached the point at which there is genuine concern that local ranchers might take illegal means of securing relief. Such means, which in the past have included poisoning, could prove severely damaging to the remaining Utah prairie dog populations, and might bring about the extinction of the species.

In an effort to relieve the over population problems, the Utah Division of Wildlife Resources removed 2,437 animals from the Cedar and Parowan Valleys between 1976 and 1980 for transplanting onto public lands. Although many of these animals apparently did not survive, the transplantation program, along with discovery of previously unrecorded colonies, has increased the number of known active prairie dog towns on public lands from 11 in 1976 to 35 in 1982. Meanwhile, the number of active towns on private land increased from 40 in 1976 to 57 in 1982. The transplantation program obviously has not been able to keep pace with the growing prairie dog population in the Cedar and Parowan Valleys, and new sites for reintroduction are limited. It therefore appears that population pressures in this area are now such that regulated taking is necessary for the management and a proper conservation of the species. The present proposal recognizes the biological fact that the Utah prairie dog is a Threatened rather than Endangered species, and would permit the State of Utah to authorize certain individuals to legally take up to 5,000 animals annually between June 1 and December 31, in delineated portions of the Cedar and Parowan Valleys when such take is necessary for the conservation and management of the Utah prairie dog. Also, the State will continue to live-trap prairie dogs on private lands and reestablish them on Federal lands as has been its practice since the mid-1970's

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments) set forth the procedures for adding species to the Federal list. The Secretary of the Interior shall determine whether any species is an Endangered species or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act.

These factors and their application to the Utah prairie dog are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Utah prairie dog once ranged from Pine Valley in Iron and Beaver Counties, to the foothills of the Aquarius Plateau in the east, and from northern Washington and Kane Counties on the south to as far north as Nephi, Utah. Today the species is confined to disjunct areas in southwestern Utah. In the 1920's, it was estimated that there were 95,000 Utah prairie dogs, whereas today (1982) the spring estimate is around 10,000 adult animals. Among other factors, habitat destruction and modification for agricultural and residential uses were important in reducing the range and population of the species. Nevertheless, the population now appears to have been increasing since 1972, and transplants of individuals by State authorities has increased the range since then. At present (1982), the species occurs in an area encompassing some 450,000 acres of land, and about 38 percent of the colonies are located on public land. Although the total number of animals is still small, and the range reduced, the Utah prairie dog is not now in danger of extinction, but it must be closely monitored and managed to assure that it does not become Endangered.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or Predation.* Rodent populations are subject to sylvatic plague where conditions of overpopulation exist. In Utah's Cedar and Parowan Valleys, the Utah prairie dog population is now crowded and there may be a possibility of this disease erupting among the animals. Although an outbreak of sylvatic plague would probably not result in the species' extinction, it could lead to its becoming endangered.

D. *Inadequacy of existing regulatory mechanisms.* Not applicable.

E. *Other natural or manmade factors affecting its continued existence.* In the Cedar and Parowan Valleys, localized high population levels of the Utah prairie dog reportedly result in crop losses and damage to equipment amounting to some 1.5 million dollars annually. State authorities have not been able to relieve the situation by live-trapping and transplanting individual animals, and there is increasing concern that local ranchers will resort to illegal measures of control. This could pose a serious threat to the populations in the Cedar and Parowan Valleys and, since overall numbers and range are quite small, to the species as a whole.

Effect of the Proposal if Published as a Final Rule

This proposal would reclassify the Utah prairie dog from Endangered status to Threatened status, pursuant to the

Endangered Species Act of 1973, as amended. Accordingly, there would be some modification of the conservation measures already in effect for this species. The prohibitions of 50 CFR 17.31 for Threatened species are essentially the same as those for Endangered species (illegal to take, import or export, ship in interstate commerce or in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce; and illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken), except that "any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating under a Cooperative Agreement with the Service or with the National Marine Fisheries Service, in accordance with Section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take those threatened species of wildlife which are covered by an approved Cooperative Agreement to carry out conservation programs." The State of Utah has such a cooperative agreement that covers the Utah prairie dog. Also, in accordance with 50 CFR 17.32, permits for Threatened wildlife are available for scientific purposes, enhancement of propagation or survival, economic hardship, zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

Section 4(d) of the Act states that whenever any species is listed as a Threatened species, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. A special regulation is proposed herewith for the Utah prairie dog that would apply only to the populations in certain delineated portions of the Cedar and Parowan Valleys in Iron County, Utah. Taking in these delineated areas would be carried out in accordance with Utah State law, through a permit system established by the Utah Division of Wildlife Resources. The number of animals taken annually could not exceed 5,000 and must be taken between June 1 and December 31. Permits would allow controlled shooting, trapping, and drowning in specified areas monitored by the Division. Taking could not include the use of chemical toxicants, since no such materials are registered for control of the species. This taking would be permitted as a conservation measure since the prairie dogs are overcrowding their habitat in these valleys, and population pressures cannot be relieved in any other way. Given the fact that the total population (juveniles and adults) in these valleys probably exceeds 20,000 animals during the summer, the maximum allowed take of 5,000 animals would not jeopardize the survival of the prairie dog population in the Cedar and Parowan Valleys. In addition, the Service would reserve the right to immediately halt any take of Utah prairie dogs if at any time it received substantive information that such take was proving detrimental to survival of the species. The number of animals taken, their location, and the methods of take employed would have to be reported at 90 day intervals to the U.S. Fish and Wildlife Service. The information collection requirement contained in § 17.40(g)(2) does not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there are fewer than 10 respondents annually.

The State of Utah will continue its annual census count of Utah prairie dogs and submit data it obtains through these counts to the Service each year. The provisions of section 7(a) of the Endangered Species Act would continue to apply to the Utah prairie dog throughout its range. All Federal agencies would be required to insure that actions authorized, funded, or carried out by them are not likely to jeopardize the continued existence of the species. Other provisions of the Act, including those for land acquisition (Section 5) and financial assistance to States (Section 6) also would continue to apply to all populations of the Utah prairie dog.

Public Comments Solicited

The Service intends that the rules finally adopted will be as accurate and effective as possible in the conservation of this species. Therefore, any data, comments, or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Final promulgation of regulations on the Utah prairie dog will take into consideration the comments and any additional data received by the Service, and such information may lead it to adopt final regulations that differ from the proposal.

Also, the Service is requesting information on environmental and other impact that would result from the reclassification of the Utah prairie dog, and information on possible alternatives to the measure.

The Endangered Species Act has provisions for public hearings if requested, in writing, within 45 days of the date of this proposal. Requests should be addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80255.

National Environmental Policy Act

A draft Environmental Assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia, and may be examined by appointment during regular business hours. A determination will be made at the time of a final rule as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 [implemented at 40 CFR Parts 1500 through 1508].

References

Heggen, A.W. and R.H. Hasenyager. 1979. Annual Utah prairie dog progress report to U.S. Fish and Wildlife Service by Utah Division of Wildlife Resources. Unpubl. Rep. Salt Lake City, Utah: Div. Wildl. Resour.

Pizzimenti, J.J. and C.D. Collier. 1975. *Cynomys parvidens. Mammalian Species*, 56:1–2.

Turner, B. 1979. An evaluation of the Utah prairie dog (*Cynomys parvidens*). Unpubl. Rep. prepared for the Utah Div. of Wildl. Resour., 53 pp.

Utah Division of Wildlife Resources. No date. Draft Utah prairie dog recovery plan. Draft document submitted to U.S. Fish and Wildlife Service in 1982.

Additional information pertinent to this proposed rule was received from the following agencies: Utah Division of Wildlife Resources, U.S. Bureau of Land Management, U.S. Forest Service, National Park Service, Mr. Ivan Matheson, Utah State Senator.

Primary Authors

The primary authors of this rule are William C. White, U.S. Fish and Wildlife Service (Retired), Federal Building, Room 1311, 125 South State Street, Salt Lake City, Utah 84138 (801/524–5634), and John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Title 50 of the U.S. Code

of Federal Regulations as set forth below.

1. The authority citation for Part 17 reads as follow:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*).

§ 17.11 [Amended]

2. It is proposed to amend § 17.11 by revising the entry on the Utah prairie dog to read as follows:

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
Prairie dog, Utah	*Cynomys parvidens*	U.S.A. (UT)	Entire	T	6	N/A	17.40(g)
*	*	*	*	*	*	*	*

3. It is proposed to amend § 17.40 by adding a new paragraph (g) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(g) Utah prairie dog (*Cynomys parvidens*)—(1) Except as noted in paragraph (g)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 shall apply to the Utah prairie dog.

(2) A Utah prairie dog may be taken under a permit issued by the Utah Division of Wildlife Resources, in accordance with the laws of the State of Utah, in the following areas of Cedar Valley and Parowan Valley, Iron County, Utah (Salt Lake Meridian): T33S R8W, T33S R9W, T34S R8W, T34S R9W, T34S R10W, T34S R11W, T35S R10W, T35S R11W, T36S R11W, T36S R12W, T37S R12W, T38S R12W: *Provided,* that such taking does not exceed 5,000 animals annually, and that such taking is confined to the period from June 1 to December 31. The following information must be reported every 90 days to the U.S. Fish and Wildlife Service Regional Office, Denver Federal Center, Denver, Colorado 80225, or to any other address designated by the Service: Name and address of each person holding an active permit; reason for issuance of each permit; number, location, and method of take for all Utah prairie dogs taken during the reporting period; and any other information requested by the Service. The information collection requirement contained in § 17.40(g)(2) does not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, because there are fewer than 10 respondents annually.

(3) If the Service receives substantive evidence that taking relative to paragraph (g)(2) of this section is inconsistent with the conservation of Utah prairie dog population in the designated area, it may immediately prohibit or restrict such taking.

Dated: April 12, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-12877 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

Snapper-Grouper Fishery of the South Atlantic; Availability of a Fishery Management Plan and Request for Comments

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

ACTION: Notice of availability of a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the South Atlantic Fishery Management Council has submitted the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic for Secretarial review and is requesting comments from the public. Copies of the plan may be obtained from the address below.

DATE: Comments on the plan should be submitted on or before July 22, 1983.

ADDRESSES: All comments should be sent to Jack T. Brawner, Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Copies of the plan are available upon request from the South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina 29407–4699.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton (Regional Plan Coordinator), 813–893–3721.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, as amended, (16 U.S.C. 1801 *et seq.*) requires that each regional fishery management council submit any fishery management plan it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan, must immediately publish a notice that the plan is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan.

This plan proposes measures for managing the domestic commercial and recreational fisheries for species in the snapper-grouper fishery of the South Atlantic. On August 20, 1982, the Environmental Protection Agency published a notice of availability of a draft environment impact statement for this plan (47 FR 36468).

Regulations proposed by the Council and based on this plan are scheduled to be published within 30 days.

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

Dated: May 9, 1983.

Joe P. Clem,

Acting Chief, Fisheries Process Division, National Marine Fisheries Service.

[FR Doc. 83-12879 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 94
Friday, May 13, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Flue-Cured Tobacco Referendum Results: 1983 Through 1985 Crops of Tobacco

ACTION: Notice of Results of Marketing Quota Referendum for 1983 Through 1985 Crops of Flue-Cured Tobacco.

SUMMARY: This notice proclaims the results of a marketing quota referendum for flue-cured tobacco which was held on December 16, 1982, in accordance with Section 312(c) of the Agricultural Adjustment Act of 1938, as amended (the "1938 Act"). The referendum was conducted in order to determine whether producers of flue-cured tobacco favor or oppose marketing quotas. Since flue-cured tobacco producers did not disapprove national marketing quotas, such quotas will be in effect for the three marketing years 1983–1984, 1984–1985, and 1985–1986.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Harry D. Millner, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. (202) 447–4281.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified "not major". This notice has been classified as "not major" since it will not result in: (1) an annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases: Number: 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

On November 30, 1982, the Secretary of Agriculture announced that national marketing quotas would be in effect for flue-cured tobacco for the three marketing years beginning on July 1, 1983, subject to approval by flue-cured tobacco producers voting in a referendum. On December 16, 1982, such a referendum was conducted. Section 312(c) of the 1938 Act provides that if more than one-third of such producers voting in the referendum oppose national marketing quotas, such results shall be proclaimed by the Secretary and national marketing quotas shall not be in effect.

Since the only purpose of this notice is to announce the results of the referendum, it is hereby determined that no further public rulemaking is required. Accordingly, the results of such referendum are set forth below:

Results of the National Marketing Quota Referendum for the 1983 Through 1985 Crops of Flue-Cured Tobacco

(1) *Referendum period.* The national marketing quota referendum for the 1983–1984, 1984–1985, and 1985–1986 marketing years for flue-cured tobacco was held on December 16, 1982, in accordance with 7 CFR Part 717.

(2) *Farmers Voting.* The following is a summary, by State, of the result of the referendum:

FLUE-CURED TOBACCO

State	Yes	No	Total
Alabama	100	0	100
Florida	1,576	116	1,692
Georgia	6,828	521	7,349
North Carolina	67,218	4,676	71,894
South Carolina	11,527	383	11,910
Virginia	9,969	1,361	11,330
Totals	[1]97,218	[2]7,057	104,275

[1] Allegations of voting irregularities were made in Franklin, Harnett, Nash, Randolph and Wilson Counties in North Carolina. Since such a large majority of those producers voting approved marketing quotas, the "yes" votes in these counties have been excluded in order to determine whether the result of the referendum was affected by voting irregularities. The approval rate would have been slightly higher had the "yes" votes in the afore-mentioned counties been included.

[2] This figure includes "no" votes in the 5 counties in North Carolina where the vote was disputed.

(3) *Marketing quotas will be in effect for the 1983 through 1985 crops of flue-cured tobacco.* Since not more than one-third of the producers of flue-cured tobacco voting in the referendum did not vote to disapprove national marketing quotas, and since the 1982–1983 marketing year is the last of three consecutive years for which marketing quotas previously proclaimed will be in effect, a national marketing quota shall be in effect for flue-cured tobacco for the marketing years 1983–1984, 1984–1985, and 1985–1986.

Authority: (Sec. 312(c), 52 Stat. 46, as amended, 7 U.S.C. 1312(c)).

Signed at Washington, D.C. on May 5, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-12579 Filed 5-12-83; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Colonel Town Community Camp, Public Water-Based Recreation RC&D Measure, New Hampshire; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the

Colonel Town Community Camp, Public Water-Based Recreation 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 public-water-based recreation. The planned works of improvement include rehabilitating a one-quarter acre pond; spring development for water supply; and, subsurface drainage of a playfield.

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: April 28, 1983.

Richard L. Porter,

State Conservationist.

[FR Doc. 83–12695 Filed 5–12–83; 8:45 am]

BILLING CODE 3410–16–M

Lake Pleasant Critical Area Treatment Measure; Resource Conservation and Development Program, Massachusetts; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of 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 Lake Pleasant Critical Area Treatment Measure, Franklin County, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Rex O. Tracy, State Conservationist, Soil Conservation Service, 451 West Street, Amherst, Massachusetts, 01002, telephone (413) 256–0442.

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, Rex O. Tracy, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns controlling erosion and sedimentation along a 250 foot long section of Hannegan Brook as described in the Lake Pleasant Critical Area Treatment RC&D Measure Plan. The planned works of improvement include the installation of: two rock riprap headwalls, 300 cubic yards of fill, 150 cubic yards of rock riprap and 250 feet of subsurface drainage pipe.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rex O. Tracy.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: May 6, 1983.

Rex O. Tracy,

State Conservationist.

[FR Doc. 83–12743 Filed 5–12–83; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 14–83]

Foreign-Trade Zone 81—Portsmouth, New Hampshire; Application for Special-Purpose Subzone at Manchester Manufacturing Plant in Colebrook

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the New Hampshire Port Authority, grantee of Foreign-Trade Zone 81, requesting authority for a special-purpose subzone at the facilities of Manchester Manufacturing, Inc. (MMI) in Colebrook, New Hampshire, within the Norton Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 5, 1983. The applicant is authorized to make this proposal under Section 271–A:11 of the New Hampshire RSA.

On January 20, 1983, the Board authorized the Port Authority to establish a foreign-trade zone (Board Order 207, 48 FR 4308, 1/31/83) in Portsmouth and a subzone at Nashua Corporation facilities in Nashua and Merrimack. The general-purpose zone covers 10 acres at the Port of Portsmouth.

The proposed subzone will comprise MMI's 180,000 square foot manufacturing and warehousing facility, employing some 160 persons, and located on a 15-acre site in the Colebrook Industrial Park. The company manufactures children's outerwear from domestic piece goods, and warehouses some imported apparel. This request is part of MMI's plans to expand its operations relating to the warehousing of imported apparel of all types. In expanding its operations at the plant, the company would undertake the repair and ornamenting of imported garments.

Zone procedures would be used to defer the payment of Customs duties and are being requested to provide a Customs setting for the inspection and repair of imported garments prior to entry. This would result in a greater utilization of the plant, helping to make the company more competitive as a warehouse center for its major retail customer. By increasing the capacity utilization of the Colebrook facility, unit overhead costs on both manufacturing and warehousing operations will be reduced. The resulting lower costs will help this plant regain its competitive

position as a manufacturer in relation to the company's plants abroad, leading to a potential increase in employment of 100 persons.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer St., Boston, MA 02210; and Colonel Carl B. Sciple, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Rd., Waltham, MA 02254.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before June 20, 1983.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customhouse, Norton, VT 05907
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania Ave. NW., Washington, D.C. 20230.

Dated: May 6, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-12883 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Fiber Optic Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Fiber Optic Subcommittee of the Telecommunications Equipment Technical Advisory Committee will be held on June 1, 1983, at 10:00 a.m., Herbert C. Hoover Building, Room 5611, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Subcommittee was established to study the fiber optic communications equipment with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

The Subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

A Notice of Determination to close meetings or portions of meetings of the Subcommittee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act.

A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217.

For further information contact Mrs. Margaret Cornejo, 202-377-2583.

Dated: May 9, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-12932 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

Telecommunications Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held on June 2, 1983, at 10:00 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Committee Advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to telecommunications equipment or technology.

The committee will meet only in executive session to discuss matters properly classified under Exective Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

A Notice of Determination to close meetings or portion of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on September 29, 1981, in accordance with the Federal Advisory Committee Act.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202-377-4217.

For further information contact Mrs. Margaret Cornejo 202-377-2583.

Dated: May 9, 1983.

Milton Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 83-12933 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

Final Affirmative Countervailing Duty Determinations; Certain Stainless Steel Products From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Final Affirmative Countervailing Duty Determinations.

SUMMARY: We have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod (certain stainless steel products). The estimated net subsidy is 15.44 percent *ad valorem*. The U.S. International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry.

The Department of Commerce (the Department) and the government of Brazil have entered into a suspension agreement. We continued the investigations at the request of the petitioners in accordance with section 704(g) of the Tariff Act of 1930, as amended (the Act). If the final determinations by the ITC are negative, the suspension agreement shall have no force or effect. If the final determinations by the ITC are affirmative, the suspension agreement shall remain in force.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-0171.

SUPPLEMENTARY INFORMATION:

Final Determinations

Based upon our investigations, we have determined that certain benefits which constitute subsidies within the meaning of section 701 of the Act, are being provided to manufacturers, producers, or exporters in Brazil of certain stainless steel products. For purposes of thse investigations, the following programs are found to confer subsidies:

- IPI export credit premium.
- Preferential working capital financing for exports.
- Income tax exemption for export earnings.
- Long-term loans.
- IPI rebates for capital investment.

- Industrial Development Council (CDI) program.
- Accelerated depreciation for capital goods manufactured in Brazil.

We have determined the estimated net subsidy on certain stainless steel products from Brazil to be 15.44 percent *ad valorem*.

The Department and the government of Brazil have entered into a suspension agreement. If the final ITC determinations are affirmative, the agreement will remain in force, and we will not issue a countervailing duty order as long as the requirements of section 704(f)(3)(B) of the Act are met.

Case History

On June 16, 1982, the Department received a petition from A1 Tech Specialty Steel Corporation, Carpenter Technology Corporation, Colt Industries, Inc., Crucible Specialty Metals Division, Cyclops Corporation, Guterl Special Steel Corporation, Joslyn Stainless Steels and Republic Steel Corporation, filed on behalf of the U.S. industry producing certain stainless steel products. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of certain stainless steel products.

We found the petition to be sufficient and on July 6, 1982, we initiated countervailing duty investigations (47 FR 30274). We stated that we expected to issue preliminary determinations by September 9, 1982. We subsequently determined that the investigations are "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determinations for 65 days until November 15, 1982 (47 FR 40202).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiations. On August 2, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or are threatening to materially injure, a U.S. industry (47 FR 36038).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. on July 21, 1982. On November 1, 1982, we received the response to that questionnaire.

On November 15, 1982, we preliminarily determined that the government of Brazil was providing subsidies to manufacturers, producers, or exporters of certain stainless steel products under six programs. The programs preliminarily found to confer subsidies were:

- Industrialized Products Tax (IPI) export credit premium.
- Preferential working capital financing for exports.
- Income tax exemption for export earnings.
- Long-term loans.
- IPI rebates for capital investment.
- Industrial Development Council (CDI) program.

Notice of the preliminary affirmative countervailing duty determinations was published on November 19, 1982 (47 FR 52207). We directed the U.S. Customs Service to suspend liquidation of all entries of the certain stainless steel products entered or withdrawn from warehouse, for consumption on or after November 19, 1982, and to require the posting of a cash deposit, or bond, or other security in the amount of 12.5 percent of the f.o.b. value of the merchandise.

On December 28, 1982, the Department and the government of Brazil initialed a proposed agreement to suspend the countervailing duty investigations involving certain stainless steel products from Brazil. The basis for the proposed agreement was that the goverenment of Brazil would offset by an export tax the entire amount of benefits we found to confer subsidies on exports of certain stainless steel products to the United States.

On the same date, in compliance with the procedural reguirements of section 704(e) of the Act, we consulted with the petitioners and provided them a copy of the proposed agreement. We received comments on the proposed agreement and addressed them in the notice announcing the suspension of the investigations.

On January 27, 1983, the Department and the government of Brazil signed a suspension agreement, as provided for under section 704 of the Act. The agreement became effective with its publication in the Federal Register on February 2, 1983 (48 FR 4703). Under the agreement, the government of Brazil is required to offset completely by an export tax the amount of the net subsidy determined by the Department to exist on Brazilian exports of certain stainless steel products to the United States.

By letter of February 22, 1983, counsel for the petitioners requested that the investigations be continued under section 704(g) of the Act. Therefore, we are required to complete the investigations and issue final determinations.

Scope of Investigations

The products covered by these investigations are hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod. For a further description of these products, see Appendix A to this notice.

There are five known producers and exporters in Brazil of certain stainless steel products to the United States. We have received information from the government of Brazil regarding three of these companies, Companhia Acos Especiais Itabira (ACESITA), Acos Finos Piratini S/A (PIRATINI), and Acos Villares S/A (VILLARES), which represented approximately 99 percent of Brazilian exports of certain stainless steel products to the United States in calendar year 1981.

The period for which we are measuring subsidization is that fiscal year for each company which most closely corresponds to calendar year 1981. That period is calendar year 1981 for ACESITA and PIRATINI, and February 1, 1981 to January 31, 1982 for VILLARES. We have referred to these periods as fiscal year 1981 in this notice.

In its response, the government of Brazil provided data for the applicable periods.

Changes Since the Preliminary Determinations

We preliminarily determined that the program "accelerated depreciation for capital goods manufactured in Brazil" was not used by manufacturers, producers or exporters in Brazil of certain stainless steel products. However, after analysis of the information received during verification which took place during December 13–17, 1982, we have determined that one company, VILLARES, benefitted from that program. We also found additional benefits under the long-term loan program. These major changes as well as others which have resulted from alterations in calculations necessitate modification of the export tax established pursuant to the suspension agreement. Such subsequent determinations are provided for under the terms of the agreement. By letter of March 29, 1983, we notified the government of Brazil that such changes may occur as the result of these determinations. We will officially notify the government of Brazil of these determinations so that they may adjust the export tax accordingly.

Analysis of Programs

I. *Programs Determined to Confer Subsidies.* We have determined that subsidies are being provided to

manufacturers, producers, or exporters in Brazil of certain stainless steel products under the programs described below.

A. *Industrialized Products Tax (IPI) Export Credit Premium.* Under this program the bank involved in the export transaction reimburses in cash to the exporter a percentage of the "adjusted" f.o.b. invoice price of the exported merchandise. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981. Since the IPI export credit premium program is designed to promote exports and is tied to export performance, we have determined that the program is an export subsidy and therefore is countervailable. The program has also been found to be countervailable in previous countervailing duty investigations involving Brazilian products.

Exporters of certain stainless steel products are eligible for the maximum IPI export credit premium, which, up until March 30, 1982, was 15 percent of the "adjusted" f.o.b. invoice price of the exported merchandise.

Subsequently, the government of Brazil reduced the benefit to 14 percent on March 31, 1982, 12.5 percent on June 30, 1982, and 11 percent on September 30, 1982.

In calculating the amount the exporter is to receive, several deductions may be made to the invoice price to obtain the "adjusted" f.o.b. value. These adjustments include: any agent commissions, rebates or refunds resulting from quality deficiencies or damage during transit, contractual penalties, and the value of imported inputs. In order to receive the maximum export credit premium, the exported product must consist of a minimum of 75 percent value added in Brazil. If this minimum limit is not met, there is a specific calculation to reduce the f.o.b. invoice price when calculating the base upon which the IPI export credit premium is paid.

To determine the amount of benefit, we calculated the value of the IPI credits as of the date of shipment rather than the date of receipt and did not take into account the devaluation of the cruzeiro, in accordance with section 771(6)(B) of the Act. We then divided the value of the IPI credits by the value of exports and calculated a subsidy of 14.53 percent.

This rate is premised on an IPI export credit premium of 15 percent during the period for which we were measuring subsidization.

The government of Brazil has made three reductions in the level of the IPI credit during 1982, the most recent on September 30, 1982 to 11 percent. When there is a fundamental change in the benefit from a program after the period of investigation, which is applicable to all recipients, we take cognizance of that change if we have been able to confirm that the change has occurred and if there is no reason to believe that there has been a shift of these benefits to other programs. We then announce the adjustment in the rate for the deposit of estimated countervailing duties in the next notice published in the normal course of the proceeding. Using 1981 information on the amount of benefit received, we have made a proportional reduction in the amount of estimated net subsidy from this program. On this basis, we calculated a current subsidy of 10.65 percent *ad valorem*.

B. *Preferential Working Capital Financing For Exports: Resolution 674.* Under this program companies are declared eligible to receive working capital loans by the Department of Foreign Commerce of the Banco Central do Brasil (CACEX). These loans may have a duration of up to one year. Firms in the steel industry can obtain this financing at preferential rates for up to 20 percent of the net f.o.b. value of the previous year's exports. The maximum dollar eligibility under this program is established by CACEX and is stated on the "Certificado de Habilitacao" issued to recipients. Since this program is designed to promote exports and is tied to export performance, we have determined that such financing is an export subsidy and therefore is countervailable. This program has also been found to be countervailable in previous investigations involving Brazilian products.

The net export value is calculated by taking numerous deductions from the export value of the merchandise, including agent commissions, contractual penalties or refunds, exports denominated in cruzeiros, imported inputs over 20 percent of the export value, and a deduction for the company's trade deficit as a percentage of the value of its exports. In addition, any growth in the cruzeiro value of exports over the previous year will reduce the value of the benefit as a percentage of the current year's exports.

To determine the value of loans in existence under this program during 1981, we prorated any loans that straddled other years. For loans taken out in fiscal year 1980, only that portion extending into fiscal year 1981 was included in our calculation. Any fiscal year 1981 loans extending into fiscal year 1982 were similarly adjusted.

As in previous Brazilian countervailing duty cases, we are using the rate established by the Banco do Brasil for discounting sales of accounts receivable as the commercial rate for the acquisition of short-term working capital. We have used this comparison because information provided by the government of Brazil indicates that, within the Brazilian financial system, working capital is normally raised through the sale of accounts receivable. In the review period the rate for discounting sales of accounts receivable was 59.6 percent plus a 6.9 percent tax on financial transactions (IOF). The subsidy is the difference between the interest rate available under Resolution 674 and the commercial rate.

The interest rate on loans under Resolution 674 is 40 percent, with interest payable semiannually and the principal fully payable on the due date of the loan. The effective rate of interest for these loans is 44 percent. These loans are also exempt from the IOF. Therefore, the differential between these two types of financing is 22.5 percent. When multiplying this differential by the amount of preferential financing received and dividing the result by the value of exports, we calculated a subsidy of 1.85 percent *ad valorem*.

On February 11, 1983, the government of Brazil notified the Department that the Banco do Brasil rate for discounting accounts receivable had increased from 59.6 percent to 72 percent effective January 3, 1983. In addition, effective January 11, 1983, the tax on financial transactions was reduced from 6.9 percent to 4.6 percent. These changes result in a subsidy rate differential of 32.6 percent rather than 22.5 percent as stated above. Consequently, since the rate established for purposes of the suspension agreement is prospective, we will use 32.6 percent as the applicable differential in determining the subsidy rate from this program for determination of the net subsidy rate which must be offset by an export tax under the terms of the agreement.

C. *Income Tax Exemption For Export Earnings.* Exporters of certain stainless steel products are eligible to participate in this program, under which the percentage of their profit attributable to export revenue is exempt from income tax. To arrive at this percentage, export revenue is divided by total revenue. The amount of profit exempt from the income tax is then multiplied by the 35 percent corporate income tax rate to determine the amount of the benefit. Since the program is designed to promote exports and is tied to export performance, we have determined that it is an export subsidy and therefore is countervailable. This program has also

been found to be countervailable in previous investigations involving Brazilian products.

In a program of this kind, benefits cannot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax returns to determine if any benefit was received in fiscal year 1981. VILLARES received benefits under this program in 1981. By dividing the benefit received by the value of exports of the companies under investigation, we calculated a subsidy of 0.55 percent *ad valorem*.

D. *Long-term loans.* Long-term financing in cruzeiros is available in Brazil only through government-controlled financial institutions, such as the National Bank for Economic Development (BNDE) and FINAME, a program of BNDE for the purchase of capital equipment manufactured in Brazil. Generally, these loans are fully indexed to the inflation rate in Brazil and are made at fixed real interest rates. The index used for these loans is the ratio established for the Readjusted Bonds of the National Treasury (ORTN). FINAME loans are granted through commercial banks rather than directly from BNDE and carry higher real interest rates than BNDE loans.

VILLARES received direct BNDE loans. As in previous steel countervailing duty investigations, we have determined that BNDE loans, when fully indexed, are not made at preferential rates. We compared the BNDE loan rates to a constructed benchmark based on the real interest rates of the only private long-term loans commercially available in Brazil—foreign currency loans. Such loans are granted at the London Interbank Offered Rate (LIBOR) plus a certain percentage or spread over LIBOR. Since LIBOR loans are continually readjusted at the prevailing interest rates, we constructed the benchmark by calculating the average real interest component of LIBOR-plus-spread on long-term loans to Brazil for the period 1977–81 during which these BNDE loans were made. We then compared that average real interest rate to the rates at which the long-term BNDE loans were made. Our comparison showed that all the fully-indexed BNDE loans were made at rates above the benchmark. Therefore, we have determined that such BNDE loans are not countervailable.

However, some long-term cruzeiro loans have been granted that are not fully indexed. Under a program instituted in 1975 and no longer in operation, BNDE granted loans that were adjusted at only 20 percent of the variation in ORTN. These loans were granted only to certain sectors of the economy, including the iron and steel industry, for implementing "priority projects." Because they were granted to a group of enterprises or industries we have determined that the program is countervailable. We have also found this program countervailable in previous cases involving Brazilian products.

VILLARES has been granted such a loan and still has an outstanding balance on this loan. We calculated the interest portion of the benefit to VILLARES for this loan as the difference between the amount actually paid in fiscal year 1981 and the amount which would have been paid had the loan been fully adjusted. Even though principal repayments have yet begun for this VILLARES loan, the principal balance is recalculated yearly subject to the 20 percent limit on monetary correction. Therefore, VILLARES benefited from an abatement in principal as well as a reduction in interest. We divided the sum of VILLARES' interest and principal benefits by total sales of all companies under investigation and calculated subsidy of 1.38 percent *ad valorem*.

FINAME loans have been received by ACESITA, PIRATINI, and VILLARES and are available to a wide variety of sectors in Brazil. The steel industry has received such loans in proportions similar to other large capital-intensive industries in Brazil. This appears to be warranted by the capital requirements of such industries. In addition, numerous other sectors also received loans from FINAME during this period. Based on the general availability of these fully-indexed loans, we have determined that they do not confer a subsidy.

E. *IPI rebates for capital investment.* Decree Law 1547 (April 1977) provides funding for the expansion of the Brazilian steel industry through a rebate of the IPI, the Brazilian federal excise tax. Under this tax system, a company determines its liability for the tax at the end of each month. The net tax owed is calculated as the difference between the total IPI the company paid on purchases and the total IPI collected on domestic sales. Normally, within five months after the end of each month, a company must pay the amount of the net tax owed directly to the Brazilian government. This net IPI tax is the basis for calculating the rebate for investment. A Brazilian steel company may deposit 95 percent of the net IPI tax in a special account with the Banco do Brasil. The amounts deposited are to be applied to steel expansion projects, and when rebated to the firms constitute tax-free capital reserves which must eventually be converted into subscribed capital. Benefits under this program are received only by the steel sector. Because they are received by a specific industry, we have determined that the benfits are countervailable. We have also found this program countervailable in previous cases involving Brazilian products.

PIRATINI received benefits under this program from 1977 to 1981, while ACESITA and VILLARES continue to receive them. With the enactment of Decree Law 1843 (December 1980), PIRATINI must now pay the IPI tax to the government which in turn rebates 95 percent to SIDERBRAS, the government holding company to which PIRATINI belongs, to increase its capital.

In these investigations, we considered the amount rebated each year as an untied grant received in that year. As such, we have allocated the grants over 15 years. Under our grant methodology, we determine the present value of grants in order to calculate the current value of the benefit to the grant recipient. The calculation of the present value of funds received is a mechanism for allocating money received in one year to other years and is calculated using a discount rate. For these determinations, we determine that the most appropriate discount rate is the "risk-free" rate as indicated by the secondary market rate for long-term government debt in the country under investigation. The foundation of a country's interest rate structure is usually its government's debt interest rate (the risk-free rate). In this methodology, we have allocated a grant over the useful life of equipment purchased with it when the value of that grant was large (greater than $50 million) and specifically tied to pieces of capital equipment. Where the grant was small (generally less than one percent of the company's gross revenues and tied to items generally expensed in the year purchased, such as wages or purchases of materials), we have allocated the subsidy solely to the year of the grant receipt. We construe that a grant is "tied" when the intended use is known to the subsidy giver and so acknowledged prior to or concurrent with the bestowal of the subsidy. All other grants, such as in this case, are allocated over 15 years, a period of time reflecting the average life of capital assets in integrated steel mills. The 15-year figure is based on Internal Revenue Service studies of actual experience in integrated mills in the U.S.

To calculate the benefit, we have taken the amount rebated in each month, converted the cruzeiro value to an ORTN value by using the ORTN index rate in that month, added the monthly ORTN amounts to determine the amount of the grant in each year and

used as the discount rate for each year the interest rate of 4 percent on ORTN-indexed long-term government debt. The total benefit in ORTN for fiscal year 1981 was converted into cruzeiros using the average ORTN index rate for the year and then divided by the total value of sales for the 1981 fiscal year. The benefit of this subsidy is 0.80 percent *ad valorem*.

F. *Industrial Development Council (CDI) program.* This program allowed an exemption of 80 percent of the customs duties and 80 percent of the IPI tax on certain imported machinery for certain industrial projects approved by the CDI. Because benefits under the program are limited to "approved" development projects we have determined that they were granted to a group of enterprises or industries and are countervailable. We have also found the CDI program countervailable in previous countervailing duty investigations involving Brazilian products.

Decree Law 1726 repealed this program in 1979 and no new projects are eligible for these benefits. However, companies with projects approved prior to repeal may still receive these benefits pending the completion of the project. ACESITA received such benefits during 1981. By dividing the benefit received by the total value of sales of the companies under investigation, we calculated a subsidy of 0.18 percent *ad valorem*.

G. *Accelerated depreciation for capital goods manfactured in Brazil.* This program allows companies that purchase Brazilian-made capital equipment as part of an approved CDI expansion project to depreciate this equipment at twice the rate normally permitted under tax laws. This program is authorized by the same legislation as the previous CDI program, is likewise countervailable and has been found to be countervailable in previous countervailing duty investigations involving Brazilian products.

During verification we found that VILLARES used the accelerated depreciation provisions of this program. The benefit of such a program is reduced taxable income and a subsequent reduction in tax liabilities. In a program of this kind, benefits connot be determined with finality until the books are closed sometime in the following year. Therefore, we must look at fiscal year 1980 income tax returns to determine if any benefit was received in fiscal year 1981. VILLARES claimed that they could have depreciated at a higher "normal" rate than that actually used to compute its tax liability for the 1980 fiscal year thus offsetting any subsidy that they might receive under this program. However, we used the actual amount of accelerated depreciation claimed by VILLARES in excess of the normal depreciation that was used by VILLARES in that year. To calculate the benefit to VILLARES, we determined the amount by which depreciation under this program exceeded normal depreciation, multiplied that amount by 35 percent, the corporate tax rate in Brazil, and then divided the result by the total value of sales for the 1981 fiscal year of the companies under investigation. The *ad valorem* benefit of this subsidy is 0.03 percent.

II. *Program Determined not to Confer Subsidies.* We have determined subsidies are not being provided to manufacturers, producers, or exporters in Brazil of certain stainless steel products under the following program.

Transportation subsidies from preferential port rates. The government of Brazil, in its response to our questionnaire, states that none of the exporters of certain stainless steel products receive preferential port rates. At verification we examined shipping documents for Brazilian and non-Brazilian carriers, compared the freight rates and port charges to published schedules and found that the rates paid by steel exporters were not preferential and therefore not countervailable.

III. *Programs Determined not to be Used.* We have determined that the following programs were not used by the manufacturers, producers, or exporters in Brazil of certain stainless steel products.

A. *The Commission for the Granting of Fiscal Benefits for Special Export Programs (BEFIEX).* BEFIEX grants several types of benefits to companies that are part of certain targeted industries and that sign contracts that include specific export commitments. These benefits include the following: a reduction of between 70 percent and 90 percent of the import duties and the IPI tax on the import of machinery, equipment, apparatus, instruments, accessories and tools necessary to meet the approved export commitment; an extension of the period for carrying tax losses forward from four to six years, provided no dividends are paid during that time; and amortization of pre-operational expenses of BEFIEX projects at the discretion of the company rather than the normal straight-line amortization over ten years. As a general rule, companies that sign BEFIEX contracts guaranteeing these and any other benefits must make an export commitment that over the life of the project it will generate export earnings of at least three times the value of imports for the project. The government of Brazil states that since manufacturers of certain stainless steel products export only a small portion of their production, they are not in a position to make the required export commitments. We found that non of the companies under investigation received benefits from this program with respect to certain stainless steel products.

B. *Export financing under Resolution 68.* This program provides financing for the export of Brazilian goods for a minimum period of 181 days. Such financing is granted on a transaction-by-transaction basis and may cover up to 85 percent of the f.o.b. invoice price for the merchandise (plus freight and insurance). To be eligible, the exporter must show that the foreign purchaser has prepaid 15 percent of the invoice price. We found that none of the exporters of certain stainless steel products used Resolution 68 to finance exports.

C. *Transportation subsidies from preferential rail rates.* We found that exporters of certain stainless steel products almost exclusively utilize trucks to ship their products to the ports of exportation because of the low tonnages of these shipments.

Verification

In accordance with section 776(a) of the Act, we verified data used in making our final determinations. During this verification, we followed normal procedures, including inspection of documents, discussions with company and government officials and inspection of manufacturers' records.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). There was no request for a public hearing and no written views were received. We received comments on the suspension agreement and addressed those comments in the notice announcing the suspension of the investigations (48 FR 4703).

Suspension of Liquidation

The suspension of liquidation of entries of certain stainless steel products pursuant to the preliminary affirmative determinations was terminated upon publication of the notice of suspension of the investigations.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all non-

privileged and non-confidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine within 45 days of the publication of this notice whether imports of certain stainless steel products from Brazil are materially injuring, or threatening to materially injure, a U.S. industry. If the ITC determines that material injury, or threat of material injury, does not exist, the suspension agreement will have no force or effect and these investigations will be terminated. If, however, the ITC determines that such injury does exist, the suspension agreement shall remain in force, and we will not issue a countervailing duty order as long as the requirements of section 704(f)(3)(B) of the Act are met.

These determinations are published in accordance with section 705(d) of the Act.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

May 9, 1983.

Appendix A—Certain Stainless Steel Products From Brazil

For purpose of these investigations:

1. The term "*stainless steel wire rod*" covers a coiled, semi-finished, hot-rolled stainless steel product of solid cross section, approximately round in cross section, not under 0.020 inch nor over 0.74 inch in diameter, not tempered, not treated, and not partly manufactured as currently provided for in item 607.26 of the *Tariff Schedules of the United States* (TSUS) or if tempered, treated, or partly manufactured as provided for in item 607.43 of the TSUS.

2. The term "*hot-rolled stainless steel bars*" covers hot-rolled stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9005 of the *Tariff Schedules of the United States Annotated* (TSUSA).

3. The term "*cold-formed stainless steel bars*" covers cold-formed stainless steel products of solid section having cross sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, not coated or plated with metal as currently provided for in item 606.9010 of the TSUSA. Stainless steel is an alloy steel which contains by weight less than 1 percent of carbon and over 11.5 percent of chromium. Iron must predominate by weight and the alloy is malleable as first cast. Allow steel is defined as a steel which contains one or more of the following elements in the quantity, by weight, respectively indicated:

over 1.65 percent of manganese, or
over 0.25 percent of phosphorus, or
over 0.35 percent of sulphur, or
over 0.60 percent of silicon, or
over 0.60 percent of copper, or
over 0.30 percent of aluminum, or
over 0.20 percent of chromium, or
over 0.30 percent of cobalt, or
over 0.35 percent of lead, or
over 0.50 percent of nickel, or
over 0.30 percent of tungsten, or
over 0.10 percent of any other metallic element

[FR Doc. 83-12931 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

Final Determination of Sales at Less Than Fair Value; Industrial Nitrocellulose From France

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: We have determined that industrial nitrocellulose from France is being sold in the United States at less than fair value. The U.S International Trade Commission (ITC) will determine within 75 days of publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a U.S. Industry.

EFFECTIVE DATE: May 13, 1983

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or Stuart Keitz, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202-377-3601/0171).

SUPPLEMENTARY INFORMATION:

Case History

On July 2, 1982, we received a petition from Hercules Incorporated (Hercules) of Wilmington, Delaware, the only domestic producer of industrial nitrocellulose. The petition alleged that industrial nitrocellulose from France is being, or is likely to be, sold in the United States at less than fair value, and that such sales are materially injuring, or are threatening to materially injure, a United States industry. The petitioner also alleged sales in the home market at prices below the cost of production. After reviewing the petition, we determined it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on July 28, 1982 (47 FR 32557). On August 16, 1982, the ITC subsequently found that there was a reasonable indication that imports of industrial nitrocellulose from France were materially injuring or were threatening to materially injure a United States industry (47 FR 37314). On November 26, 1982, we published a notice determining that this case was "extraordinarily complicated," as defined in section 733(c)(1)(B) of the Act (47 FR 53441). Therefore, we extended the period for making the preliminary determination by 14 days until, December 23, 1982.

A questionnaire was presented to Societe Nationale des Poudres et Explosifs (SNPE), the respondent in this case, and to its attorney, on August 5, 1982. Responses were received on September 10 and 16, 1982. A verification was conducted at SNPE's plant in Berqerac, France from October 18–20, 1982, and at the headquarters of SNPE in Paris, France, on October 21 and 22, 1982. The home market cost of production section of the response was verified for a second time from February 18 through 24, 1983. On December 23, 1983, we preliminarily determined that industrial nitrocellulose from France is not being sold, or is not likely to be sold, in the United States at less than fair value (47 FR 57308).

Our notice of preliminary determination provided interested parties with an opportunity to submit views orally and in writing. On March 30, 1983, we held a public hearing.

On March 1, 1983, we published a notice extending the period for making the final determination until May 9, 1983, at the request of the petitioner in accordance with section 735(a)(2)(B) of the Act (48 FR 1529).

Scope of the Investigation

The product covered by this investigation is industrial nitrocellulose containing between 10.8 percent and 12.2 percent nitrogen. It should not be confused with explosive grade nitrocellulose which contains over 12.2 percent nitrogen. Industrial nitrocellulose is a dry, white, amorphous synthetic chemical produced by the action of nitric acid on cellulose. The product comes in several viscosities and is used to form films in lacquers, coatings, furniture finishes and printing inks. It is currently classified as cellulosic plastic materials, other than cellulose acetate, under item number 445.2500 of the Tariff Schedules of the United States Annotated.

Approximately three percent of total sales to the U.S. were of butyl nitrocellulosé. Since this was such a small quantity and since the cost for producing this product is different from the remaining 97 percent of sales, we disregarded these sales for purposes of the fair value investigation.

The period of investigation for French industrial nitrocellulose sold in the United States is from January 1 to June 30, 1982.

Methodology of Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of industrial nitrocellulose, because SNPE sold all of its merchandise to unrelated parties in the U.S. prior to the date of importation.

We calculated purchase price based on the c.i.f., delivered, packed price to unrelated purchasers. We made deductions for ocean freight, insurance, foreign inland freight, and U.S. inland freight.

Foreign Market Value

In calculating foreign market value we used home market sales prices or constructed value in accordance with section 773 of the Act.

The petitioner alleged that sales in the home market were at prices below the cost of producing industrial nitrocellulose. We examined production costs which included all appropriate costs for materials, labor and general expenses. Sales below the cost of production were found to be made for each of the grades of industrial nitrocellulose examined. Where sales of any grade of the merchandise under investigation were made over an extended period of time in substantial quantities, and at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, the Department disregarded these sales in its analysis in accordance with section 773(b) of the Act. For certain grades, we found that sufficient sales of industrial nitrocellulose were made at or above the cost of production and, therefore, those sales were used in making price-to-price comparisons with sales in the U.S. market. For certain other grades of industrial nitrocellulose, we found that sales which were made above the cost of production were inadequate as a basis for the determination of foreign market value and consequently, we used the constructed value of the merchandise for these grades of industrial nitrocellulose to determined their foreign market value.

Where we used constructed value as a basis for foreign market value, we calculated it to include the costs of materials, fabrication, general expenses, profit and the cost of packing. The amount added for general expenses was the statutory minimum of 10 percent of the sum of material and fabrication costs, because the statutory minimum was higher than the actual general expenses. The amount added for profit was the statutory minimum of 8 percent of the sum of materials, fabrication costs, and general expenses because the actual profit was less than 8 percent.

Home market prices were based on the f.o.b. or delivered, packed price to unrelated purchasers. We made deductions, where appropriate, for inland freight, and rebates. Adjustments were made, where appropriate, for differences in warranty expense, credit expense, the cost of the merchandise being compared, and the cost of packing. Adjustments for differences in physical characteristics were based on differences in the cost of materials, labor, and directly-related factory overhead. An adjustment was also made, where appropriate, for the differences between commissions on sales to the United States and indirect selling expenses in the home market used as an offset to U.S. commissions in accordance with § 353.15(c) of the Commerce Regulations.

Adjustments were claimed for institutional advertising expenses and quality control costs. We did not allow these adjustments since they were not directly related to the sales under consideration as required by section 353.15 of the Commerce Regulations.

Technical assistance expense was allowed as part of the offset for U.S. commission sales as an indirect selling expense and not as a circumstance of sale adjustment for all home market sales as claimed by the respondent.

Verification

In accordance with section 776(a) of the Act, we verified the information from SNPE which was used in this determination. We verified the information received on cost of production, sales, and the adjustments claimed. We were granted access to the books and records of SNPE. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information. The home market cost of production section of the response was verified for a second time by Alexander Grant & Co.

Results of Investigation

We made fair value comparisons on all U.S. sales reported by SNPE. We have found tht the foreign market value exceeded the United States price on 31.13 percent of the merchandise sold. These margins ranged from 0 to 12.26 percent. The overall weighted-average margin on all industrial nitrocellulose sales is 1.38 percent.

Petitioner's Comments

Comment 1

The Department of Commerce (DOC) has failed to allocate sufficient financing expenses to SNPE's cost of producing industrial nitrocellulose. The DOC's cost of production analysis should include all sales financing expenses that are directly related to home market sales of industrial nitrocellulose. An alternative would be to allocate all SNPE sales financing expenses in such a way as to take account of the fact that there are likely to be no financing expenses in selling to the Government of France and to related customers.

DOC position

When the DOC computes a cost of production, all costs, including finance expenses, are included. The DOC accepts the accounting practices of a respondent in making allocations for gneral, administrative and selling expenses as long as those allocations are the usual accounting practices of the respondent and are acceptable to the DOC. Since financing expenses have been allocated to the cost of production of industrial nitrocellulose by SNPE in accordane with their normal allocation methods, the amounts of these expenses have been accepted by the DOC.

Comment 2

SNPE has allocated indirect selling expenses over all products including those sold to the Government of France and related customers. The DOC should allocate SNPE's indirect selling expenses solely over sales to unrelated customers.

DOC position

The DOC verification established that SNPE inaccuretely allocated indirect selling expenses over the value of all nitrocellulose including sales of the military grade to related parties. Based on our findings, SNPE has reallocated these expenses solely to industrial notrocellulose based on relative sale value of the products sold by the Bergerac plant sales department. (The Bergrac plant is the only SNPE facility which produces industrial nitrocellulose). This reallocated amount is included in the cost of production.

Comment 3

SNPE has understated its research and development (R & D) costs for

industrial nitrocellulose. The DOC should reallocate SNPE's R & D costs over all of the products produced by the company.

DOC position

In their response, SNPE deviated from their normal accounting practice by adjusting the R & D allocations to industrial nitrocellulose to exclude R & D they believe to have been associated with other product groups. The DOC accepts the accounting allocations of the responding firm for general, administrative and selling expenses as long as those allocations are the usual accounting practices of the respondent and are acceptable to the DOC. Consequently, we have recomputed the allocation for R & D in accordance with SNPE's normal accounting practices by spreading the R & D expenses over all products and have used this figure in calculating the cost of production for our final determination.

Comment 4

The DOC should permit adjustments only for differences in circumstances of sale directly related to the sales under consideration.

DOC position

In accordance with § 353.15 of the Commerce Regulations, the DOC has not allowed adjustments for differences in circumstances of sale which are not directly related to the sales of industrial nitrocellulose under consideration.

Comment 5

NSPE is selling industrial nitrocellulose in France at prices which do not permit it to recover all of its fully allocated costs of production. The DOC should use the best available information in determining the cost of production, because SNPE failed to give the DOC its profit and loss statement for industrial nitrocellulose as requested in the questionnaire.

DOC position

The DOC's antidumping questionnaie requested financial statements, if they are prepared for the merchandise under investigation. SNPE has stated that it maintains profit and loss statements on a plant basis, not by product, and, therefore, one is not avialable for the merchandise under consideration. However, the detailed cost of production data and profit figures submitted by SNPE were verified twice by the DOC. Consequently, we are satisfied in using the data provided by SNPE, modified in accordance with DOC standards.

Comment 6

SNPE has deviated from its normal accounting practices in reporting to the DOC its depreciation costs on a straight-line basis rather than by an accelerted methodology.

DOC position

In their response, SNPE deviated from their normal accounting pactice by calculating depreciation on a straight-line basis. The DOC accepts the usual accounting practices of a respondent as long as those practices are acceptable under the Generally Acceptable Accounting Principles in the country of production. A respondent may not deviate from its normal accounting practices unless DOC determines that their standard methodology is inappropriate. Since this is not the case, DOC has used the accelerated method in calculating depreciation costs as reflected in SNPE's financial statement.

Respondent's Comments

Comment 1

An adjustment should be made for the differences in the commercial levels of trade between the United States and France.

DOC position

To date, SNPE has not produced information which establishes that a price differential exists in the home market for industrial nitrocellulose or other merchandise of the same class or kind sold at different levels of trade. Such information, if provided, must establish that the differences in the prices are the result of differences in cost of selling at one level of trade as compared to the other. Since no evidence has been received by the DOC which would satisfy the standards of § 353.19 of the Commerce Regulations in this regard, we have not made a level of trade adjustment in making our final determination.

Comment 2

Expenses for technical services should be allowed as an adjustment to the foreign market value as part of the indirect selling expense offset where comparisons are made with U.S. sales involving commissions.

DOC position

The DOC has allowed this offset in accordance with section 353.15 of the Commerce Regulations.

Comment 3

R & D expenses unrelated to industrial nitrocellulose, but related solely to other products or product lines should not be imputed to the cost of production of industrial nitrocellulose. Therefore, the DOC should use R & D expenses reallocated to the products to which they actually apply.

DOC position

See DOC position in petitioner's comment 3.

Comment 4

The straight-line method of calculating depreciation costs more accurately reflects actual production costs than an accelerated method. Therefore, the DOC should use depreciation costs developed through a straight-line methodology.

DOC position

See DOC position in petitioner's comment 6.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that industrial nitrocellulose from France is being sold in the United States at less than fair value within the meaning of section 731 of the Act.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) and section 733(d)(1) and (2) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of industrial nitrocellulose from France. This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margin is 1.38 percent.

ITC Notification

We are notifying the ITC and making available to it all non-privileged and non-confidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury

or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on industrial nitrocellulose from France entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

May 9, 1983.

[FR Doc. 83-12929 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

Final Negative Countervailing Duty Determination; Fresh Asparagus From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Final Negative Countervailing Duty Determination.

SUMMARY: We have determined that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to producers or exporters in Mexico of fresh asparagus, as described in the "Scope of Investigation" section of this notice.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Julia E. Hatchcox, Office of Investigations, Import Administration International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377-1273.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Mexico of fresh asparagus, as described in the "Scope of Investigation" section of this notice.

Case History

On November 3, 1982, we received a petition from the California Asparagus Growers' Association, Washington Asparagus Growers' Association, Michigan Asparagus Growers' Association, and Imperial Valley Asparagus Growers' Association, filed on behalf of the fresh asparagus industry in the United States. The petition alleges that the government of Mexico bestows bounties or grants upon the production or exportation of fresh asparagus within the meaning of section 303 of the Act.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and, on November 23, 1982, we initiated a countervailing duty investigation (47 FR 53934).

Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and therefore section 303 of the Act applies to this investigation. Under this section, where as here the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

On December 6, 1982, we presented a questionnaire concerning the allegations in the petition to the government of Mexico in Washington, D.C. On December 22, 1982, we presented a letter clarifying certain points in our questionnaire to the government of Mexico in Washington, D.C.

On December 17, 1982, we received from the government of Mexico a request for the postponement of the preliminary determination to the extent permitted by the law. The government of Mexico made this request upon the basis that the case is "extraordinarily complicated" under section 703(c)(1)(B) of the Act.

On January 7, 1983, we announced our intention to postpone the preliminary countervailing duty determination involving fresh asparagus until not later than February 22, 1983 (48 FR 2157). We determined, under section 703(c)(1)(B) of the Act, that the case is extraordinarily complicated because the alleged subsidy practices are numerous and complex, because the issues involved are novel, and there are numerous firms whose activities must be investigated. We determined that the parties concerned were cooperating, and that additional time was necessary to make the preliminary determination.

On January 14, 1983, we received from the government of Mexico a response to our contervailing duty questionnaire regarding fresh asparagus. In accordance with our procedures, we sent on February 9, 1983, a supplemental questionnaire to the government of Mexico. We also informed the petitioners and other interested parties that they had additional time to comment. On February 16, 1983, we received from the government of Mexico the response to our supplemental questionnaire regarding fresh asparagus. We also received comments from the counsel for California Asparagus Growers' Association, Washington Asparagus Growers' Association, Michigan Asparagus Growers' Association, and Imperial Valley Asparagus Growers' Association on February 14, 1983, and a letter from counsel for the Imperial Valley Asparagus Growers' Association including additional allegations regarding the provision of water at subsidized rates, and government operation of and construction of irrigation facilities.

On February 22, 1983, we issued our preliminary determination in this investigation (48 FR 8830). We preliminarily determined that no benefits which constitute bounties or grants within the meaning of the countervailing duty law were being provided to producers or exporters in Mexico of fresh asparagus.

We preliminarily determined that producers or exporters of fresh asparagus did not use or were not eligible for the following programs:

- Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).
- Certificados de Promocion Fiscal (CEPROFI).
- Import duty reductions and exemptions on raw materials and auxiliary materials physically incorporated into the exported product.
- Sistema Alimentario Mexicano (SAM).
- Preferential loans granted to Mexican agriculture through the Fund Established in Relation to Agriculture (FIRA); the Guarantee and Development Fund for Agriculture, Livestock and Poultry (FONDO); and the National Bank of Rural Credit.
- Discounts on fertilizers, insecticides, seeds and fuels.

We preliminarily determined that the following program was suspended and not used recently:

- Certificado de Devolucion de Impuestos Indirectos (CEDI).

We preliminarily determined we need additional information regarding the following programs:

- Government financing and operation of irrigation projects, including water provided by the government at subsidized rates.

• Investment credits for acquisitions by purchasers located in border areas of new machinery and equipment manufactured of Mexico.

• Credits to promote increased employment or to maintain pre-devaluation employment.

• Special incentives for producers or exporters if they are companies establishing manufacturing plants in border areas.

• Accelerated depreciation for the construction of wholesale warehouses in the border area.

On March 9, 1983, we presented another supplementary questionnaire to the Mexican government.

From March 21 to 31, 1983, we verified the response of the Mexican government to our questionnaries regarding fresh asparagus. During the course of verification, we verified the elements contained in our March 9, 1983 questionnarie to the Mexican government. The Mexican government provided a formal response to this questionnarie on April 11, 1983.

On April 20, 1983, we requested that the Mexican government provide us with further information regarding the government's participation in the construction or operation of irrigation projects. The Mexican government provided us with that information on April 26, 1983. The material related to the construction of such irrigation facilities is material published by the Mexican Secretaria de Agricultura y Recursos Hydraulicos.

Scope of Investigation

The product covered by this investigation is fresh asparagus, current classifiable under item 137.9520 of the *Tariff Schedules of the United States Annotated (TSUSA).*

The period for which we are measuring subsidizations January 1, 1982 to September 30, 1982.

Analysis of Programs

I. Programs for which Producers or Exporters of this Product Are Not Eligible.

A. *Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX).* FOMEX is a trust established by the government of Mexico to promote the manufacture and sale of exported products. The fund is administered by the Mexican Treasury Department with the Bank of Mexico Acting as the trustee. The Bank of Mexico administers the financing of FOMEX loans through financial institutions which establish contracts for lines of credit with manufacturers and exporters.

In order for a company to be eligible for FOMEX financing for exports, the following requirements must be met: (1) The product to be manufactured must be included on a list made public by FOMEX; (2) the articles to be exported must have a minimum of 30 percent national content in direct production costs; (3) loans granted for pre-export must be in Mexican currency, while loans for export sales are established in U.S. dollars or any other foreign currency acceptable to the Bank of Mexico; and (4) the exporter must carry insurance against commercial risks on export financing loans to the extent of the loans. In previous final countervailing duty determinations regarding Mexico, we have found the FOMEX program to confer benefits constituting bounties or grants.

We verified that producers or exporters of fresh asparagus are not eligible for FOMEX financing because FOMEX is not permitted to provide loans for agricultural products; and, according to the Rules of FOMEX, published August 10, 1979, by the Banco de Mexico, S.A., does not do so. We verified that only manufactured articles may qualify for FOMEX financing, and that the producers or exporters of fresh asparagus do not receive benefits under the FOMEX program.

b. *Certificados de Promocion Fiscal (CEPROFI).* In 1979 the government of Mexico introduced a four-year National Industrial Development Plan (NIDP) which spells out broad economic goals for the country. Tax credits called CEPROFI's are used to promote the NIDP goals, which include increased employment, regional decentralization, industrial development, and the promotion of small and medium-sized firms.

CEPROFI certificates are non-transferable tax certificates of a set value which may be used for a five-year period to pay federal taxes. In previous final countervailing duty determininations regarding Mexico, we have found that certain types of CEPROFIs provide benefits constituting bounties or grants.

As a result of our verification, we determine that producers or exporters of fresh asparagus are not eligible under the CEPROFI program for any benefits. According to the "Accord Establishing Priority Industries for the Granting of Fiscal Stimulants" published in the March 9, 1979 *Diario Oficial,* the only category of fruits or vegetables eligible for benefits under the CEPROFI program is processed fruits and vegetables. We verified that no producer or exporter of fresh asparagus received benefits under the CEPROFI program.

C. *Certificado de Devolucion de Impuestos Indirectos (CEDI).* CEDI is a tax certificate that was issued by the government of Mexico in an amount equal to a percentage of the f.o.b. value of the exported merchandise or, if national insurance and transportation were used, a percentage of the c.i.f. value of the exported product. The CEDIs were non-transferable and could be applied against a wide range of federal tax liabilities (including payroll taxes, value added taxes, federal income taxes, and import duties) over a period of five years from the date of issuance.

We determined in past cases that the CEDI program was countervailable. The government of Mexico notified us that as of August 25, 1982, it discontinued the eligibility of all products for the CEDI program. We have determined in other recent cases that the CEDI certificates were not being issued and that, according to an August 25, 1982 decree published in the *Diario Oficial,* the CEDI program had been suspended. Based on our verification, we determine that producers or exporters of fresh asparagus were not eligible for and did not receive benefits constituting bounties or grants under the CEDI program, and would not be eligible if it were reactivated in its past form.

d. *The Sistema Alimentario Mexicano (SAM) Program.* According to publicly available information, the SAM program, established in April 1980, was an effort on the part of the Mexican government to guarantee a minimum level of nutrition for the Mexican populace and to achieve independence for Mexico in the food sector. In order to achieve this minimum level of nutrition, the SAM program focuses upon the production, processing, marketing and consumption of those items defined by the National Institute of Nutrition as being included in the "basic food basket" for Mexico. In order to foster the availability of basic food products, the SAM program provided numerous services, including the inputs for these basic foods, increasing the guaranteed prices for basic foodstuffs, increasing credit to the agricultural sector and developing technology suitable to the needs of Mexico's small farmers.

Petitioners alleged that under the SAM program, Mexican producers or exporters of fresh asparagus received the following benefits which could constitute bounties or grants: (a) Duty reductions for producers on imports of raw materials for the production and distribution of goods covered by the SAM program; (b) tax credits for investments in vehicles used to distribute basic goods; (c) reductions on business income tax rates for companies

in the agricultural sector or such companies which process their basic product; (d) preferential loans granted to Mexican agriculture; (e) credits for crop insurance and marketing reorganization; (f) credits to producers selling products at prices fixed by the government.

During the course of our verification, we found that only producers of specified basic foods were eligible for SAM. Asparagus is not considered by the Mexican government to be a basic food and was not included on the list of foods eligible for assistance under SAM. Furthermore, we found that only products designated by the Mexican government and included in this list of basic foods were eligible for SAM benefits as outlined in the April 17, 1980, *Diario Oficial* Announcement of the establishment of the program. We also verified at the company/association level that producers and exporters of fresh asparagus did not receive benefits under the SAM program.

Since asparagus is not considered a basic food crop in Mexico, producers or exporters of this product were not eligible for benefits under SAM. We determine that producers or exporters of fresh asparagus were not eligible for and did not receive under SAM benefits which might have constituted bounties or grants. In addition, we found that the SAM program was terminated effective January 19, 1983, as announced in the *Diario Oficial*.

E. *Investment Credits for New Machinery.* Under the CEPROFI program, the government of Mexico provides tax credits for the purchase of Mexican-made machinery or equipment and fixed investment in new industries. As previously noted, producers or exporters of fresh asparagus are not eligible for benefits under CEPROFI. We verified that such tax credits are an integral part of the CEPROFI program. We determine that producers or exporters of fresh asparagus in Mexico are not eligible for and did not receive investment credits for new machinery under the CEPROFI program. We also found no evidence that producers or exporters of fresh asparagus receive such incentive benefits under any other practice.

F. *Credit to Promote Employment.* Under the CEPROFI program, the Mexican government provides tax credits for the generation of employment. Producers or exporters of fresh asparagus are not eligible for benefits under CEPROFI. We verified that such tax credits are an intergal part of the CEPROFI program, and that producers or exporters of fresh asparagus from Mexico are not eligible for tax credit and did not receive such credits for generating increased employment under the CEPROFI program. We also found no evidence that producers or exporters of fresh asparagus receive such incentive benefits under any other practice.

G. *Accelerated Depreciation for Construction.* Petitioners alleged that producers or exporters of fresh asparagus may be eligible for accelerated depreciation for the construction of wholesale warehouses in the border area. We found that accelerated depreciation is available to industries located in the border areas. We also found that such depreciation is not limited to the construction of wholesale warehouses. Producers of non-processed agricultural products, including producers of fresh asparagus, are not eligible for such accelerated depreciation since their income tax, unlike that of industry, is determined on the basis of a percentage of their expenses. Therefore, we determine that producers or exporters of fresh asparagus are not eligible to receive accelerated depreciation benefits and do not receive such benefits.

We verified that producers of fresh asparagus fall within the tax category established by the Mexican government for vegetables for export. Because of their inclusion in this tax category, producers or exporters of fresh asparagus pay taxes based on the highest percentage of their expenses. Agricultural products which are not exported are subject to lower tax rates in accordance with the tax laws of Mexico. Therefore, we determine that producers or exporters of fresh asparagus receive no preference under this tax system.

We determine that producers or exporters of fresh asparagus do not receive such benefits from accelerated depreciation under the CEPROFI program. We also found no evidence that producers or exporters of fresh asparagus receive such benefits under any other Mexican government program.

H. *Preferential Loans Granted to Mexican Agriculture.* 1. *Fund Established in Relation to Agriculture (FIRA).* FIRA is a series of trusts administered by the Bank of Mexico. The Guarantee and Development Fund for Agriculture, Livestock, and Poultry (FONDO) is one of these trusts. FIRA trusts were established to support the farming and livestock sectors and agriculture-related areas through the provision of fixed asset investment loans and working capital loans. According to "The FIRA Credit Policy" published by the Banco de Mexico S.A., FIRA trusts are permitted to provide assistance only in the production of basic foods. FIRA provides: (a) short term financing for up to two years; (B) medium and long term financing up to 15 years, and (c) technical assistance for basic food production. The trusts under FIRA guarantee up to 80 percent of the loans granted by the banking system to low-income producers of basic foods. FONDO, a specialized trust, encourages credit institutions to finance producers of basic foods. According to publicly available information, it does this through financial backing and technical assistance.

We verified that FIRA and its subordinate trusts were established to provide assistance in the production of basic foods. Producers or exporters of fresh asparagus are not eligible for assistance through FIRA and its trusts. We determine that producers or exporters of fresh asparagus are not eligible for and do not receive any benefits under FIRA or any of its subordinate trusts.

2. *National Rural Credit Bank.* The National Rural Credit Bank, which administers the Fund for the Developement and Support of Agricultural Industry, is controlled by the Mexican government and receives its funds exclusively from federal sources. The purpose of this entity is to promote the development of agricultural-related industries. To accomplish this goal, the National Rural Credit Bank provides technical and financial support for the industrialization and commercialization of basic products. According to a recent internal Mexican government document obtained during verification, we found that fresh asparagus is not designated as a basic product by the Mexican government; therefore, producers and exporters of fresh asparagus are not eligible for any financing through the National Rural Credit Bank. Only producers of those products designated as basic products may receive short-term financing for purchases of raw materials and medium-term financing for purchases of farm equipment.

Based on our verification, we determine that producers or exporters of fresh asparagus are not eligible for and do not receive financing through the National Rural Credit Bank.

I. *Discounts On Fuels.* On December 28, 1978, a presidential decree established the conditions and requirements whereby certain industries which ivest in specified regions (such as the border areas), could obtain discounts on certain fuels. Only those industries eligible for CEPROFI could receive such discounts. As previously noted, fresh asparagus is not eligible for

benefits under CEPROFI. Therefore, asparagus producers were not eligible for such discounts. Moreover we verified the fuel discount decree was cancelled on November 30, 1982, thus terminating the fuel discount benefit. We determine that producers or exporters of fresh asparagus did not receive and were not eligible during the period of investigation for benefits under the fuel discount decree.

J. *Import Duty Reductions and Exemptions and Incentives for the Establishment of Plants in the Border Areas.* Based on our verification, we found that these two programs are interrelated. Plants established in border areas may qualify for import duty reductions or exemptions on items designated by the government to be in short supply in Mexico. These reductions or exemptions are temporary and are available only to industry and to certain agro-industries which produce processed agricultural products. Such reductions or exemptions are not available to unprocessed agricultural proudcts, including fresh asparagus. We determine that producers or exporters of fresh asparagus in Mexico do not receive and are not eligble for these benefits.

K. *Discounts on Insecticides.* Under the SAM program, producers of specified basic foodstuffs could benefit from a discount on insecticides. Producers or exporters of fresh asparagus were not eligible to receive such benefits under the now terminated SAM program since asparagus is not considered a basic food. Furthermore, producers or exporters of fresh asparagus purchase their insecticides from private sources. We found no evidence that producers or exporters of fresh asparagus receive any discounts on purchases of insecticides under any Mexican government programs.

L. *Discounts on Seeds.* Under the SAM program, producers of specified basic foodstuffs could benefit from a discount on seeds purchased. As previously noted, producers or exporters of fresh asparagus were not eligible for benefits under the now terminated SAM program, since fresh asparagus is not considered a basic food in Mexico. Producers or exporters of fresh asparagus do not purchase their seeds from any government organization, but rather use seeds produced by their own crops. We found no evidence that producers or exporters of fresh asparagus are eligible for or received any discounts on purchases of seeds under any Mexican government programs.

II. *Programs Determined Not To Be Countervailable.* A. *Provision of Water.* Currently there are 77 water districts in Mexico. Water allocation decisions in each district are made by a committee composed of representatives of various government agencies, including the Secretaria de Agricultura y Recursos Hydraulicos (SARH), and representatives of local farmers and agricultural associations. These committees prepare annual plans which allocate, based on water supply, the amount of land available for the production of various crops.

Such plans are coordinated at the national SARH headquarters in Mexico City. In addition, each of these committees establishes the water rates for its district.

Approximately 100 percent of water used in the Caborca, Sonora area comes from private wells, while approximately 99 percent of water used in the Guanajuato area comes from private wells. These are two of the asparagus-producing areas in Mexico. Currently, according to Mexican government regulations, new wells may be established only in order to replace old wells which are no longer serviceable. The Mexican government does not provide any assistance in the construction of new wells.

In the Mexicali, Baja California asparagus-producing region, water for irrigation is from two sources. These are government-owned or private wells and the Colorado River. Most of the water used in this area comes from wells, whether govenment operated or private. Water from the Colorado River is allocated beween the United States and Mexico based on an international treaty. An international entity consisting of both U.S. and Mexican representatives allocates the water from the Colorado River. This water, plus that obtained through underground pumping from wells, is used for agricultural, industrial and residential purposes.

Counsel for one of the petitioners alleges that producers of agricultural products receive water at rates subsidized by the Mexican government.

In the Mexicali, Baja California asparagus-producing region, water rates differ according to use; there are different rates for water used for agricultural purpose, water used for industrial purposes, or residential consumption. The rate for water used for agricultural purposes is approximately 50% less than the rate for water used for industrial and residential purposes. This uniform low rate applies, however, to the water used for all agricultural purposes in this area. Preferential rates are not provided to the producers of any one agricultural product. We do not consider the provision of water at a uniform rate to all agricultural producers in this region to be a benefit, which would constitute a bounty or grant, because we consider the agricultural sector to constitute more than a single group of industries within the meaning of the Act. The provision of low cost water is generally available to the entire agricultural sector of this water district and not specifically targeted toward asparagus production. Therefore, we determine that the provision of water at a uniform rate to the agricultural sector of this water district does not provide to producers or exporters of fresh asparagus a benefit which constitutes a bounty or grant.

B. *Construction and Operation of Irrigation Facilities.* Petitioners alleged that the Mexican government has, and still does, invest in the construction and operation of irrigation facilities. The government of Mexico does participate, through inputs of capital from domestic and international sources, in the construction and upkeep of irrigation facilities. This participation does not confer a bounty or grant provided only to a specific industry or group of industries.

Facilities provided through government participation in such projects are available for use by the agricultural sector as a whole. Agricultural production in the Mexicali, Baja California area depends upon irrigation facilities which use water from private or government operated wells, or from the Colorado River. Some of these activities involve international cooperation with the United States in using the Colorado River as a source of water for irrigation. Although the Mexican government has participated in the construction and operation of irrigation projects in this area, these projects are not specifically targeted to asparagus. Indeed, asparagus comprises less than one percent of the total agricultural production of that area. Instead, wheat and barley comprise a larger portion of the agricultural products grown in the Mexicali area. Irrigation facilities in the Mexicali area except for privately-owned wells, exist for and are use by the entire agricultural sector of this area.

In addition, irrigation projects financed by or operated with government assistance are not limited to a specific region. Consistent with judicial and administrative decisions, we have found that where benefits are bestowed by a government under various regional development programs to industries in specified development areas, those benefits can constitute

bounties or grants within the meaning of the countervailing duty law.

Here, the Mexican water projects, such as those in the areas where the asparagus at issue is produced, are not limited to specific, targeted regions; they are constructed throughout Mexico. The location of such projects is determined by obvious considerations of the amenability of an area to irrigation in the context of normal agricultural needs and practices. We have ascertained that funds have been expended throughout Mexico for such projects, including improvements to existing facilities. Such expenditures do not constitute subsidies by reason of any regional character.

Further in this case, as explained in this notice, the incentive programs provided by the Mexican government for regional development purposes (such as accelerated depreciation for construction or the elements of the CEPROFI program) are not available to producers or exporters of fresh asparagus.

C. *Discussion on Fertilizers.* Fertilizantes Mexicanos, S.A. (Fertimex), a country-wide, state-owned monopoly, produces and distributes the ingredients for most of the fertilizer used in Mexico. We verified that fertilizer ingredients used in Mexico but not produced by Fertimex are imported. The prices for fertilizer are set on a national level and published in the *Diario Oficial.* The prices set for fertilizer are established on a country-wide basis, and are not established or adjusted on either a regional or product basis. Thus, fertilizer is available at a uniform price to all agricultural producers throughout Mexico. No discounts are granted on either a regional or product basis. We determine that producers or exporters of fresh asparagus do not receive benefits which constitute bounties or grants through the Mexican government's system of setting prices for fertilizers.

Petitioner's Comments

Comment 1

Petitioners believe that bounties or grants are being provided to producers of fresh asparagus in Mexico through processors in Mexico of canned asparagus. Petitioners believe that such bounties are passed on to the growers of fresh asparagus.

DOC Position

We found that the fresh asparagus producers or exporters involved in this case have no relationship with any asparagus processors in Mexico. They instead concentrate solely on marketing the fresh product. Since asparagus producers and asparagus processors are not related, such transactions would not result in a benefit for producers or exporters of fresh asparagus.

Comment 2

Petitioners stated that the Mexican government has targeted expenditures on irrigation projects to the northwestern area of the country in order to promote the production of high value products, including vegetables.

DOC Position

Irrigation facilities in the northwest of Mexico are generally available to the entire agricultural sector, with the exception of privately funded wells. The construction and operation of government irrigation projects in northwestern Mexico is not part of any regional development plan established by the Mexican government. Rather the Mexican government, in a normal function of government, has contributed significant assistance to irrigation projects throughout Mexico.

Comment 3

Petitioners alleged that the Mexican government provides in the asparagus producing areas low cost water to agricultural products which are of high value and which can be exported.

DOC Position

We found that water rates were provided to the entire agricultural sector at uniform rates within a district, for example, the Mexicali, Baja California area. We found no evidence that producers of high value export products received water at lower rates than producers of other agricultural products. Thus, we found that a specific industry or group of industries of the agricultural sector was not provided with special water rates as a result of any government-sponsored development program.

Comment 4

Petitioners claimed that the current operation of Mexico's irrigation system gives preferential status to vegetables, including asparagus. It is irrelevant whether or not such irrigation facilities were originally constructed with the intent to favor asparagus production.

DOC Position

Again, we found that irrigation facilities in the asparagus-producing regions are generally available to all agriculture. Therefore, asparagus producers and exporters do not thereby receive a bounty or grant.

Comment 5

Petitioners alleged that the Mexican government provides credit facilities to assist in agricultural production for export.

DOC Position

As stated in this notice, we found no instances or evidence that producers or exporters of fresh asparagus receive or are eligible for any government-sponsored credit facilities. We found that producers or exporters of fresh asparagus are not eligible and did not receive (a) financing through FOMEX, (b) credit benefits under SAM, or (c) financing under the Fund Established in Relation to Agriculture or the National Rural Credit Bank.

Comment 6

Petitioners alleged that the Mexican government has targeted particular products, including fresh asparagus for export, and has provided to producers of these crops preferential access to inputs.

DOC Position

As stated in sections I–I, I–K, I–L and II–C of this notice, we found that no producer or exporter of fresh asparagus received any type of discount on such inputs as fertilizers, insecticides, fuels, or seeds.

Respondent's Comments

Comment 1

Fresh asparagus has never been included in any list of products eligible for FOMEX financing. FOMEX provides financing only for manufactured products, and fresh asparagus is not a manufactured product.

DOC Position

FOMEX is not permitted to provide loans for agricultural products and, according to its rules of operation, does not do so.

See Section I–A of this notice.

Comment 2

The SAM program was established to foster the availability of basic food products in Mexico, and, at no time, has fresh asparagus been considered by the Mexican government as a basic food item eligible for SAM benefits. Further, the SAM program has been discontinued.

DOC Position

The SAM program was established to foster the increased production of basic food items in an attempt for Mexico to become independent of imports of these basic foods. Fresh asparagus is not considered a basic food item, and,

therefore, producers or exporters of fresh asparagus were not eligible to receive benefits through the SAM program. As noted, the SAM program has been discontinued. See Section I–D of this notice.

Comment 3

The CEPROFI program was designed to assist, through the provision of tax credits against federal taxes, firms carrying out investments in certain industrial activities. Producers or exporters of fresh asparagus are not eligible for nor have they received any benefits under the CEPROFI program.

DOC Position

We agree. See Section I–D, E, F, G, I of this notice.

Comment 4

The CEDI program is no longer in operation, and producers or exporters of fresh asparagus were not eligible for CEDI even when it was operational.

DOC Position

We agree. See Section I–C of this notice.

Comment 5

Fresh asparagus producers or exporters have not received fuel discounts and were not eligible for fuel discounts. Furthermore, this program is no longer in effect.

DOC Position

We agree. See Section I–I of this notice.

Comment 6

Producers and exporters of fresh asparagus in Mexico have not received and are not eligible for financing through FIRA and the National Bank of Rural Credit.

DOC Position

We agree. See Section I–H of this notice.

Comment 7

Producers and exporters of fresh asparagus are not eligible for and have not received any benefits from the law permitting accelerated depreciation.

DOC Position

We agree. See Section I–G of this notice.

Comment 8

Producers or exporters of fresh asparagus do not receive discounts on purchases of seeds as they do not purchase seeds from any concern or agency of the Mexican government.

DOC Position

We verified that producers or exporters of fresh asparagus use seeds produced by their own crops. See Section I–L of this notice.

Comment 9

Fertilizers are available at a single price in Mexico, and there is no variation in this price based upon region or crop. There are no preferential prices for producers or exporters of fresh asparagus.

DOC Position

We agree. See Section II–C of this notice.

Comment 10

Producers or exporters of fresh asparagus do not benefit from preferential water rates, or government construction and operation of irrigation facilities.

DOC Position

We do not consider the provision of water at a uniform rate to all agricultural producers in a region to be a benefit. Producers or exporters of fresh asparagus do not receive a benefit through government construction and operation of irrigation facilities since, in this case, these facilities are generally available to the entire agricultural sector.

See Sections II–A and II–B of this notice.

VI. Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During the verification we followed normal procedures, including inspection of documents with government officials, and on-site inspection of the records and operations of producers and exporters of fresh asparagus.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.35). Counsel for the petitioners requested a hearing in this investigation; however, a hearing was not held as the request was not made in a timely manner, and counsel indicated that no one from the requesting firm would be present at the hearing. In accordance with the Department's regulations (19 CFR 355.34(a)), written views have been received and considered. We are hereby concluding our investigation regarding this case.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

May 9, 1983.

[FR Doc. 83-12930 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 83–27. Applicant: University of California, Department of Pathology, La Jolla, CA 92093. Instrument: Camera for Electron Microscope. Manufacturer: Siemens Corp., West Germany. Intended use of instrument: See Notice on page 53083 in the **Federal Register** of November 24, 1982.

Comments: No comments have been received with respect to this application

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that has been previously imported for the use of the applicant institution. The accessory is being furnished by the manufacturer which produced the instrument with which it is intended to be used. We are advised by the Department of Health and Human Services in its memorandum dated April 4, 1983 that the accessory is pertinent to the applicant's intended uses and that it knows of no comparable domestic accessory.

The Department of Commerce knows of no similar accessory being manufactured in the United States which is interchangeable with or can be readily adapted to the instrument with which the accessory is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-12934 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-25-M

Applications for Duty-Free Entry of Scientific Instruments; National Aeronautics and Space Administration, et al.

The following are notices of the receipt of applications for duty-free entry of scientific instruments published pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States.

Comments must be filed in accordance with § 301.5(a) (3) and (4) of the regulations. They are to be filed in triplicate with the Director, Statutory Import Program Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

A copy of each application is on file in the Department of Commerce, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, Room 1523, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00326R. Applicant: National Aeronautics and Space Administration, Resident Office, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109. Instrument: Excimer Laser System, Model EMG-101E and Accessories. Manufacturer: Lambda Physik, West Germany. Application is a resubmission, notice of which was published in the **Federal Register** of September 20, 1982.

Docket No. 83-179. Applicant: Sutter Community Hospitals, Sutter Memorial Hospital, 28th & L Streets, Sacramento, CA 95819. Instrument: Electron Microscope, EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of instrument: The instrument is intended to be used for the investigation of ultrastructure of surgical pathology tissues to determine the existence of diseased states. The information will culminate in pathological diagnosis for the patient and instruction in pathology for students at the University of California Medical School. Application received by Commissioner of customs: April 26, 1983.

Docket No. 83-194. Applicant: University of Alabama in Birmingham, Comprehensive Cancer Center, NMR Core Facility, CHSB B-31, Birmingham, AL 35294. Instrument: NMR Spectrometer, Model WH-400. Manufacturer: Bruker Instrument, Inc., West Germany. Intended use of instrument: The instrument is intended to be used for studies of biomolecules including proteins, peptides, nucleic acids, polysaccharides, phospholipids, steroids and complexes of these molecules with each other, with metals and with drugs. Studies of intact cells *in vitro* will also be conducted. The objective of these studies will be to define the conformation-activity and structure activity relationships of the various biomolecules and pharmacologically active agents. Application received by Commissioner of Customs: March 29, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-12884 Filed 5-12-83 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; National Zoological Park, Smithsonian Institution; Receipt of Modification

Notice is hereby given that National Zoological Park, Smithsonian Institution, Washington, D.C. requests a modification to Permit No. 346 issued under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The Permit Holder requests additional authority to collect sea lion pups found dead in the study area and to stomach lavage up to 80 sea lion pups for physiologic studies.

Concurrent with the publication of this notice in the **Federal Register,** the Secretary of Commerce is forwarding copies of this request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D. C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 6, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-12989 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Hubbs-Sea World Research Institute; Issuance of Permit To Take Marine Mammals

On March 8, 1983, Notice was published in the **Federal Register** (48 FR 9680), that an application had been filed with the National Marine Fisheries Service by the Hubbs-Sea World Research Institute, 1700 South Shores Road, Mission Bay, San Diego, California 92109, for a permit to take belukha whales (*Delphinapterus leucas*) for scientific research.

Notice is hereby given that on May 5, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to the Hubbs-Sea World Research Institute, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Steeet, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 98802; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 5, 1983.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-12890 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Massachusetts Cooperative Fishery Research Unit; Receipt of Modification Request to Permit No. E12

Notice is hereby given that Mr. Boyd Kynard, Acting Leader, Massachusetts Cooperative Fishery Research Unit, Holdsworth Hall, University of Massachusetts, Amherst, Massachusetts 01003, has requested a modification of Permit No. E12 issued on June 10, 1976 (41 FR 24621) as amended on August 19, 1977, October 26, 1977, and June 25, 1980, under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), and the National Marine Fisheries regulations governing endangered fish and wildlife permits (50 CFR Part 222).

Permit No. E12 authorizes an unspecified number of shortnose sturgeon *(Acipenser brevirostrum)* may be captured and observed, but not more than one hundred (100) shortnose sturgeons, at least 18" in length are to be tagged.

The Permit Holder is request to capture up to 300 juvenile sturgeons less than 18" long and tag up to thirty (30) with Atkins or radio tags.

Written data, views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within thirty (30) days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: May 6, 1983.

Robert B. Brumsted,

Action Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-12891 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Public Law 94–265, as amended), will hold public meetings to review and discuss the status of the Billfish Fishery Management Plan (FMP), Spiny Lobster FMP, Amendment #1, and the Precious Corals FMP; discuss the status of the draft 5-year plan; discuss foreign fishing and foreign and domestic enforcement of the Billfish Preliminary Fishery Management Plan and the Spiny Lobster FMP; discuss the status of FY 83 administrative and programmatic budgets, as well as other Council business.

DATES: May 23–24, 1983 (9 a.m. to 4 p.m., on May 23; 9 a.m. to 1 p.m., on May 24).

ADDRESS: The public meetings will take place at the Ala Moana Americana Hotel, Hibiscus Room, 410 Atkinson Drive, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96183, Telephone: (808) 523–1368.

Dated: May 10, 1983.

Richard B. Stone,

Acting Chief, Operations Coordination Group, National Marine Fisheries Service.

[FR Doc. 83-12988 Filed 5-12-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983 Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 a commodity to be produced by and services to be provided by workshops for the blind and other severely handicapped.

DATE: Comments must be received on or before: June 15, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 1680

Belt, Aircraft Safety
1680–00–725–5927

SIC 0782

Grounds Maintenance, Area 12
"NOSTRA", Naval Weapons Station, Yorktown, Virginia

SIC 7349

Janitorial/Custodial, Naval and Marine Corps Reserve Center, Newport News, Virginia

E. R. Alley, Jr.,

Acting Executive Director.

[FR Doc. 83-12910 Filed 5-12-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletion from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: May 13, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: On July 23, 1982, August 6, 1982, October 29, 1982, January 7, 1983, February 4, 1983, February 22, 1983, February 25, 1983, March 4, 1983, and March 18, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 31915, 47 FR 34181, 47 FR 49066, 48 FR 859, 48 FR 5290, 48 FR 7491, 48 FR 8114, 48 FR 9331, and 48 FR 11484) of proposed additions to and deletion from Procurement List 1983, November 18, 1982 (47 FR 52101).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1983:

Class 5660

Fasteners, Fence Post
5660–00–148–7251

Class 7910

Pad, Floor Polishing Machine
7910–00–820–7991
7910–00–820–7989
7910–00–820–7990
7910–00–820–9926
7910–00–820–9925
7910–00–820–9924
7910–00–820–9898
7910–00–820–7997
7910–00–820–7996
(For GSA Regions 1, 2, 3, 4, 5 and National Capital (w))
7910–00–820–9903
7910–00–820–9904
7910–00–820–9905
7910–00–820–9900
7910–00–820–9901
7910–00–820–9899
7910–00–820–9922
7910–00–820–9918
7910–00–820–9917
7910–00–820–9916
7910–00–820–9915
7910–00–820–9914
7910–00–820–9913
7910–00–820–9912
7910–00–820–9911
7910–00–820–9910
(Total Government Requirements)

Class 8465

Strap, Mail Tray
P.S. Item No. 01067

SIC 0782

Grounds Maintenance (Landscaping and Landscape Maintenance, and Minor Irrigation System Repair and Installation), Naval Weapons Center, China Lake, California
Grounds Maintenance, U.S. Army Reserve Facility, Mann Hall, N. 4415 Market Street, Spokane, Washington
U.S. Army Reserve Facility, N. 3800 Sullivan Road, Trentwood, Washington

SIC 7349

Janitorial Service, Federal Building and U.S. Courthouse, 205 4th Street, Coeur d'Alene, Idaho
Janitorial/Custodial, Federal Building and U.S. Courthouse, 101 First Street, S.E., Cedar Rapids, Iowa
Janitorial/Custodial, Roth Building, Social Security Administration Complex, 5536 Caswell Road, Baltimore, Maryland
Janitorial Service, U.S. Army Reserve Center and U.S. Readiness Group, Fort Snelling, Minnesota
Janitorial Service, Building 20, Building 34, Naval Air Station, Whidbey Island, Oak Harbor, Washington
Janitorial/Custodial, Yakima Firing Center, Yakima, Washington

SIC 7369

Commissary Shelf Stocking, Naval Air Station, Moffett Field, California
Commissary Shelf Stocking, Naval Air Station, Barbers Point, Oahu, Hawaii
Commissary Shelf Stocking, Naval Base, Pearl Harbor, Hawaii
Commissary Shelf Stocking, Naval Station, Roosevelt Roads, Puerto Rico
Commissary Shelf Stocking, Puget Sound Naval Shipyard, Bremerton, Washington

SIC 9199

Administrative Services, Department of Commerce, Herbert Hoover Building, 14th & Constitution Avenue, NW., Washington, D.C.

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from the Procurement List 1983:

Class 8120

Cap, Compressed Gas Cylinder
8120–00–170–0076
8120–00–178–9814

E. R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 83–12911 Filed 5–12–83; 8:45 am]
BILLING CODE 6820–33–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 83–2]

Prehearing Conference; Honeywell, Inc., A Corporation

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Prehearing Conference.

DATE: This notice announces a prehearing conference to be held in the matter of Honeywell, Inc. on May 27, 1983 at 10:00 a.m.

ADDRESS: The prehearing conference will be in the Third Floor Hearing Room, 1111–18th Street, NW., Washington, D.C. For additional information contact: Sheldon D. Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6800.

SUMMARY: Notice of Prehearing Conference. Please take notice that a prehearing conference in this proceeding will be held at 10:00 a.m., on May 27, 1983, in the Third Floor Hearing Room, 1111–18th Street, NW., for the purposes outlined in 16 CFR 1025.21(a). The

Presiding Officer will be Administrative Law Judge David G. Oringer. The issues to be considered may include any or all of the following:

(1) Petitions for leave to intervene;

(2) Motions, including motions for consolidation of proceedings and for certification of class actions;

(3) Identification, simplification and clarification of the issues;

(4) Necessity or desirability of amending the pleadings;

(5) Stipulations and admissions of act and of the content and authenticity of documents;

(6) Oppositions to notices of depositions;

(7) Motions for protective orders to limit or modify discovery;

(8) Issuance of subpoenas to compel the appearance of witnesses and the production of documents;

(9) Limitation of the number of witnesses, particularly to avoid duplicate expert witnesses;

(10) Matters of which official notice should be taken and matters which may be resolved by reliance upon the laws administered by the Commission or upon the Commission's substantive standards, regulations, and consumer product safety rules;

(11) Disclosure of the names of witnesses and of documents or other physical exhibits which are intended to be introduced into evidence;

(12) Consideration of offers of settlement;

(13) Establishment of a schedule for the exchange of final witness lists, prepared testimony and documents, and for the date, time and place of the hearing, with due regard to the convenience of the parties; and

(14) Such other matters as may aid in the efficient presentation or disposition of the proceedings.

Dated: May 9, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-12878 Filed 5-12-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Regulatory Permit Action Draft Environmental Impact Statement (DEIS) for a Log Transfer Facility at Cube Cove, Chatham Strait, on Admiralty Island, Alaska

AGENCY: Army Engineer District, Alaska, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. A Department of Army (DA) Public Notice No. NPACO 071-OYD-2-810133, Chatham Strait 92, was circulated for public review May 15, 1981 concerning a proposal by Shee Atika, Incorporated to construct a log transfer facility in Cube Cove, Chatham Strait, on the Northwestern shore of Admiralty Island. The DA permit was issued April 7, 1982 and an application for modification of this permit has been submitted. Concerns expressed by the public have resulted in suspension of the permit pending the completion and findings of the EIS. The proposed project includes: a combined rock fill and floating breakwater, a continuous chain transfer system, an A frame, stifflegs, a barge loading ramp, a bulkhead, a small dock and mooring bouys. The facility is to support Shee Atika's land management activities on adjacent lands.

2. Alternatives for the proposed action will include but not be limited to the following: floating breakwater, solid fill breakwater, combined solid fill and floating breakwater, different numbers and locations of continuous chain transfer facilities, configuration of barge loading facilities, log rafting, barge transport, floating camp, upland camp, sites in other coves and no action.

3. a. Several public hearings and meetings have been held concerning this project. Scoping of the DEIS will include continued coordination with interested local, State and Federal agencies and other interested parties. Scoping meetings are tentatively scheduled for June 7, 1983 in Sitka, Alaska and June 8, 1983 in Angoon, Alaska. Information contained in the Department of Army permit file will be considered along with factual information submitted during the scoping process. Interested parties are urged to actively participate in the scoping process by submitting their concerns to the Alaska District as soon as possible.

b. Anticipated issues to be addressed include but are not limited to: alternatives, socio-economic impacts, land use, the effects on subsistence, water quality, marine flora and fauna, endangered species, cultural resources, and aesthetics, and measures to minimize adverse impacts.

4. The DEIS is expected to be available for public and agency review in early 1984.

ADDRESS: Questions about the proposed action and the DEIS can be answered by: William D. Lloyd, Chief, Environmental Resources Section, U.S. Army Engineer District, Alaska, Pouch 898, Anchorage, Alaska 99506.

Dated: May 3, 1983.

Neil E. Saling,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-12935 Filed 5-12-83; 8:45 am]

BILLING CODE 3710-NL-M

Department of the Air force

USAF Scientific Advisory Board; Meeting

May 4, 1983.

The USAF Scientific Advisory board Aeronautical Systems Division Advisory Group will meet at Wright-Patterson Air Force Base, Ohio on June 6-7, 1983. The purpose of the meeting will be to review selected programs and projects relating to the missions of the Aeronautical Systems Division. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-12892 Filed 5-12-83; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 4, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on the Potential Military Utility of a Manned National Space Station will meet at the Pentagon, Washington, DC on June 23-24, 1983. The purpose of the meeting will be to draft a final report. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-12893 Filed 5-12-83; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Defense Science Board Summer Study Panel on Aircraft Survivability in NATO; Postponement of Advisory Committee Meeting

The meeting of the Defense Science Board Summer Study Panel on Aircraft Survivability in NATO scheduled for 9–10 May 1983 as published in the **Federal Register** (Vol. 48, No. 72, Wednesday, 13 April, 1983, FR Doc. 83–9761) has been postponed to 15–16 June 1983. In all other respects the original notice remains the same.

Dated: May 10, 1983.

M. S. Healy,

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

[FR Doc. 83–12985 Filed 5–12–83; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Summer Study Panel on Conventional Munitions; Postponement of Advisory Committee Meeting

The meeting of the Defense Science Board Summer Study Panel on Conventional Munitions scheduled for 12–13 May 1983 as published in the **Federal Register** (Vol. 48, No. 72, Wednesday, 13 April, 1983, FR Doc. 83–9762) has been postponed to 15–16 June 1983. In all other respects the original notice remains the same.

Dated: May 10, 1983.

M. S. Helay,

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

[FR Doc. 83–12987 Filed 5–12–83; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Summer Study Panel on Joint Service Acquisition Programs; Postponement of Advisory Committee Meeting

The meeting of the Defense Science Board Summer Study Panel on Joint Service Acquisition Programs scheduled for 19–20 May 1983 as published in the **Federal Register** (Vol. 48, No. 87, Wednesday, May 4, 1983, FR Doc. 83–11875) has been postponed to 24 May 1983. In all other respects the original notice remains the same.

Dated: May 10, 1983.

M. S. Healy,

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

[FR Doc. 83–12986 Filed 5–12–83; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Transition Program for Refugee Children; Application Notice for Fiscal Year 1983

AGENCY: Office of Bilingual Education, ED.

ACTION: Application Notice for Fiscal Year 1983.

Applications are invited for grants under the Transition Program for Refugee Children.

Authority for this program is contained in Section 412(d)(1) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980 (Pub. L. 96–212), and the Refugee Assistance Amendments of 1982 (Pub. L. 97–363).

(8 U.S.C. 1522(d)

Eligible applicants are State educational agencies.

This program supports educational activities designed to meet the special needs of eligible refugee children and to enhance their transition into American society.

Closing date for transmittal of applications: An application for grant must be mailed or hand delivered by July 29, 1983.

Applications delivered by mail: An application sent by mail must be addressed to Dr. R. Rudy Cordova, Director Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legibly mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping lable, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as a proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered on at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, Room 421, Reporters Building, 300 7th Street, SW., Washington, D.C.

The Division of State and Local Programs will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The regulations (34 CFR 538.20(a)) for the Transition Program for Refugee Children provide in part that, to receive a grant under the program, a State educational agency must submit a count of the number of eligible children in its State taken on a date specified by the Secretary in a notice published in the **Federal Register**. The Secretary establishes any day within the period of May 1, 1983 through May 27, 1983 as the date on which a State educational agency shall conduct a count of the children eligible for assistance under the Transition Program for Refugee Children.

A grant is made to a State educational agency based on the number of eligible children enrolled in public and nonprofit private schools in the State, using the weighting factors announced in this notice. Using the same formula, the State educational agency awards subgrants to local educational agencies in its State that proposed to serve eligible children within their jurisdictions. As provided in 34 CFR 538.20, the State educational agency makes subgrants to local educational agencies within 60 days after the State receives the grant award funds. When a local educational agency does not apply to serve its eligible children, the State educational agency provides services directly to those children or arranges for provision of services to those children through subgrants, contracts, and cooperative agreements with other public and private nonprofit organizations, agencies, and insitutions.

Awards under this program are to provide educational services to eligible children during the 1983–1984 school year.

Weighting factors: Section 538.31 of the program regulations authorizes the Secretary to announce the weighting factors to be used in distributing funds under this program. For the award of

fiscal year 1983 funds, the Secretary uses the following formula for fund distribution:

Recently of arrival in the United States (in years)	Weighting factors by school level	
	Elementary	Secondary
Less than 1	10	10
1 to 2	3	5
2 to 3	0	3
3 to 4	0	0
More than 4	0	0

Available funds: It is expected that approximately $16.6 million will be available for grants to State educational agencies. These funds are the fiscal year 1983 appropriation.

It is estimated that these funds will provide aproximately $250 of assistance per eligible child. However, the approximate amount of funds available per eliogible child may increase or decrease depending on the total number of eligible children that the States report.

These estimates, however, do not bind the U.S. Department of Education to specific numbers of grants or to the amount of any grant.

Application forms: Application forms and program information packages will be mailed to all State educational agencies. Additional forms and program information packages may be obtained by writing to the Division of State and Local Programs, Office of Bilingual Education and Miniority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. The Secretary strongly urges that the narrative portion of the application not exceed four pages. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(1) Regulations governing the Transition Program for Refugee Children (34 CFR Part 538) published on January 14, 1981 (46 FR 3378).

(2) Regulations governing the Refugee Resettlement Program (45 CFR Part 400) published on September 9, 1980 (45 FR 59818).

(3) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 76, 77 and 78), except as otherwise provided in 324 CFR Part 538.

Further information: For further information, contact the Application Coordinator for the Transition Program for Refugee Children in the Division of State and Local Programs, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. Telephone (202) 245–2962. (8 U.S.C. 1522(d))

(Catalog of Federal Domestic Assistance Number 84.146, Transition Program for Refugee Children)

Dated: May 5, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-12924 Filed 5-12-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Intent To Grant Exclusive Patent License; Pan American Energy Corp.

Notice is hereby given of an intent to grant to Pan American Energy Corporation of Los Alamos, New Mexico, an exclusive license to practice in the United States, the invention described in U.S. Patent No. 3,786,858, entitled "Method of Extracting Heat From Dry Geothermal Reservoirs." The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will contain terms and conditions to be negotiated by the parties in accordance with 35 U.S.C. 209. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this Notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license, or

(ii) An application for a nonexclusive license to manufacture, use, and/or sell the invention in the United States, in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

The Assistant General Counsel for Patents will review all written responses to this Notice, and will grant the license if, after expriation of the 60-day notice period, and after consideration, written responses to this Notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

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

R. Tenney Johnson,

General Counsel.

[FR Doc. 83-12909 Filed 5-12-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Case No. F-007]

Energy Conservation Program for Consumer Products; Petition for Waiver of Furnace Test Procedures from Honeywell, Inc.

AGENCY: Department of Energy.

SUMMARY: Today's notice publishes a Petition for Waiver" from Honeywell, Inc. (Honeywell), requesting a waiver from the existing Department of Energy (DOE) test procedures for furnaces. Honeywell is requesting the allowance to use an alternate test procedure in its testing of furnaces and boilers equipped with a Honeywell "Integrated Control System" (ICS). DOE is soliciting comments, data, and information respecting the petition.

DATE: DOE will accept comments, data, and information not later than June 13, 1983.

ADDRESS: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-007, Mail Station CE-113.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy Office of Conservation and Renewable Energy, Mail Station CE-113.1, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252-9127

Eugene Margolis, U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 252-9513.

SUPPLEMENTARY INFORMATION:

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 93 Stat. 3266, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR § 430.27, Petitions for Waiver, to allow the Assistant Secretary for Conservation and Renewable Energy temporarily to waive test procedures for a particular basic model. 45 FR 64108 (September 26, 1980). Waivers may be granted when one or more design characteristics of basic model either prevent testing of the basic model according to the prescribed test procedures or lead to results so unrepresentative of the model's true energy consumption as to provide materially inaccurate comparative data.

On January 7, 1983, Honeywell filed a Petition for Waiver from DOE test procedures for furnaces. Specifically, the petitioner believes that the use of the existing furnace test procedure will not accurately evaluate a furnace or boiler equipped with Honeywell's Integrated Control System (ICS). Honeywell claims that its ICS is a control system that will provide efficiency enhancement through control of multiple burner firing rates and circulator run time. The multiple burner firing rate is the aspect of the system that constitutes the substance of the request. Honeywell's petition includes a suggested method of weighing the Annual Fuel Utilization Efficiency (AFUE) values at two firing rates in lieu of the currently prescribed provisions which only allow evaluation at the highest firing rate. Honeywell believes this weighted average method will accurately evaluate the performance of any furnace or boiler equipped with the ICS. Honeywell requests the allowance to use the weighted average method, including the use of the specific weighting factor of 16 percent fuel consumption at high fire.

Pursuant to paragraph (b) of 10 CFR § 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data and information respecting the petition, particularly with regard to the appropriateness of the weighted AFUE method and the weighting factors suggested by Honeywell (i.e. 16% high fire, 84% lowfire).

Issued in Washington, D.C. April 18, 1983.

Howard S. Coleman,

Principal Deputy Assistant Secretary Conservation and Renewable Energy.

January 7, 1983.

Mr. Joseph Trible,

Assistant Secretary for Conservation, and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585

Dear Mr. Trible: This is a request for waiver, for Honeywell only, from the Consumer Product Test Procedure as specified in 10 CFR Part 430, amended on September 26, 1980, for application to furnaces and boilers using a Honeywell Integrated Control System (ICS).

Appendix N to Subpart B of 10 CFR Part 430 specifies the test procedure to determine the relative efficiency of manufacturers' appliances. Section 430.24 of Subpart B prohibits a manufacturer from representing energy efficiency of products unless based on results obtained as specified in Appendix N to Subpart B. We believe this test procedure will not accurately evaluate a furnace or boiler equipped with an ICS.

In addition to many control and diagnostic functions, the Honeywell ICS provides multiple burner firing rates with fuel/air ratio control, as well as circulator overrun on warm-air furnaces. Our testing on over 20 appliances shows the strategy will increase AFUE by up to four percentage points with the rationale that the appliance is 70% oversize for the structural (Ref.: 10 CFR Part 430, Appendix N to Subpart B).

Appendix A gives a system overview of the multiple firing rate circulator overrun control methods.

Appendix B suggests an alternate test procedure to accommodate these efficiency enhancement features.

Appendix C describes a computation procedure for determining the fraction of time the burner operates at high fire, assuming 60 seconds of high fire operation at the start of each thermostat cycle.

Honeywell is requesting the allowance to use the weighted average method specified in Appendix B, including the use of the weighing factor of 16% fuel use at high fire.

Your consideration of this request for waiver from the Consumer Product Test Procedure will be very much appreciated.

Best regards,

Ralph Torborg

cc: Mr. John Talbot, Consumer Product Efficiency Branch, Conservation and Solar Energy, U.S. Department of Energy, Washington, D.C. 20585

Mr. Esher Kweller, National Bureau of Standards, Building 202, Room 204, Washington, D.C. 20234

Mr. Jack Langmead, GAMA, 1901 North Fort Meyer Drive, P.O. Box 9245, Arlington, VA 22209

Mr. John Woodworth, Hydronics Institute, 35 Russo Place, Berkely Heights, NJ 07922

Mr. Jack H. Hollingsworth, ASHRAE, 31061 Aliso Circle, South Laguna, CA 92677

Appendix A—System Overview Integrated Control System (ICS)

The Honeywell Integrated Control System is an advanced technology system that provides overall control of a gas-fired furnace or boiler by incorporating all necessary control functions.

The logic functions are performed by a microprocessor located within the System Control Module. This module contains the electronics required to interface the system components with the microprocessor. The system uses a two-stage gas valve with a redundant actuator. Proof of flame is provided by a conventional flame rod. The system utilizes a solid state temperature sensor which indirectly controls the circulator during normal operation, or shuts off the gas valve if an over-temperature condition exists.

Combustion air is controlled by a power combustion blower (PCB) assembly with an electronic speed control module to provide high or low combustion air. By controlling the speed of the PCB and the gas valve, the System Control Module can control combustion air and fuel for two-stage firing.

With this system, the capability to control the quantity of combustion air and gas independent of each other has significant safety, reliability and efficiency results. By executing ignition with high air and low gas (low F/A ratio) the possibility of flame-roll out from the vestibule is eliminated. Tests show that with a low F/A ratio, a smooth, quiet ignition is assured even after a 15 minute delay. This is because the F/A ratio goes below the ignition point rapidly as the distance off the burner surface increases. Once ignition is established, the system goes to high-fire to reduce the time the heat exchanger is exposed to corroding condensation with obvious reliability advantages.

- On forced warm air systems, it stays in high-fire for 60 seconds maximum or until the plenum temperature sensor reaches 140°F (but30 second minimum). Normally, this will result in a 60 second high-fire start.
- For hydronic systems, the boiler goes to high-fire on a call for heat and remains in high-fire until the H_2O temperature reaches 105°F (but 30 second minimum). Thus, the system may remain in high-fire each cycle for as little as 30 seconds or for several minutes depending on the mass of the boiler and return water temperature. For our calculations of high-fire fuel use, we assumed 60 seconds of high-fire operation at the start of each thermostat cycle. At all but very light loads, the return water would still be warm at the start of a heating cycle and would quickly be above 105°F even for relatively massive boilers. One minute of high-fire start, therefore, seems reasonable.

After the high-fire start the system goes to low-fire. If low-fire is inadequate to handle the load, the system automatically returns to high-fire.

The system utilizes a conventional single stage thermostat; but contains a special thermostat algorithm that operates the gas valve and the induced draft blower so as to efficiently match the heating load while maintaining a constant F/A ratio. The system will operate at a low firing rate, except after ignition as stated above and during conditions of morning setup or during exceptionally cold weather.

Two stage operation is controlled by a counter. If the call for heat remains on, in 10 minutes the counter will reach its maximum count and call for high-fire and high air. When the call for heat goes away, the burner shuts down and the counter resets to zero.

Circulator overrun operates as follows:

- On forced warm air systems, the circulator turns on 60 seconds after start-up or when the plenum temperature reaches 140° F, whichever occurs first. After the heat request is satisfied, the circulator continues to run until the warm air plenum temperature sensor drops to 95° F.
- After a call for heat on hydronic systems, the circulator comes on when the boiler H_2O temperature rises above 105° F. The circulator shuts down when the thermostat is satisfied.

Appendix B—Proposed Alternate Test Procedures

1. Perform entire test as specified in Appendix N to Subpart B contained in 10CFR, Part 430, with burner set at rated high-fire input. Circulator should be controlled by the ICS.

2. Repeat above test with appliance operating at its low-fire input.

3. Determine fraction of heating season fuel consumed at high-fire input (see Appendix C).

4. Determine the effective AFUE as follows:

AFUE (effective) = X (AFUE High) + (1–X) (AFUE Low)

Where X = % fuel used during high-fire operation = 16%

Example:

AFUE @ High-Fire—80%
AFUE @ Low-Fire—82%
% Time @ High-Fire—16%
AFUE (effective) = (.16 × 80) + (.84 × 82) = 81.7%

Appendix C

The fraction of heating season fuel consumed by the appliance at high-fire can be determined for various low-fire (derate) conditions. Low-fire derate is defined as the percent reduction form high-fire. In the ICS, low-fire output is about 60% of high-fire output (40% derate). The calculation procedure in Table 1 was used to determine the fraction of fuel consumed at high-fire for the ICS.

In the calculation procedure, the following assumptions were made:

(a) Burner starts each thermostat cycle at high-fire for 60 seconds.

(b) Thermostat cycling rate for the ICS with two stage firing is three cycles per hour @ 50% load.

(c) National average weather (Pittsburgh).

(d) Appliance is 70% oversize.

(e) Both steady state and cycling efficiency follow the trend shown in Figue 1.

(f) Cycling efficiency is Independent of cycling rate and/or thermostat load (Figure 2).

The heating season was divided into outdoor temperature "bins" (see Table 1). ΔT is the indoor/outdoor temperature difference, i.e., the difference between 65°F and the average of the "bin". Thus, ΔT represents the heating load in degrees. The heating season hours in each "bin" were determined from Pittsburgh (national average) weather data. The percentage load at high fire (H) is the ratio of the heating load, ΔT, to the temperature rise achievable by the appliance if it is on continously. The outdoor design temperature for Pittsburgh is 1°F (based on ASHRAE data, Pittsburgh airport temperature exceeds 1°F, 99% of the time during December, January, and February). The design load is thus 64°F (65°F–1°F). The temperature rise achievable by the appliance, assuming 70% over- size, is then 109°F (64°F × 1.7).

Thus, to calculate Col. 4, Table 1:

$H = \Delta T/109°F$

The next column "Total Hours Required (high-fire only)" shows the hours in each "bin" that the appliance must operate in high-fire to satisfy the load (Col. 3 × Col. 4).

The load at combined high-low fire (F_o) is defined in terms of the load at high fire (H) by the following expression:

$$F_o = \frac{0.68\sqrt{0.462 - 0.32H}}{0.016} \qquad (1)$$

The derivation of Equation 1 proceeds as follows:

The average energy output of a heating appliance a combined high-low fire for each temperature "bin" (Table 1) must be equal to the average output at high fire only (to satisfy the space heating demand).

$OUTPUT_{HI} = OUTPUT_{HI\text{-}Lo}$ (1a)

The average energy output is also equal to the instantaneous output at high fire (Q_{HI}) times the load at high fire (H)

$OUTPUT_{HI} = Q_{HI}H$ (1b)

At combined high-low fire, the energy output for one thermostat cycle is as follows:

$OUTPUT_{HI\text{-}Lo}/C = Q_{HI}\tau_1 + Q_{Lo}(\tau_{on} - \tau_1)$

where:

C = thermostat cycling rate
τ_1 = on time/cycle at Hi Fire
τ_{on} = on time/cycle for combined Hi-Lo Fire

Defining: $R = Q_{Lo}/Q_{HI}$

$OUTPUT_{HI\text{-}Lo} = C\,[Q_{HI}\tau_1 + RQ_{HI}(\tau_{on} - \tau_1)]$

From equations 1a and 1b:

$Q_{HI}H = C\,[Q_{HI}\tau_1 + RQ_{HI}(\tau_{on} - \tau_1)]$

Then:

$H = C\,[\tau_1 + R(\tau_{on} - \tau_1)]$ (2)

Now, to find an expression for the thermostat cycle-rate, C, In terms of the two-stage firing load, F_o, we must consider the operation of a typical thermostat with thermal or electronic anticipation. As discussed in "Guide to Room Thermostats," *Appliance Manufacturer*, Sept. 1971, p. 89, a thermostat consists of a temperature sensitive differential switch (e.g., mercury bulb with bi-metal) that receives some form of feedback or "anticipation." The anticipator response may be treated as a first-order lag and the resulting differential equation may be solved at the make and break points of the differential switch to determine τ_{on} and C as a function of percent heating load, F_o, as shown in Figure 3. The resulting expressions, however, are transcendental functions of F_o which must be solved iteratively. An approximation of this function which allows a closed form solution is given by:

$C = 4C_{so}F_o(1 - F_o)$ (3)

where C_{so} = thermostat cycle rate of half-load; e.g., three cycles per hour.

Equation 3 was obtained through a second order curve fit to curve C in Fig. 3.

The thermostat on-time is easily found, knowing F_o and C by noting:

$$F_o = \frac{\tau_{on}}{\tau_{on} + \tau_{off}}$$

$$C = \frac{1 \text{ cycle}}{\tau_{on} + \tau_{off}}$$

$$\tau_{on} = F_o\,(\tau_{on} + \tau_{off}) = \frac{F_o}{C} \qquad (4)$$

Solving equations 2, 3, & 4 simultaneously gives equation 5, given the following:

$C_{so} = 3$ cy/hr
$\tau_1 = 1/60$ hr
$R = 0.6$

$H = 0.68\,F_o - 0.08\,F_o$ (5)

Solving equation (5) using the quadratic formula gives equation (1). The negative value of the square root quantity must be used because the positive value results in a load greater than 100%.

F_o is calculated from Equation 1 and is tabulated for each "bin" in Table 1. The cycling rate (C) is then determined from equation 3 and shown in Table 1, Col. 7. The cycles per year (Col. 8) are equal to the cycles/hr. times the heating season hours in each temperature "bin".

The thermostat cycling rate (C) was calculated assuming a cycling rate of three cycles per hour at 50% load. A Honeywell T87 thermostat, with the anticipation set to match the gas valve current at high-fire, would cycle six times per hour at 50% load. However, at low-fire, because of the reduced anticipation current (one less gas valve operator), the thermostat will cycle three times per hour at 50% load. For solid state thermostats (no thermal anticipation) the cycling rate should be set at three cycles per hour (50% load).

The use of a two-stage firing control enables the use of a slower cycling thermostat to produce comfort conditions (i.e., room temperature fluctuations) identical

to a single stage firing control with a faster cycling thermostat. This is because the two stage control operates at low-fire, and hence at a lower capacity, for most of the heating season. As shown in Figure 4 (this figure is an unpublished extension of a study entitled "Analytical Predictions of Residential Electrical Heating System Performance," by Lorne W. Nelson and John L. Magnussen, *IEEE Transaction on Industry Applications*, Vol. 1A–10, No. 6, Nov./Dec. 1974), space temperature swings are 1) inversely proportional to the first order time constant which approximates the dynamic response of the appliance's heat output rate from a cold startup and 2) inversely proportional to the on/off cycling rate at half load. Additional unpublished studies have shown that space temperature swings are 1) directly proportional to the capacity of the appliance or appliance heating stage being cycled and 2) independent of load between 20%–80%. Thus, a given appliance operated at five cycles per hour at high-fire (Ref. DOE test procedure NBSIR 78–1543, page A–9) could be operated at three cycles per hour at a 40% derate firing rate with negligible difference in space temperature swings (as shown in Figure 4) for a given appliance time constant. Moreover, derating a given appliance increases the appliance time constant (smaller heat input rate for the same thermal mass) which reduces space temperature swings even further. Therefore, an appliance normally operated by a 5–6 cycle per hour thermostat could be operated by a three cycle per hour thermostat with two stage control with no noticeable effect on homeowner comfort.

The existing DOE test procedure is based on a thermostat cyclng rate of five cycles per hour at 50% load. The test procedure also is based on a load of 22.5%. With the ICS, the duty cycle will be considerably higher because the appliance will operate at low-first most of the heating season. Also, the cycling rate will be lower (as described above). With a power-combustion-blower equipped heating appliance the effect of thermostat cycling rate and % load on the energy performance is very small due to low off-cycle losses (see Figure 2). The DOE test procedure, then, will give accurate representation of the energy performance of a heating system equipped with an ICS.

Referring again to Table 1, the hours accumulated in high-fire start up (60 seconds each thermostat cycle) are calculated for each "bin" based on the number of thermostat cycles per year. This data is shown in Table 1, Col. 9. When low-fire is inadequate to supply the required heat, the control system reverts to high-fire.

For the ICS with a 40% derate, low-fire (with a 60 second high-fire start each burner cycle) will satisfy the heating demand for all but the two "coldest" temperature "bins" (The maximum Δ° satisfied by low fire (60% of high fire output) is $0.6 \times 109^{\circ}F = 65^{\circ}F$.) Since these "bins" represent less than 0.5% of the heating season hours, they were ignored.

The total hours the appliance operates at high-fire is then simply the hours accumulated during the 60 second high-fire starts. The ratio of the total high-fire start hours (218.2) to the hours required to satisfy the entire heating season load at high-fire (1,372.7) determines the fraction of fuel used at high-fire. For the ICS, this fraction was determined to be 0.16; i.e., 16% of the annual fuel consumption is consumed with the heating appliance operating at high-fire. The effective seasonal efficiency (AFUE) can then be determined from the procedure described in Appendix B.

TABLE 1.—PROCEDURE FOR DETERMINING PERCENT HIGH FIRE FUEL USE AT 40 PERCENT LOW-FIRE DERATE

Pittsburgh Weather 70 percent Oversize

Temperature Bins (F)	Δ T	Heating season hours	(H) Hi-fire percent load	Total Hr. required (Hi-fire only)	(F_o)Hi/Lo combined percent load	Thermostat C		60 Second Hi-fire start (hours)
						Cycle/Hr.	Cycle/Yr.	
60 to 64	3	823	2.8	23.0	4.4	0.5	412	6.9
55 to 59	8	691	7.3	50.4	10.6	1.13	781	13.0
50 to 54	13	643	11.9	76.5	18.1	1.80	1,157	19.3
45 to 49	18	583	16.5	96.2	25.0	2.25	1,312	21.9
40 to 44	23	624	21.1	131.7	32.5	2.63	1,641	27.4
35 to 39	28	680	25.7	174.8	40.0	2.87	1,952	32.5
30 to 34	33	784	30.3	237.6	47.5	2.98	2,336	38.9
25 to 29	38	541	34.9	188.8	55.0	2.95	1,596	26.6
20 to 24	43	326	39.4	136.3	62.5	2.80	989	16.2
15 to 19	48	226	44.0	99.4	70.6	2.48	560	9.3
10 to 14	53	163	48.6	79.2	85.0	1.52	248	4.1
5 to 9	58	82	53.2	43.6	87.5	1.30	107	1.8
0 to 4	63	40	57.8	23.1	96.3	0.45	18	0.3
−5 to (−1)	68	15	62.4	9.4	100.6	0	0	
−10 to (−6)	73	4	67.6	2.7	115.0	0	0	
Total				1,372.7				218.2

High-Fire Fuel Use:

$$\frac{218.2}{1371.7} = .16$$

BILLING CODE 6450-01-M

Figure 2

INTEGRATED CONTROL SYSTEM STUDY
INDUCED DRAFT FAN FURNACE, 1-ZONE U.S. HOUSE
72# OVERSIZED PITTSBURGH WEATHER, OUTDOOR TEMP = 42F

LEGEND
CYCLE RATE OF 6
CYCLE RATE OF 5
CYCLE RATE OF 4
CYCLE RATE OF 3

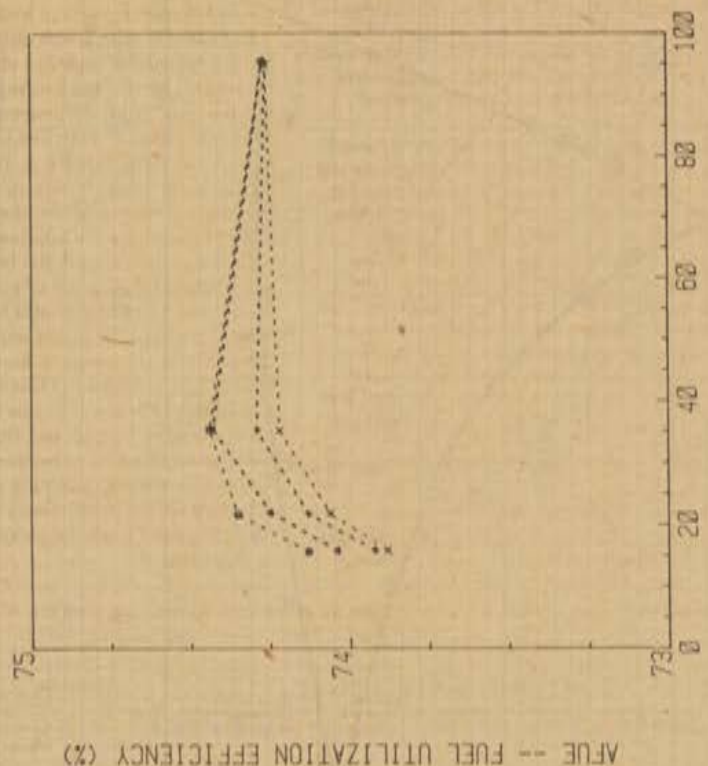
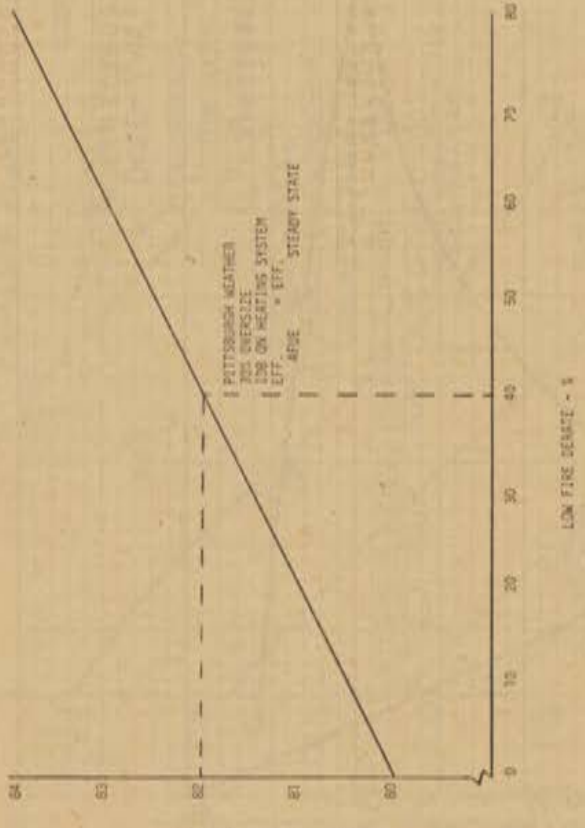


FIG 1. TYPICAL EFFICIENCY VS. DEMAND
(ASSUMED VALUES)



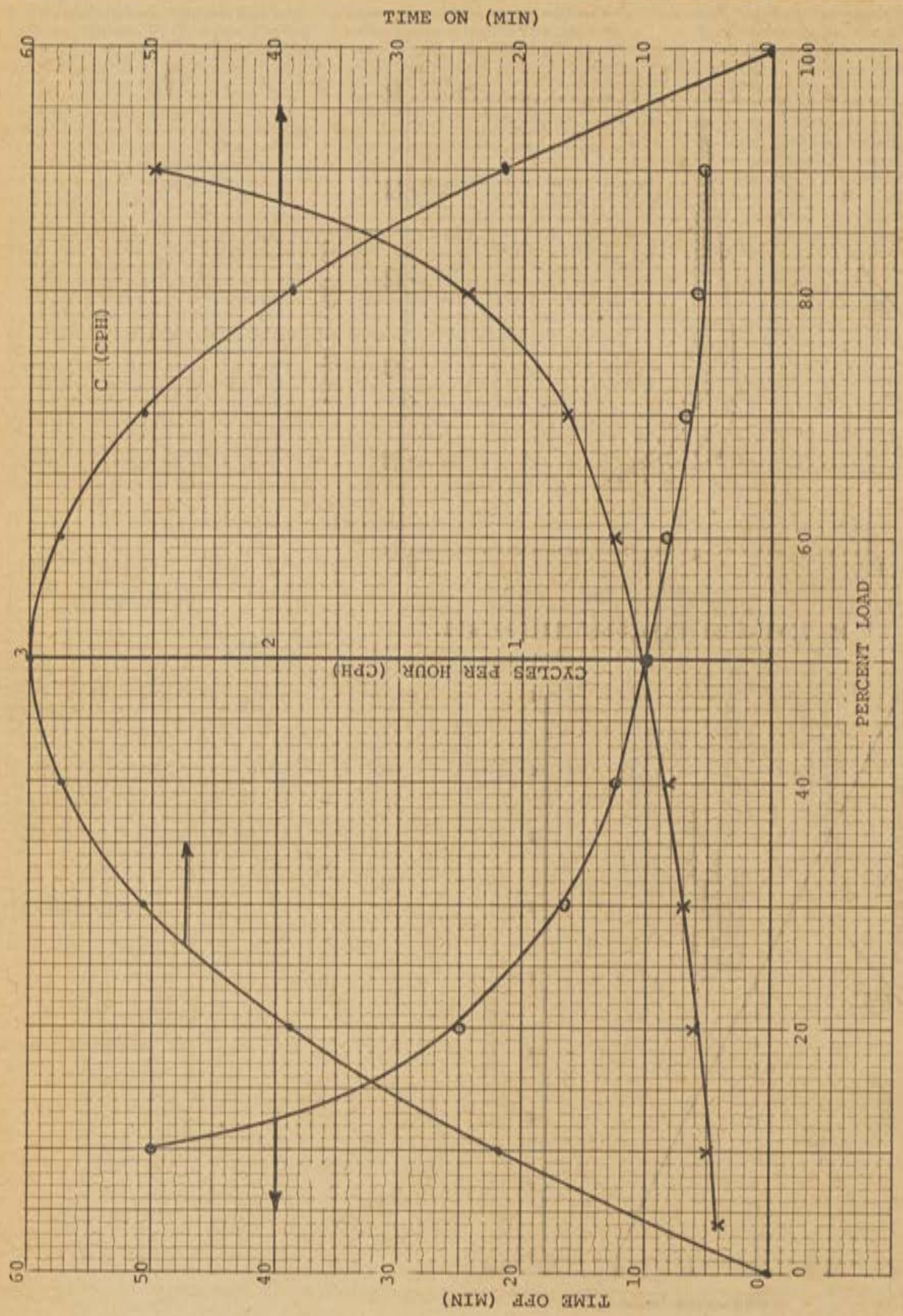
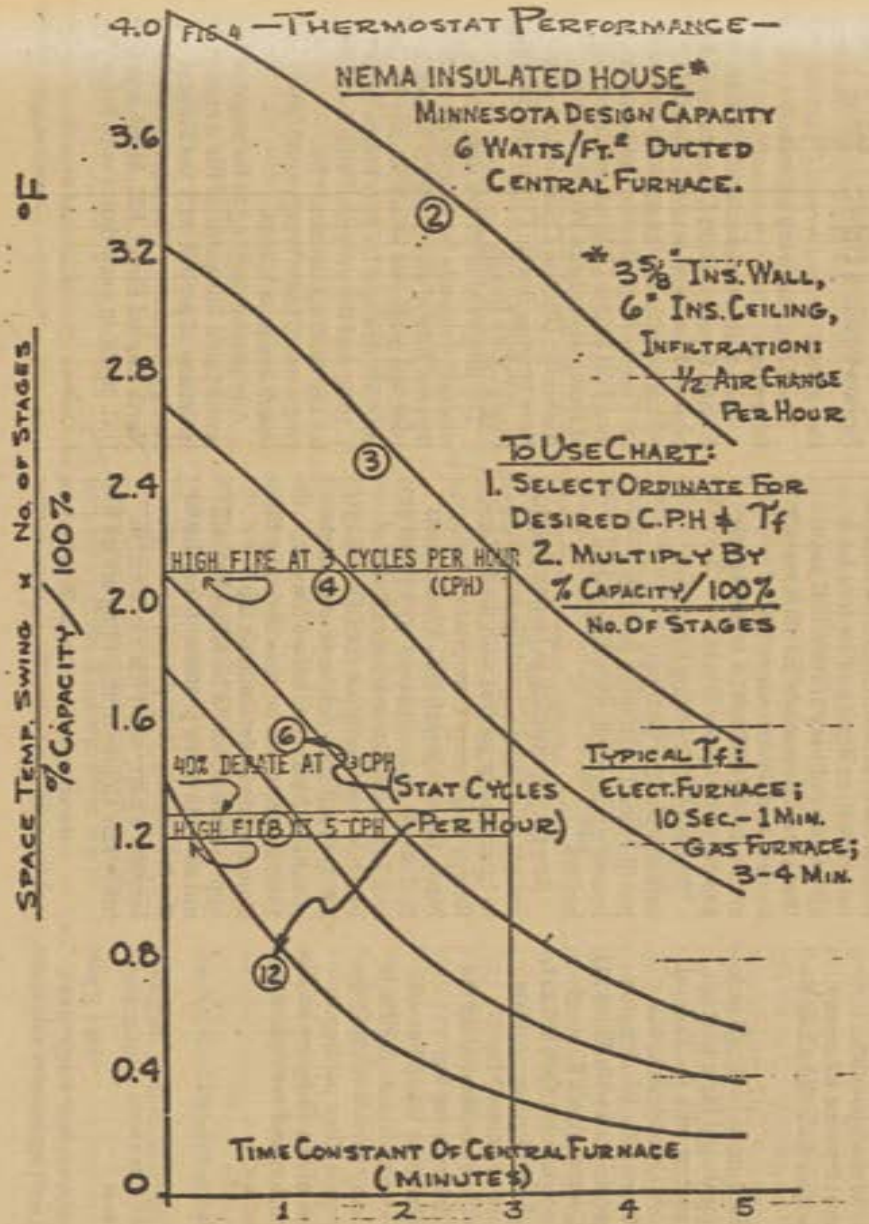
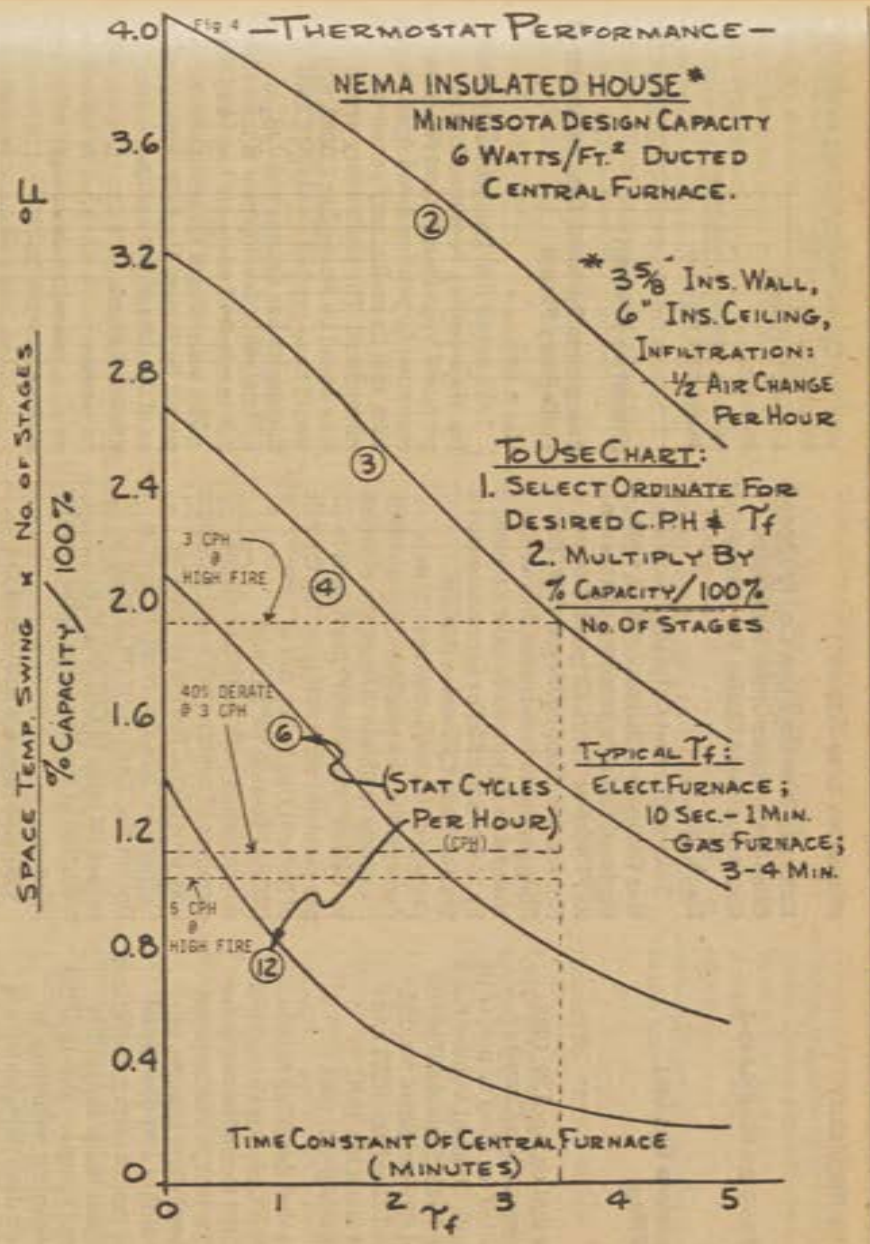


FIGURE 3 THERMOSTAT CYCLE RATE VERSUS LOAD





[FR Doc. 83-10635 Filed 5-12-83; 8:45 am]
BILLING CODE 6450-01-C

Federal Energy Regulatory Commission

[Docket No. TA83-2-21-001 (PGA83-2, IPR83-2)]

Arkansas Louisiana Gas Co.; Compliance Filing

May 9, 1983.

Take notice that on April 29, 1983, Arkansas Louisiana Gas Company (Arkla) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3, Rate Schedule X-26, Second Substitute Thirty-Second Revised Sheet No. 185, Second Revised Sheet No. 187A and Third Revised Sheet No. 187C, to become effective April 1, 1983.

Arkla states that this filing is in compliance with Ordering Paragraphs (C) and (D) of the Commission's order dated March 31, 1983, which required Arkla to file tariff sheet changes on exchange gas within a 30-day period. This filing also makes certain reductions in cost projections in the supporting work sheets and summary sheets of the PGA filing concerning reductions in costs for certain deep deregulated gas and certain tight formation gas.

Arkla states that copies of the filing were mailed to the one customer, Northwest Central Pipeline Company, served under Arkla's Rate Schedule X-26.

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 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 May 17, 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. 83-12824 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-32-001]

Colorado Interstate Gas Co.; Proposed Changes in Rates Under Purchased Gas Adjustment Clause Provisions

May 9, 1983.

Take notice that Colorado Interstate Gas Company (CIG) on April 29, 1983, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective May 1, 1983. The filing proposes to decrease the rates charged to its jurisdictional customers by 25 cents per Mcf or approximately $73.4 million. CIG states that the proposed rate reduction results from decreases in gas purchased costs which it expects to obtain through the exercise by CIG of "market-out" provisions in gas purchase contracts covering the sale of Natural Gas Policy Act of 1978 (NGPA) Section 107 gas and renegotiation with certain producer suppliers of contract price and minimum take provisions. Northwest Pipeline Corporation has also recently filed in Docket No. TA83-3-37 (PGA83-3) to reduce its rates to CIG due to a reduction of the Canadian export border price.

CIG also requests waivers of the Natural Gas Act, the Commission's regulations thereunder, and its tariff provisions in order to make this special rate reduction filing and for it to be effective as of May 1, 1983. CIG says that good cause exists for such waiver since it and its customers are encountering difficulties in marketing gas at present price levels.

Copies of CIG's filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

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 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 May 17, 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. 83-12825 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6268-001]

Energenics Systems, Inc.; Surrender of Preliminary Permit

May 9, 1983.

Take notice that Energenics Systems, Inc. (Energenics), Permittee for the proposed Vega Dam Project No. 6268, requested by petition dated April 12, 1983, that its preliminary permit be surrendered. The preliminary permit was issued on November 2, 1982, and would have expired on May 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. 6268 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12826 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-480-000]

Florida Power & Light Co.; Filing

May 9, 1983.

The filing Company submits the following:

Take notice that on April 27, 1983, Florida Power & Light Company (FPL) tendered for filing seven (7) Exhibits A which provide for the contract demands for Florida Keys Electric Cooperative, Inc.; Fort Pierce Utilities Authority; City of Homestead; Lake Worth Utilities Authority; Utilities Commission, City of New Smyrna Beach; City of Starke; and City of Vero Beach.

The proposed effective date for the contract demands for Florida Keys, New Smyrna Beach, and Starke is March 1, 1982; the proposed effective date for the contract demand for Fort Pierce is April 1, 1983; and the proposed effective date for the contract demands for Homestead, Lake Worth and Vero Beach are June 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene of 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 May 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. 83-12827 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-40-000]

Idaho Power Co.; Notice of Application

May 9, 1983.

Take notice that on May 2, 1983, Idaho Power Company (Applicant), filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking on Order authorizing the Applicant to (a) finance the construction of the Applicant's 50% undivided interest in certain pollution control facilities at the North Valmy Power Plant Unit No. 2 through a loan agreement with Humboldt County, Nevada (the "County") which provides for the issuance by the County of not to exceed $55,000,000 aggregate principal amount, from time to time, outstanding of pollution control revenue notes, the loan of the proceeds to Applicant in return for the issuance of a note of the Applicant to the County, and (b) the assumption of liability as guarantor of the principal of and interest on the notes of Humboldt County, issued in an amount not to exceed $55,000,000 and having maturities not later than May 15, 1990.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before May 26, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12828 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-270-000]

K N Energy, Inc.; Request Under Blanket Authorization

May 9, 1983.

Take notice that on April 12, 1983, K N Energy, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP83-270-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to construct and operate an additional delivery point to an existing direct sale customer, Nebraska Public Power District (NPPD), under the authorization issued in Docket Nos. CP83-140-000 and CP83-140-001 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.

Applicant states that NPPD has requested a change in delivery points by adding a new delivery point in the vicinity of Sutherland, Nebraska, for the delivery of gas for use in NPPD's Gerald Gentleman Power Plant at that location. It is asserted that the cost of constructing the new delivery point and appurtenant facilities including approximately 6.5 miles of 6-inch lateral pipeline would be reimbursed by NPPD.

Applicant explains that NPPD has requested that deliveries of gas to the Ogallala, Nebraska, plant be moved to the Sutherland delivery point. It is indicated that NPPD intends to cease operation of its Ogallala plant as of June 30, 1983, but that some additional gas deliveries would be required for a period of time for maintenance or for sale demonstration purposes. Applicant asserts that NPPD's combined usage at the Ogallala and Sutherland plants would not exceed the present annual volumetric limitation of 747,953 Mcf.

Applicant states that gas at the Sutherland plant would be used for flame stabilization, ignition fuel and auxiliary boiler fuel for back-up space heating.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to 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. 83-12829 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-54-000]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

May 9, 1983.

Take notice that on May 2, 1983, Louisiana-Nevada Transit Company (Louisiana) tendered for filing proposed changes in its FERC Gas Tariff Volume I. The proposed changes are to reflect changes in purchased gas cost as provided in the company's Purchase Gas Adjustment Clause applicable to its Rate Schedule No. G-1 and X-2. The change provides for a total adjustment of 18.86¢ per Mcf including a deferred gas cost adjustment of (1.66)¢ per Mcf, to amortize a deferred balance, and a cumulative cost of gas adjustment of 20.52¢ per Mcf.

Louisiana states that copies of the filing were served upon the company's jurisdictional customer and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 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 May 17, 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 complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12830 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-262-000]

Michigan Wisconsin Pipe Line Co.; Application

May 9, 1983.

Take notice that on April 5, 1983, Michigan Wisconsin Pipe Line Company

(Mich Wisc), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP83-262-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Texas Eastern Transmission Corporation (Tetco) from Vermilion Parish, Louisiana, to St. Landry Parish, Louisiana, pursuant to an agreement dated November 9, 1982, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Mich Wisc states that Tetco has an available supply of gas in the South Riceville Field in Vermilion parish pursuant to a gas purchase contract with Cornell Oil Company, *et al.*, dated April 1, 1982. Mich Wisc indicates that it would transport up to 2,600 Mcf per day (contract demand) at a rate of $1.31 per Mcf of contract demand. Mich Wisc states that it would receive the gas at a proposed interconnection of its lateral pipeline facilities with Tetco's proposed line near the source of the gas in Vermilion Parish and would deliver equivalent volumes at an existing interconnection of Mich Wisc and Tetco's pipeline facilities in St. Landry Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 31, 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 Practive and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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

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

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12831 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP76-91-014]

Montana-Dakota Utilities Co.; Compliance Filing

May 9, 1983.

Take notice that on April 29, 1983, Montana-Dakota Utilities Company (MDU) submitted a filing in compliance with Article VII(3) of the *Amendment of Stipulation and Agreement in Settlement of Remaining Issues*, as filed by MDU on December 4, 1981, and approved by the Commission on February 19, 1982. MDU's filing includes the following:

Article VIII(3)(a): MDU's calculation of deliverability life. (Schedule A)

Article VIII(3)(b): MDU's average cost of purchased gas for on-system and off-system customers from the Co.'s two most recent PGA filings with the FERC. (Schedule B)

Article VIII(3)(c): MDU's average cost per MCF of the highest priced 15 percent, by volume, of the gas purchased from producers for sale to on-system customers, as separately determined from each of MDU's two most recent PGA filings with the FERC. (Schedule B)

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 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 May 17, 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. 83-12832 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-497-000]

Montana Power Co.; Cancellation

May 9, 1983.

The filing Company submits the following:

Take notice that on April 25, 1983, the Montana Power Company (Montana) tendered for filing a Notice of Cancellation of Rate Schedule Nos. 13, 57, 63, 64, 65, 66, 67, 68, 69, 98, 118, 119 and 120. Montana states that these agreements have expired as of their own terms and have not been renewed.

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 May 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. 83-12833 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-63-001]

National Fuel Gas Supply Corp.; Filing of Motion To Place Into Effect Revised Tariff Sheets

May 9, 1983.

Take notice that on April 29, 1983, National Fuel Gas Supply Corporation (National Fuel) submitted for filing, pursuant to Section 4(e) of the Natural Gas Act, as amended, and Section 154.67 of the Regulations of the Federal Energy Regulatory Commission thereunder, a motion to place the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, into effect as of May 1, 1983, subject to refund:

Substitute Forty-second Revised Sheet No. 4 [1]
First Revised Sheet No. 8a

Through its motion, National Fuel also seeks to place into effect the following sheets to its FERC Gas Tariff, First Revised Volume No. 2, as of May 1, 1983, subject to refund:

Third Revised Sheet No. 282
Third Revised Sheet No. 302
Third Revised Sheet No. 322
Third Revised Sheet No. 342

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 Rules 211 or 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 May 17, 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 filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12834 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-481-000]

New England Power Co.; Tariff Amendment

May 9, 1983.

The filing Company submits the following:

Take notice that on April 27, 1983, New England Power Company (NEP) submitted for filing an amendment to its FERC Electric Tariff, Original Volume Number 3, in order to make provision for wheeling services performed on the Primary Distribution systems of its Rhode Island and New Hampshire affiliates, The Narragansett Electric Company and Granite State Electric Company.

NEP requests an effective date of June 27, 1983 and requests waiver of the Commission's Regulations for good cause shown.

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 Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211, 385.214). All such motions or protests should be filed on or before May 2, 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. 83-12835 Filed 5-13-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-170-001]

Niagara Interstate Pipeline Co.; Amendment

May 9, 1983.

Take notice that on March 25, 1983, Niagara Interstate Pipeline System (Applicant), Tenneco Building, 1010 Milam, Houston, Texas 77001, filed in Docket No. CP83-170-001 an amendment to its application filed in Docket No. CP83-170-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect a reduction in the volumes of natural gas to be transported and modifications of the facilities to be constructed and operated, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its pending application filed January 25, 1983, in Docket No. CP83-170-000 seeks authorization to construct and operate a natural gas pipeline and related facilities extending from the U.S.-Canadian border near Niagara Falls, New York, to a point close to the Leidy storage field near Tamarack, Pennsylvania, and to transport natural gas through these facilities for Algonquin Gas Transmission Company (Algonquin), Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Texas Eastern Transmission Corporation (TETCO) and Transcontinental Gas Pipe Line Corporation (Transco). Such facilities, it is asserted, would include approximately 48.6 miles of 48-inch pipeline from the Canadian border to East Aurora, New York, and approximately 112.7 miles of 42-inch pipeline from East Aurora to Tamarack, Pennsylvania, together with 21,000 horsepower of compression at East Aurora and 38,000 horsepower of compression at Tamarack. According to Applicant, the estimated cost of the proposed facilities is $417,817,000.

Applicant states that the facilities and services proposed in its application were designed to accommodate the transportation of the volumes of natural gas which the shippers and others had sought authority to import from Canada in related applications that were pending before the Commission. Applicant proposed to transport 2,518,783 Mcf of gas per day for the shippers.

Applicant states that on January 27, 1983, the Canadian National Energy Board (NEB) issued a decision which authorized the export of lesser volumes at Niagara Falls than had been requested. It is further stated that as a result of that decision Applicant is amending its application to reflect alteration of its proposed facilities and services consistent with the decreased volumes authorized for export.

Applicant states that in view of the reduced volumes which the NEB has authorized for export the design of Applicant's system has been modified in two principal respects. First, it is asserted that the portion of Applicant's system from the Niagara River crossing to East Aurora would now consist of a 42-inch pipeline instead of the 48-inch pipeline previously proposed. Applicant further states that its system would include a single compressor station of approximately 11,600 horsepower at Tamarack in lieu of the two larger stations that had been proposed.

Applicant states that it now seeks authority to transport maximum daily volumes of up to 50,979 Mcf for Algonquin, up to 500,000 Mcf for Tennessee, up to 151,979 Mcf for TETCO, and up to 614,822 Mcf for Transco.

Applicant states that the estimated total cost of the proposed facilities, as modified, is $322,513,000. Applicant proposes to project finance the cost of these facilities and states that it still would attempt to obtain a 75 percent/25 percent debt/equity capital structure.

Applicant states that it proposes to provide service under revised versions of its proposed pro forma Rate Schedule-FERC Gas Tariff and of the proposed form of service agreement under that rate schedule.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 31, 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

[1] Forty-second Revised Sheet No. 4 has been amended so as to adjust the proposed rates to reflect the applicable surcharge adjustments.

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. All persons who have heretofore file need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12836 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-9-000 (PGA83-2)]

Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.; Rate Change Under Tariff Rate Adjustment Provisions

May 9, 1983.

Take notice that on May 4, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) tendered for filing Substitute Eighth Revised Sheet No. 21 to Original Volume No. 1 of its FERC Gas Tariff to be effective May 1, 1983.

Tennessee states that the purpose of the revised tariff sheets is to reduce Tennessee's gas rates pursuant to Section 2 of Article XXIII of the General Terms and Conditions of its FERC Gas Tariff to reflect implementation of the emergency gas purchase policy which Tennessee made effective May 1, 1983.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said complaint should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with 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 May 17, 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 complaint are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12837 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-268-000]

Texas Eastern Transmission Corp.; Request Under Blanket Authorization

May 9, 1983.

Take notice that on April 11, 1983, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP83-268-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to increase the capacity of an existing delivery point to Valley Gas Company (Valley Gas) under the authorization issued in Docket No. CP82-535-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to increase the capacity of its existing M&R Station No. 1189 located in Blair County, Pennsylvania. It is asserted that Applicant and Valley Gas are preparing to execute a superseding service agreement providing for the purchase by Valley Gas of quantities of natural gas under Applicant's Rate Schedules GS-D, DCQ-D and I-D which would reflect an increase in the maximum daily delivery obligation at M&R Station No. 1189 from 395 dt equivalent to a 3,542 dt equivalent. It is stated that there would be no changes in the maximum daily delivery obligation at the other delivery points listed in the superseding service agreement. It is stated that the natural gas quantities delivered would be utilized as general system supply by Valley Gas. Applicant states that it would be reimbursed for the cost of enlarging M&R Station No. 1189 by Penn Fuel Gas, Inc., a holding company for Valley Gas.

It is submitted that sales of natural gas to Valley Gas would be performed pursuant to Applicant's Rate Schedule GS-D, DCQ-D and I-D and that Applicant's existing tariff does not prohibit the expansion of M&R Station No. 1189. It is stated that the modifications would have no effect on Applicant's peak day or annual deliveries and total volumes covered under the current service agreement with Valley Gas would not be changed. Further, it is asserted that the proposed modification would be accomplished without detriment or disadvantage to Applicant's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to 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. 83-12838 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-131-001]

Texas Eastern Transmission Corp.; Petition To Amend

May 9, 1983.

Take notice that on April 19, 1983, Texas Eastern Transmission Corporation (Tetco), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-131-001 a petition to amend the order issue May 14, 1982, in Docket No. CP82-131-000, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for New Jersey Natural Gas Company (New Jersey) for an additional six months, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Tetco proposes to extend the existing transportation service to New Jersey for a period of up to six months at an increased transportation quantity of up to 1,000 dt equivalent of natural gas per day pursuant to the terms and conditions of a gas transportation agreement between Tetco and New Jersey dated April 4, 1982.

It is asserted that Tetco would charge New Jersey its presently effective TS-1 basic rate per dt equivalent delivered under Tetco's Rate Schedule TS-1; provided, however, for all gas transported and delivered hereunder which, when added to the quantities of natural gas delivered to New Jersey under Tetco's Rate Schedule TS-1, non-firm SS-II and other transportation agreements, exceed the combined total

curtailment of natural gas sales to New Jersey under all of Tetco's firm sales rate schedules, New Jersey would pay Tetco the applicable effective TS–1 excess rate per dt equivalent delivered under Tetco's Rate Schedule TS–1.

It is asserted that Tetco is now authorized to transport up to 300 dt equivalent of gas per day but that New Jersey has acquired a share in the production of several wells drilled in western New York State which it desires to have transported to help fulfill its need for a greater natural gas supply.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 31, 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 the 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. 83-12839 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-58-002]

Texas Gas Pipe Line Corp.; Tariff Sheet Filing

May 9, 1983.

Take notice that on May 2, 1983, Texas Gas Pipe Line Corporation (Texas Gas), pursuant to § 154.38 of the Commission's Regulations under the Natural Gas Act, filed a Ninth Revised Sheet No. 4a to its FERC Gas Tariff, Second Revised Volume No. 1. Texas Gas states that the filed tariff sheets relate to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision contained in Section 12 of the General Terms and Conditions of the tariff. More specifically, Ninth Revised Sheet No. 4a reflects a net decrease under that currently being collected to 9.89¢ (at 14.65 psia) to be effective June 1, 1983.

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 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 May 17, 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 availale for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-12840 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-256-000]

Texas Sea Rim Pipeline, Inc.; Application

May 9, 1983.

Take notice that on March 29, 1983, Texas Sea Rim Pipeline, Inc. (Applicant), P.O. Box 4100, The Woodlands, Texas 77380, filed in Docket No. CP83–256–000 pursuant to Sections 311(a)(1) and 311(a)(2) of the Natural Gas Policy Act of 1978 an application for authorization to transport natural gas for a term in excess of two years by means of its 12-inch intrastate pipeline and its 14-inch interstate pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its 12-inch intrastate pipeline has been transporting the State of Texas' royalty gas produced from State Pooled Unit Block 14L, Sabine Pass Area, offshore Texas (Block 14L) and that its interstate pipeline has been transporting. The Superior Oil Company's (Superior), natural gas which is produced from Block 14L as well as transporting Natural Gas Pipeline Company of America's (Natural) volumes produced by Superior from the Sabine Pass Area Block 9 Field, offshore Texas. Applicant asserts that due to declining pressures in some of the offshore wells, onshore compression is required and that volumes currently flowing through its intrastate line will have to be transported through its interstate line and volumes currently flowing through its interstate line will have to be transported through its intrastate line. Under the proposed transportation arrangement, Applicant's 14-inch interstate line would be used to hook up all of the wells requiring compression with onshore compression facilities. The 12-inch intrastate line would transport gas from the remaining wells not requiring compression, it is asserted.

Applicant states that the 14-inch interstate line would transport approximately 8,000,000 Mcf over the remaining life of the field on behalf of the 12-inch intrastate line. It is stated that this gas will be received at Superior Offshore Platform No. 2 in Block 14L, and delivered to United Texas Transmission Company (UTTCO), at the tailgate of Applicant's onshore facilities in Jefferson County, Texas. Further, it stated that the 12-inch intrastate line would in turn transport approximately 90,000,000 Mcf over the remaining life of the field for the 14-inch interstate line. This gas will be received at Superior offshore platform No. 1 in Block 14L, and delivered to Natural at an existing delivery point in Jefferson County, Texas, it is submitted.

Applicant requests Commission approval of the proposed transportation services for a period of seven years at which time it is anticipated that the field will be depleted. The transportation services would commence upon receipt of a Commission order authorizing the services proposed in this application. The rate to be charged by the 14-inch interstate line to Natural for dry gas deliveries of the Sabine Pass Block 9 production is yet undertermined pending completion of rate settlement issues in Applicant's Docket No. CP81–438–000. It is stated that currently, a rate of 5.37 cents per Mcf is being charged subject to refund in that docket. Applicant states that the rate to be charged by the 12-inch intrastate line would be the 11.0 cents per Mcf rate as authorized by the Texas Railroad Commission for the volumes delivered for UTTCO's account at the onshore delivery point. Applicant states that both the 12-inch intrastate and the 14-inch interstate lines have sufficient capacity to perform such transportation services and to meet their other system obligations.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 31, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the 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. 83-12841 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-11-004 and RP83-30-004]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

May 9, 1983.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on April 29, 1983 tendered for filing certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff. Transco states that the purpose of its filing is to revise its tariff relating to the minimum bill provisions of Transco's CD and ACQ Rate Schedules consistent with Artice XI of the Settlement Agreement in Docket Nos. RP83-11 and RP83-30, which Settlement Agreement was approved by Commission letter order issued April 28, 1983.

Transco states that certain minor modifications to the applicable tariff sheets submitted with the Settlement Agreement filed by Transco on April 13, 1983 are necessary to give effect to the provisions of Article XI whereunder Transco's minimum bill charges are to be revised to eliminate the cost of gas, fuel component, and all surcharges.

Transco has requested that its filing in this case be made effective on May 1, 1983 and it requests a waiver of notice requirement in order to implement the proposed changes as of the date.

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 Rule 214 and Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before May 17, 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. 83-12842 Filed 5-12-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of April 18 Through April 22, 1983

During the week of April 18 through April 22, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 6, 1983

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeals

Cladouhos & Brashares, 4/22/83; *HFA-0121*

Cladouhos & Brashares filed an Appeal from a partial denial by the Acting disclosure Officer of the DOE Office of Special Counsel of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Disclosure Officer had failed to adequately explain how the withheld material meets the test set forth by the federal courts in determining the applicability of Exemption 4. Accordingly, the matter was remanded to the Disclosure Officer for a revised determination.

Edward T. Cotham, Jr., 4/18/83; *HFA-0127*

Edward T. Cotham, Jr. filed an Appeal from a partial denial by the Office of Special Counsel of the Economic Regulatory Administration of a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). In the course of reviewing Cotham's Appeal, the Office of Special Counsel indicated that it no longer believed there was any statutory grounds for withholding the relevant portions of the requested document. Accordingly, the Appeal was granted.

Request for Exception

State of Alaska, 4/19/83; *HEE-0028*

The State of Alaska filed an Application for Exception from the provisions of 10 CFR Parts 450 and 455 in which the state sought permission to apply for federal grant which would enable it to reduce consumption and associated costs of conventional energy resources in certain public care institutions. In considering the request, the DOE found that exception relief was warranted because Alaska is uniquely and adversely affected by the "ten minor person requirement" of § 455.2. Accordingly, exception relief was granted.

Motion for Discovery

Jack E. Guenther Double U Oil Co., 4/18/83; *HRD-0012, HRD-0008*

On November 10, 1981 Jack E. Guenther, and Double U Oil Co. (petitioners) filed Motions for Discovery in connection with Proposed Remedial Orders issued to them on July 28, 1982, and June 1, 1981, respectively. In their motions the petitioners requested various documents relating to: (i) the term "property"; (ii) the DOE's authority to assess interest and to order the payment of refunds to the U.S. Treasury; (iii) the allocation of overcharges; (iv) the proper interpretation of 10 CFR 210.62(C) and; (v) the identity of DOE employees consulted in the enforcement process. On April 18, 1983, the OHA issued a Decision and Order denying the petitioners' requests in their entirety.

Interlocutory Order

Texaco Inc., 4/21/83; *HRZ-0145*

Texaco Inc. sought reconsideration of an OHA order directing it to file a Statement of Legal Objections to a Proposed Remedial Order that was issued to the firm on May 1, 1979, by the Office of Special Counsel. Finding that Texaco had failed to show any good cause for rescinding the prior Order, OHA denied the motion.

Refund Applications

Alfred B. Alkek/Adams Resources and Energy, Inc., 4/18/83; *FR8-10*

On April 23, 1982, William L. Theisen filed an Application for Refund pursuant to a Decision and Order issued on April 8, 1982 in *Office of Enforcement*, 9 DOE ¶82,553 (*Alkek/Adams*). In his application, Theisen sought a portion of the funds obtained by the DOE through a consent order entered into by McFarland Energy, Inc. These funds were later consolidated into the *Alkek/Adams* proceeding. In considering the request, the DOE found that Theisen was not eligible for a refund because he had not demonstrated that he had suffered an injury due to McFarland's alleged regulatory violations. Accordingly, Theisen's Application for Refund was denied.

Standard Oil Company (Indiana)/ Bigane Oil Company, et al., 4/22/83; *RF21-854 et al.*

The DOE issued a Decision and Order concerning 43 Applications for Refund filed by consumers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 43 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $29,380.

Standard Oil Company (Indiana)/ Hank's Amoco, 4/18/83; *RF21-6115*

The DOE issued a Supplemental Order concerning a March 2, 1983 Decision and Order issued to Hwy 55 Standard, Hank's Amoco (Hank's) and a number of other retailers of Amoco gasoline. *See Standard Oil Company (Iniana)/Hwy 55 Standard,* 10 DOE ¶85,070 (1983). In the March 2 Decision and Order, the DOE had concluded that Hank's should receive a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel,* 10 DOE ¶85,048 (1982). In the Supplemental Order, the DOE reduced the refund to Hank's based on revised data which the firm had submitted.

Standard Oil Co. (Indiana)/ Laclede Gas Company, 4/20/83; *RF21–4396*

Laclede Gas Company (Laclede) filed an Application for Refund pursuant to 10 C.F.R. Part 205, Subpart V, seeking a portion of the $72 million obtained by the DOE through a consent order entered with Standard Oil Company (Indiana) ("Amoco"). In its application, Laclede requested a refund on volumes of NGL's it sold directly to consumers as a regulated utility. In considering Laclede's claim, the DOE determined that Laclede's statement of how it would pass the refund on to its customers met the requirement established in *Office of Special Counsel: In the Matter of Standard Oil Company (Indiana),* 10 DOE ¶85,048 (1982). Accordingly, the DOE granted Laclede's refund application.

Refund Application

Vickers Energy Corporation/Meramec Oil Company, Vickers Energy Corporation/ Delano Oil Company, April 19, 1983; RF1–254, RF1–255

The DOE issued a Decision and Order concerning Applications for Refund filed by Meramec Oil Company and Delano Oil Company, motor gasoline resellers, which sought portions of the Vickers Energy Corporation consent order fund. Meramec and Delano sought refunds based upon purchases of Vickers motor gasoline that exceeded the small claim threshold figure of 50,000 gallons per month, and therefore submitted detailed information concerning their business operations. After analyzing this information, the DOE found that Meramec and Delano constituted a single "firm" under the applicable regulations and concluded that they were injured by the alleged overcharges and should receive a combined refund based upon the volume of their Vickers motor gasoline purchases for which they made a showing of injury. Accordingly, the Applications for Refund were granted in part.

Vickers Energy Corp./Zephyr, Inc., April 18, 1983; RF1–21

Zephyr, Inc. filed an Application for Refund in the Vickers Energy Corporation Special Refund Proceeding pursuant to 10 CFR Part 205, Subpart V. Zephyr requested a refund on the basis of its entire purchases of motor gasoline from Vickers during the period May 1976 through March 1979. The firm purchased more than 50,000 gallons of motor gasoline from Vicker in each month of the consent order period. In reviewing the refund application, the OHA found that Zephyr failed to provide detailed market information regarding the operation of the firm as a whole. The OHA determined that information regarding Zephyr's firmwide operation was a necessary prerequisite to establishing its eligibility for a refund in order to determine the extent of any injury it might have suffered as a result of Vickers' alleged regulatory violations. In addition, Zephyr failed to provide any data to support its claim that it received a lower profit on its sales of Vickers product than on its sales of non-Vickers product. Zephyr's refund, therefore, was limited to its pro rata share of the consent order fund based on its purchases of 50,000 gallons of motor gasoline per month.

Dismissals

The following submissions were dismissed:

Name and *Case No.*

Bender Oil Co., RF21–4329
Broderick Teaming Co., RF21–1592
By Pass 76, RF21–4094
F. A. McNeal, Inc., RF21–5973
Grigsby Oil & Gas, HRO–0104
Jerry R. Wingo, RF21–995
John Bunning Transfer Co., Inc., RF21–4435
Johnson Oil Co., RF21–5380
Kenosha Auto Transport Corp., RF21–5738
McCartan Oil Co., RF21–5561
Stuart T. Adler, RF21–0989
T&S Refining Co., HRO–0009, HRD–0039
Townsend, Gerald D., HFA–0135
Verndale Public Schools, RF21–5318
Vermont Morgan Corp., HRO–0041

[FR Doc. 83-0156 Filed 5-12-83; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Decisions and Orders Week of April 25 through April 29, 1983

During the week of April 25 through April 29, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Andrew Douglas Churchman, April 26, 1983; HFA–0128

Andrew Douglas Churchman filed an Appeal from a denial by the Privacy Act Officer (PAO) of the Alburquerque Operations Office of a Request for Information which he had submitted under the Privacy Act. In considering the Appeal, the DOE found that although the deleted portions of the documents responsive to Churchman's request were originally generated by the Office of Personnel Management (OPM), they were now included in records maintained by the DOE, and therefore releasable by the DOE under the Privacy Act. As a result, the matter was remanded to the PAO of the Albuquerque Operations Office for a new determination.

SRE Inc., April 29, 1983; HFA–0131

SRE, Inc. filed an Appeal from a partial denial by the Freedom of Information Authorizing Official of the DOE Albuquerque Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that both of the documents which were initially withheld under exemption 5 were pre-decisional and deliberative intra-agency memoranda prepared in connection with an audit of SRE's performance under a DOE Grant project, and therefore should not be released to the public. The Appeal was accordingly denied.

W. R. Thomason Inc., April 29, 1983; HFA–0133

W. R. Thomason Inc. (Thomason) filed an Appeal from a partial denial by the Manager of the DOE's Idaho Operation Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Manager properly withheld certified payroll records found to be responsive to Thomason's request under 5 U.S.C. 552(b) (4) and (6). The Decision and Order also determined that Thomason's claim that the original search for responsive material was deficient was moot, since the Manager had located additional information and had agreed to release it to the applicant. The Appeal was therefore denied.

Tierra Engineering Consultants, Inc., April 29, 1983; HFA–0126

Tierra Engineering Consultants, Inc. filed an Appeal from a partial denial by the FOI Authorizing Official of the Albuquerque Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Evaluation Board's score sheet was a pre-decisional, deliberative intra-agency document which was properly withheld under Exemption 5 and that release of the document would be contrary to the public interest. Accordingly, the DOE determined that the Appeal should be denied.

Remedial Order

American Pacific International, Inc., 4/25/83; BRO–1423

American Pacific International, Inc. objected to a Proposed Remedial Order which the Western District Office of Enforcement issued to the firm on January 9, 1981. In the Proposed Remedial Order, the Western District found that API had sold motor gasoline and crude oil at prices exceeding the maximum lawful prices under the DOE regulations. The DOE concluded that the Proposed Remedial Order should be issued as a final Order. The important issues discussed in the Decision and Order include the application and constitutionality of the "new item rule." 10 CFR 212.111.

Request for exception

Somerset Refining, Inc., 4/29/83; BEE–1500

Somerset Refining, Inc. filed an Application for Exception from the provisions of 10 C.F.R. 211.67 in which the firm sought exception relief from the Entitlements Program. In considering the request, the DOE found that exception relief was necessary for the fourth

quarter of 1980, during which the crude oil cost disparity that the firm experienced caused the firm to incur operating losses. Accordingly, exception relief was granted.

Refund Applications

Standard Oil Co. (Indiana)/Bob Tansel American, 4/27/81; RF21-7060, RF21-7061

On March 14, 1983, the Office of Hearings and Appeals issued a Decision and Order approving refunds from the Standard Oil Company (Indiana) consent order fund for 59 claimants. *Standard Oil Co. (Indiana)/Crova Sales & Service, Inc.*, 10 DOE ¶85,079 (1983). One of those claimants, Bob Tansel American, was granted refunds for two motor gasoline retail stations. Subsequent to the issuance of the Decision, it was determined that due to an arithmetic error the refunds approved for both stations were too high. Accordingly, the DOE issued a new Decision modifying the original refund amounts.

Standard Oil Co. (Indiana)/Craven Oil Co., Inc., 4/27/83; RF21-1442

The DOE issued a Decision and Order concerning 137 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 137 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $371,689.

Standard Oil Co. (Indiana)/Edward J. Fleming, et al., 4/29/83; RF21-775 et al.

The DOE issued a Decision and Order concerning 114 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 114 applicants should receive a refund based upon the total volume of their Amoco middle distillate purchases. The refunds granted in this proceeding total $85,238.

Standard Oil Co. (Indiana)/J.S. Pate Oil Co., Inc., 4/27/83; RF21-1446

The DOE issued a Decision and Order concerning 107 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 107 applicants should receive a refund based upon the total volume of their Amoco middle distillate purchases. The refunds granted in this proceeding total $59,703.

Standard Oil Co. (Indiana)/Nelms Oil Company, et al., 4/29/83; RF21-212 et al.

The DOE issued a Decision and Order concerning 94 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 94 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $107,012.

Dismissals

The following submissions were dismissed:

Name and Case No.

Albert H. Brunell—RF21-4547
Alfred J. Snyder—RF21-4318
Augustin Auto Repair—RF21-2909
Barber Oil Company—RF21-4593
Barber Oil Co., Inc.—RF21-4703
Beaupain Oil Co.—RF21-3399
Bennett Oil Co., Inc.—RF21-4697
Bert Johanson Const.—RF21-3487
Blomberg Oil Co.—RF21-3480
Broadway Texaco—RF21-2533
Burken Oil Company—RF21-5364
Capital Realty—RF21-4548
Cedar Oil Co.—RF21-3553
Charles J. Goodman—RF21-1682
City of Ashby—RF21-5767
Colschen Oil Co., Inc.—RF21-4144
Crotzer Electrical—RF21-0924
David Wilson—RF21-2889
Donald P. Miller—RF21-2607
Donna Cobb Kwiatkowski—RF21-4567
Evans Oil Co.—RF21-5377
Foley Motor Sales—RF21-0973
Grone Bros., Inc.—RF21-5583
Haglund Oil Co.—RF21-4154
Harold Clarke—RF21-3865
Hayes Oil Co.—RF21-4003
Hudspeth Oil Co.—RF21-4000
Insta-Homes, Inc.—RF21-3526
James Williams Oil Company—RF21-4018
Joan F. Urie—RF21-4298
Kirby L. Askew—RF21-4427
Kline Oil Co., Inc.—RF21-4148
Les Petersen Oil Co.—RF21-4399
London & Associates—RF21-0130
Louise Prevenas—RF21-3446
Luebbering Oil Co., Inc.—RF21-3483
Magnolia Public Sch.—RF21-4750
Manders Oil Co.—RF21-5405
Newman Oil Co.—RF21-4010
Niagara Frontier Trans. Authority—RF21-3752
O'Connor Funeral Home—RF21-3895
Oren A. Sosbe—RF21-6202
P. J. Garvey Ctg.—RF21-2911
Parish Petroleum Dist. Co.—RF21-3979
Reilly & Sons, Inc.—RF21-3674
Richard M. Perkins—RF21-4323
Robert G. Schlesinger—RF21-1901
Robert L. Kwiatkowski—RF21-4566
Robert R. Lisk—RF21-5888
Robert Stewart—RF21-4162
Stoecker Oil Co., Inc.—RF21-4419
Stoskopf Oil Co., Inc.—RF21-4303
Street Oil—RF21-4097
Thomas Alfini—RF21-3006
Thomas H. Hutchinson—RF21-2547
Thomas N. Baker—RF21-5260
Thomas Yount—RF21-4886
Trowbridge Oil Co.—RF21-3404
Van Gundy Oil Co.—RF21-3326
Van Manen Oil Co., Inc.—RF21-4488
Walter R. Grimes—RF21-0957
Wieland Oil Co.—RF21-4686
Winans Oil Co.—RF21-2920
Wood Oil Co.—RF21-4089
Zook, Inc.—RF21-4112

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: May 5, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-12851 Filed 5-12-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of March 14 Through March 18, 1983

During the week of March 14 through March 18, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Environmental Policy Institute, 3/16/83; HFA-0116

Environmental Policy Institute (EPI) filed an Appeal from a denial by the Director of the Division of Freedom of Information and Privacy Acts Activities of a Request for a waiver of search and copying fees to be incurred in responding to a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the firm was a bona fide public interest group, that there was a current public interest in the subject matter to which the requested documents pertained, and that the information contained in the documents was likely to be disseminated to the public. Accordingly, EPI's Appeal was granted.

Motion for Discovery

Exxon Company, U.S.A., Cities Service Company, 3/14/83; HED-0113, HEJ-0036, HED-0111, HEJ-0035

On March 11, 1983, Exxon Company, U.S.A. submitted a Motion for Discovery and Protective Order in connection with a Proposed Decision and Order issued to Husky Oil Co. of Delaware on February 4, 1983, in Case No. BEX-0210. Cities Service Company also submitted a Motion for

Discovery and Protective Order related to the same Proposed Decision and Order. In their Motions, the intervenors requested Husky's confidential data in the record of the current exception proceeding, BEX-0210, and several prior Husky proceedings. In considering the Motions, the DOE determined that Husky's financial data was material and relevant to an evaluation of the appropriateness of exception relief tentatively granted to Husky under the Delta standards. Accordingly, the Motions filed by Exxon and Cities Service were granted.

Interlocutory Orders

Office of Special Counsel, 3/17/83; HRZ-0011

The Office of Special Counsel sought a determination that Texaco Inc. had waived any privileges attaching to certain documents identified by the firm in response to an OSC discovery motion on the ground that the firm's invocation of affirmative defenses put its state of mind at issue. In considering OSC's request, the DOE found that Texaco had withdrawn those defenses. Accordingly, the Motion was denied.

Texaco Inc. 3/15/83; HRZ-0138, HRR-0049

Texaco Inc. sought reconsideration of two discovery orders issued by the DOE. In one motion, Texaco sought reconsideration of a denial of a motion to compel the OSC to supplement a response to a Texaco interrogatory. In considering Texaco's request, the DOE found that the interrogatory had been fully answered. Accordingly, the request was denied. In a separate motion, Texaco sought reconsideration of an order rescinding certain discovery it was granted. In considering this request, the DOE found that the discovery had become irrelevant in light of the decision of the Temporary Emergency Court of Appeals in *DOE v. Louisiana*, 690 F.2d 180 (TECA 1982). Accordingly, this request was denied.

Refund Applications

OKC Corporation, Sooner Transport Corporation, Bestway Marketing Company, Leo's-Winstead's, Inc., 3/17/83; RF13-4, RF13-11, RF13-20

Each of the applicants indicated above filed an Application for Refund pursuant to 10 CFR Part 205, Subpart V, in which the firm claimed a portion of the $4.75 million obtained by the DOE from OKC Corporation pursuant to a Consent Order which settled DOE allegations that OKC had overcharged purchasers of crude oil, residual fuel oil and refined petroleum products. *See Office of Enforcement: In the Matter of OKC Corp.*, 9 DOE ¶82,551 (1982) (*OKC*). In considering these applications, the DOE determined that the applicants, each of which claimed purchases of refined products from OKC no greater than an average of 50,000 gallons per month, had met the standards set forth in the *OKC* Decision and Order and in the Subpart V regulations. Accordingly, these applications were granted.

Standard Oil Company (Indiana)/Crova Sales & Service, Inc. et al., 3/14/83; RF21-32 et al.

The DOE issued a Decision and Order concerning 59 Applications for Refund from branded retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). Each retailer therefore submitted detailed information concerning its Amoco purchase volumes. After analyzing this information, the DOE concluded that each of the 59 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases during the consent order period. Accordingly, these applications were granted in full.

Standard Oil Company (Indiana)/Jones Oil Company, Inc., et al., 3/18/83; RF21-1115, et al.

The DOE issued a Decision and Order concerning 180 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel* 10 DOE ¶85,048 (1982). Each applicant therefore submitted detailed information concerning its purchases of Amoco gasoline. After analyzing this information, the DOE concluded that each of the 180 applicants should receive a refund based upon it Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $703,738.

Standard Oil Co. (Indiana)/Jones Oil Company, Inc., et al., 3/18/83; RF21-1116, et al.

The DOE issued a Decision and Order concerning 133 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). Each applicant therefore submitted detailed information concerning its purchases of Amoco middle distillates. After analyzing this information, the DOE concluded that each of the 133 applicants should receive a refund based upon its Amoco middle distillate purchases. The refunds granted in this proceeding totalled $93,366.

Standard Oil Co. (Indiana)/Strickland Service Standard et al., 3/15/83; RF21-2951 et al.

The DOE issued a Decision and Order concerning 155 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 155 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $158,745.

Standard Oil Co. (Indiana)/Westland Standard II et al., 3/17/83; RF21-1906 et al.

The DOE issued a Decision and Order concerning 67 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 67 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $63,360.

Vickers Energy Corporation/Marvin R. Gillaspy, d.b.a. Marv's Vickers Service; Vickers Energy Corporation/Bob Cox, d.b.a., Bob's Vickers, 3/18/83; RF1-297, RF1-309

The DOE issued a Decision and Order concerning Applications for Refund filed by Marvin R. Gillaspy d.b.a. Marv's Vickers Service and Bob Cox d.b.a. Bob's Vickers, both retailers seeking a portion of the Vicker Energy Corporation Consent Order Fund. They elected to apply for a refund based upon the small claim procedures established for purchasers of less than 50,000 gallons per month of Vickers motor gasoline. After analyzing these two claims, the DOE concluded that each of the applicants should receive a refund based upon the total volume of his Vickers motor gasoline purchases. Accordingly, each application was granted.

Vickers Energy Corporation/The Service Oil Company, 3/14/83; RF1-25

The DOE issued a Decision and Order concerning an Application for Refund filed by The Service Oil Company, a reseller and retailer seeking a portion of the Vickers Energy Corporation Consent Order Fund. Service Oil elected to apply for a refund based upon purchases of Vickers motor gasoline exceeding the 50,000 gallons per month threshold established for small claims, and therefore submitted detailed information concerning its operations during the consent order period. After analyzing this information, the DOE concluded that Service Oil should receive a refund based upon the volume of its Vickers motor gasoline purchases for which it made a showing of injury. Accordingly, the application was granted in part.

Dismissals

The following submissions were dismissed:

Name and Case No.

Bill Forney, Inc.—BRO-1450
Elmer Buhrke—RF21-0796
D. Karl Burkel—RF21-0835
D. Karl Burkel—RF21-0837
Duke Heating Oil, Inc.—HEE-0041
Peter A. Dreifuss—RF21-3426
Flinn's Standard Service—RF21-2194
Earl Hamann—RF21-2577
Mr. Doyle & Mrs. Wanda Hunt—RF21-1822
Thomas Kee—RF21-0977
Ernest Kolben—RF21-2623
Oliver Meyer—RF21-2054
Joseph Pavelish—RF21-0975
Herman S. Pihl—RF21-2087
Gladys M. Plant—RF21-1664
Richard Rhodes—HFA-0120
Wilburt Wahl—BRO-1524

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of

Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

May 5, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-12852 Filed 5-12-83; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Central Valley Project, California; Rate Order

Correction

In FR Doc. 83-11064, beginning on page 18874 in the issue of Tuesday, April 26, 1983, make the following corrections:

1. On page 18875, second column, the **Federal Register** citation in the sixteenth line of the last paragraph should have read, "43 FR 60636" and the Code of Federal Regulations citation in the last line should have read, "10 CFR Part 903".

2. On page 18879, first column, the third line of the first complete paragraph should have read, "all energy used over 249 kWh per kW per month" and the second line of the last (incomplete) paragraph should have read, "is $0.35 per kW per month, and the".

3. On page 18880, third column, the next to last line should have read, "MW in 1983, and from 889 MW, to 1,140".

4. On page 18884, first column, the third and fourth entries in the second column of the table should have read, "Oct. 1, 1984" and "Nov. 1, 1985" respectively.

5. On page 18884, second column, the last italicized heading should have read, "Schedule of Rates for Nonfirm Transmission Service" and the sixth from last line of the column should have read, "*Applicable:* To nonfirm transmission service".

6. On page 18884, third column, the second line of the first complete paragraph should have read, "Transmission service on an intermittent basis for three-phase".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59125; TSH-FRL 2367-3]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by May 31, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-59125]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

TME 83-51

Close of Review Period. June 15, 1983.

Importer. Confidential.

Chemical. (G) Modified ethylene=tetrafluoroethylene copolymer.

Use/Import. (S) Wire and cable coating, chemical process equipment parts, parts for electrical equipment. Import range: 500 kg/minimum—5000 kg/maximum.

Toxicity Data. No data submitted.

Exposure. Processing and disposal: dermal, a total of 8 workers, up to 9 hrs/da, up to 14 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by landfill.

TME 83-52

Manufacturer. PPG Industries, Inc.

Chemical. (G) Aromatic carbonate.

Use/Production. (S) Monomer to produce cured thermoset articles. Prod. range: 4,000 lbs/max.

Toxicity data. Acute oral: 1.116 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Moderate, Eye—Minimal.

Exposure. No direct exposure except during sampling.

Environmental Release/Disposal. Disposal by publicly owned treatment works (POTW) and incineration.

Dated: May 9, 1983.

Ronald A. Stanley,

Acting Director, Management Support Division.

[FR Doc. 83-12723 Filed 5-12-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2362-7]

Availability of Environmental Impact Statements Filed May 2 Through May 6, 1983 Pursuant to 40 CFR Part 1506.9

Responsible Agency: Office of Federal Activities, General Information, (202) 382-5075 or 382-5076.

Corps of Engineers:

EIS# 830233, D Suppl, COE, NY, Conesus Lake Flood Damage Reduction, Livingston County, due: 6/30/83

EIS# 830238, Final, COE, MS, Krebs Lake Channel Navigation Improvements, Jackson County, due: 6/13/83

Department of the Interior:

EIS# 830234, Draft, BLM, WY, Divide Resource Area Livestock Grazing Management Program, due: 7/11/83

EIS# 830240, Draft, BLM, SEV, UT, CO, Uinta-SW Utah Coal Region Development, Round Two Leasing, due: 7/6/83

EIS# 830243, Draft, BLM, MT, Headwaters, Resource Area Resource Management Program, due: 8/5/83

EIS# 830232, Final, BLM, WY, Newcastle Resource Area Livestock Grazing Management Program, due:

6/13/83
EIS# 830239, Draft, IBR, SEV, NV, AZ, Hoover Dam Powerplant Increased Generating Power, Modification, due: 8/8/83
Department of Transportation:
EIS# 830241, Draft, FHW, IA, Des Moines CBD Loop Arterial Construction, Polk County, due: 7/5/83
EIS# 830242, Draft, FHW, OH, I-490 Gap Closure, West 10th Street to I-77, Cuyahoga County, due: 6/27/83
Environmental Protection Agency:
EIS# 830236, Draft, EPA, MA, Kingston WWT and Collection Facilities, Approval & Grant, Plymouth Co, due: 6/27/83
Department of Housing and Urban Development:
EIS# 830235, Final, HUD, CA, Northwood Residential Subdivision, Mortgage Insurance, King County, due: 6/13/83
Department of Agriculture:
EIS# 830237, Draft, AFS, NM, Western Spruce Budworm Management Program, Santa Fe National Forest, due: 7/1/83
Amended Notice:
EIS# 800799, Draft, FHW, ND, Columbia Rd. Improvement, Gateway Dr. to S Forks Rd., Grand Forks Co., Published FR 10/31/80—Officially withdrawn.

Dated: May 10, 1983.

William D. Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 83-12993 Filed 5-12-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[File No. 26058-CL-P-(5)-82 etc.]

GTE Mobilnet of San Jose, Inc., et al.; Hearing

In re Applications of: GTE MOBILNET OF SAN JOSE, INC., File No. 26058-CL-P-(5)-82, ADVANCED MOBILE PHONE SERVICE, INC. For a construction permit to establish a new cellular system operating on frequency block B in the Domestic Public Cellular Radio Telecommunications Service to serve the San Jose, California, Standard Metropolitan Statistical Area (SMSA), File No. 26025-CL-P-(3)-82.

In re Applications of McCaw Communications of San Jose, Inc., CC Docket No. 83-476; File No. 26120-CL-P-(6)-82, Cellular Mobile Systems of California, Inc., File No. 26192-CL-P-(7)-82, Cellular Network, Inc., File No. 26087-CL-P-(5)-82, Intrastate Radio Telephone, Inc. of San Francisco, File No. 26125-CL-P-(5)-82, California Celcom Communications Corporation, File No. 26154-CL-P-(5)-82; For a construction permit to establish a new cellular system operating on frequency block A in the Domestic Public Cellular Radio Telecommunications Service to serve the San Jose, California, Standard Metropolitan Statistical Area; designating applications for consolidated hearing on stated issues.

Memorandum Opinion and Order Granting Application, Dismissing Application, and Designating Applications for Hearing

Adopted: April 26, 1983

Released: May 6, 1983.

By the Common Carrier Bureau:

1. Presently before the Chief, Common Carrier Bureau, under delegated authority are (a) the captioned applications of GTE Mobilnet of San Jose, Inc. (GTE), Advanced Mobile Phone Service, Inc. (AMPS), McCaw Communications of San Jose, Inc. (McCaw), Cellular Mobile Systems of California, Inc. (CMS), Cellular Network, Inc. (Cellnet), Intrastate Radio Telephone, Inc. of San Francisco (Intrastate), and California Celcom Communications Corporation (Celcom), to construct cellular radio systems to serve the San Jose, California, Standard Metropolitan Statistical Area (SMSA), and (b) various motions, petitions, and pleadings related to the applications.

2. As discussed below, after carefully reviewing the applications and related pleadings, we find that the public interest will be served by our approving the GTE/AMPS settlement agreement and granting the GTE application. Concerning the five nonwireline applications, we find all applicants except McCaw and Cellnet to be fully qualified to construct and operate a cellular system in San Jose. Since the proposals of McCaw, CMS, Cellnet, Intrastate, and Celcom to use the same frequencies in the same geographical area are mutually exclusive, a comparative proceeding will be held to determine which of the applicants would best serve the public interest. For the reasons discussed below, we are designating financial issues against the McCaw application and against the Cellnet application.

McCaw Application

3. *Financial qualifications.* Petitioner CMS challenges the applicant's financial showing, arguing that neither the parent company nor its San Jose subsidiary (the applicant) has demonstrated the availability of necessary funds. The McCaw financial showing is complex, involves a number of different investors, and is closely linked to cellular applications filed by sister companies in three other markets. CMS attacks each portion of the financial showing, arguing that each financial arrangement is defective in some fashion. We will discuss below the applicant's financing plan for all four markets and dispose of the particular questions raised.

4. We discuss at this point the corporate structure of the applicant and its parent, as well as the applicant's principal investors. The applicant, McCaw Communications of San Jose, Inc. (McCaw), is one of four subsidiaries of the parent McCaw Cellular Communications, Inc. (MCCI). Three other subsidiaries of MCCI have filed applications in San Francisco, Denver, and Kansas City. The parent MCCI is in turn owned by McCaw RCC, whose principal shareholders are McCaw Communications Companies, Inc. (MCC); Daniels & Associates Inc.; and the Centennial Fund. These three shareholders have made equity commitments to MCC for investment in the four cellular subsidiaries. In addition, a back-up equity commitment has been made by Affiliated Publications, Inc. (API), to be made available if any of the three equity contributors should be unable to meet their respective commitments. API owns forty-five percent of McCaw Communications Companies, Inc. (MCC). To recapitulate, three investors (MCC Daniels and Centennial) have made equity commitments to MCCI, parent of the applicant McCaw. Similar commitments have been made through the same corporate structure to the three sister companies of McCaw of San Jose. Additionally, a back-up equity commitment has been made by API, principal in MCC. In addition to the equity financing described above, MCCI also relies on a $35 million bank loan from Continental Bank. The various forms of financing are discussed below.

5. Estimated cost of construction and first year operating expenses for each system are as follows:

San Jose	$10,252,000
San Francisco	18,838,000
Denver	13,877,000
Kansas City	12,881,000
Total	55,848,000

6. *MCC equity contribution.* The first equity contribution is a $5 million subscription from McCaw Communications Companies, Inc.

(MCC). The applicant has submitted a letter from MCC stating that MCC "* * * hereby commits $5 million of equity capital, based on all four of your applications being successful." The letter also makes *pro-rata* apportionments to the four markets, in the event the applicant is not successful in every market in which it applied. By way of demonstrating the availability of $5 million, the applicant has submitted a balance sheet of MCC (Application, Exhibit 10, Appendix B, Item 5). The petitioner contends that the equity backer's net liquid assets are less than $5 million, so the funds are not available. The long-standing Commission standard for demonstrating availability of an applicant's finances has been net liquid assets, that is, the excess of current assets over current liabilities. *Advanced Mobile Phone Service, Inc. et al. (Chicago Order)*, 91 FCC 2d 512 (1982); *Central Texas Broadcasting Co.*, 74 FCC 2d 393, 401–02 (1979); *Merrimack Valley Broadcasting Co.*, 82 FCC 2d 166, 168–69, 174–75 (1980); *WVOC Inc.*, 32 FCC 2d 765 769 (Rev. Bd. 1971); *The Tuscarawas Broadcasting Co.*, 4 FCC 2d 466, 468 (Rev. Bd. 1966). The balance sheet (application, Appendix B, Item 5) shows current assets of $2,562,685, and current liabilities of $1,650,309. Net liquid assets are thus $912,376, which is insufficient to meet the $5 million equity commitment.[1] The applicant argues that stockholder-subscribers, as distinguished from applicants, are not held to the net liquid assets standard where the subscribers' total assets are vastly in excess of the commitment. McCaw cites *Tel-Page Corp. of Wisconsin*, 46 RR 2d 668, 672 (1979), and *Radio Dispatch Corp.*, 61 FCC 2d 425 (Rev. Bd. 1976). In our view, however, the net liquid assets standard must be applied to cellular applications based on the *Chicago Order*, where the Commission explicitly adopted it. The MCC balance sheet shows total assets of $23 million. There is no way to determine how much of the total is easily convertible to cash or how much of the total may already be committed to other projects or liabilities of the firm. We conclude, therefore, that only $912,000 in net liquid assets has been shown to be available from MCC.

7. *Daniels equity contribution.* The second $5 million equity contribution is from Daniels & Associates, Inc. (Daniels). Daniels relies on a $5 million letter of credit from the American Security Bank. The petitioner questions whether the funds are in fact available from the bank since the letter includes a "covenants clause" in which the bank refers to "standard business covenants generally utilized in loans secured by cable TV systems, including debt to cash flow and debt to subscribers limitations." The Petitioner contends that the applicant has not included the specifics of these restrictions and consequently has failed to show that Daniels can meet these bank limitations, whatever they may be. After examining the letter of credit, however, we conclude that the funds are available. The letter specifies that the funds are to be used for McCaw's cellular systems. The letter also specifies interest rate, terms of the loan, and security interest. The covenants appear to be reasonable and customary and do not, in and of themselves, cast doubt on the availability of the loan. We find, therefore, that $5 million in equity funding is available to the applicant from Daniels. *See Multi-State Communications v. FCC*, 590 F. 2d 1117, 1119 (D.C. Cir. 1978), *cert. denied* 440 U.S. 959 (1979).

8. *Centennial equity contribution.* The third $5 million equity commitment is from the Centennial Fund. Centennial relies on a balance sheet (Application, Exhibit 10, Appendix B, Item 4.1) to demonstrate its ability to meet the equity commitment. The petitioner argues that the balance sheet demonstrates that the funds are not available. In its reply, the applicant has submitted additional information further explaining the items on the balance sheet. The balance sheet indicates that Centennial has $75,000 cash and temporary investments of $3.9 million which we consider to be liquid assets.[2] However, the Centennial balance sheet also relies on other assets which we cannot conclude are liquid. Specifically, Centennial lists $6.7 million in subscribed capital, not yet paid to centennial. In its reply, the applicant indicates that the capital subscriptions will be paid in two equal installments on March 31, 1983, and March 31, 1984. These anticipated payments cannot be considered as liquid assets. We therefore conclude that $4.65 million in equity $3.9 million plus $75,000) is available from Centennial.

9. *API back-up equity funding.* For the reasons discussed above, we find the following amounts of equity funding are available to the applicant: $912,000 from MCC, $5 million from Daniels, and $4.65 million Centennial. Thus, out of a $15 million equity commitment, we find that $10.56 million is available. This leaves an equity deficiency of $4.44 million, which we correct to $5.44.[3] As a precautionary measure, the applicant has submitted a back-up source of equity funding from Affiliated Publications, Inc. (API), whereby API guarantees to provide any of the $15 million which may not be available from three equity participants. To demonstrate the availability of these back-up funds, API has submitted a balance sheet (Exhibit 10, Appendix B, Item 2.1, p. 18). The petitioner contends that the balance sheet fails to demonstrate the availability of the funds. After reviewing the balance sheet, however, we conclude that the funds are available. API's current assets are $40.5 million. Current liabilities are $18.3 million. The Commission's longstanding standard in determining financial qualificiations is net liquid assets, the difference between current assets and current liabilities. In this case, the difference is $22.2 million. We are unable, however, to credit 100 percent of the $40.5 million current assets figure because it includes $24.8 million in accounts receivable. In previous orders where such accounts have been aged, we have permitted 75 percent of such accounts to be included in calculating net liquid assets. *See Atlanta Order, supra*, para. 13. *See also Kaiser Broadcasting*, 62 FCC 2d 246 (1977). The McCaw application includes no information as to whether these accounts have been aged or in general how collectible those accounts actually are. We are therefore unable to conclude that at least 75 percent of these accounts (or $18.8 million) are available to API to meet its back-up equity commitment. The applicant's shortfall, however, is only $5.44 million, approximately 22 percent of all accounts receivable. Even without a showing of aging of these accounts, we will

[1] The current assets figure in the balance sheet is not broken down into sub-categories such as cash and accounts receivable. Nor is any information provided as to the nature of any such accounts (whether they have been aged for collection purposes). We are thus unable to determine what portion of any accounts receivable may be counted as part of net liquid assets. *See Celcom Communications Corp. of Georgia, et al.* (Atlanta Order), CC Mimeo 1988, released January 20, 1983, at para. 13. Our determination is not changed, however, since the net liquid assets are insufficient even if 100% of current assets are counted.

[2] In its reply, McCaw explains that the temporary investments are short term (thirty days or less) certificates of deposit. These instruments are clearly liquid.

[3] The application gives the figure $15 million as the total equity commitment from the parent company to the four McCaw subsidiaries. We note that the actual equity requirement is $16 million: $3.25 million in San Jose, $6.25 million in San Francisco, $3.25 million in Kansas City, and $3.25 million in Denver. The deficiency of $4.1 million in available financing must, therefore, be corrected to $5.1 million.

consider that this small percentage of the accounts receivable are collectible and therefore conclude that API has at least $5.44 million available to meet its backup commitment. On this basis, we conclude that the $16 million equity commitment is available to McCaw, in light of the back-up funding available from API.

10. *Equipment financing.* In two markets (Kansas City and Denver), the commitments of equity and loans are insufficient to cover projected costs. Each of the applications for these two markets also contains a letter from an equipment supplier which offers to furnish cellular equipment and provides a financing schedule whereby in each market, $3.2 million in equipment payments are deferred for a total of $6.4 in equipment financing (Direct Case, Exhibit 10, App. A, Item 4). The two equipment financing arrangements are crucial, because without the deferred payments of $6.4 million, the applicant's available funds are insufficient to cover projected costs. The petitioners argue that the equipment financing arrangement is fatally defective because the supplier's letter commits the applicant to purchase 3,000 mobile units and this purchase is not included in the applicant's projected costs. In its reply, the applicant states that a closer reading of the equipment supplier's letter reveals that the applicant is not obligated to purchase the mobile units but may instead utilize a third party leasing arrangement. This in fact is the applicant's intention, as stated in the application (Exhibit 8, Appendix A, p. 13). The allegation, however, is relevant to our assessment of the applicant's basic financial qualifications. Section 22.917 of our rules does not require that the cost of mobile equipment be included in an applicant's financial projections. *See Metrocom of St. Louis et al. (St. Louis Order),* CC Mimeo 2045, released January 28, 1982, at para. 10. The mobile equipment will be leased in the quantity needed by subscribers. Related costs will therefore be covered by revenues or subscribers' deposits. The Commission has traditionally sanctioned this type of financing and has credited the full amount of credit to the applicant. *See, e.g., Merrimack Valley Broadcasting, Inc.,* 82 FCC 2d 166, 167–68 (1980). We therefore conclude that adequate funds are available to cover projected costs in these markets.

11. *Continental Bank Loan.* The applicant submits a letter from the Continental Illinois National Bank committing $35 million in credit to the parent MCCI. The petitioner CMS questions whether the bank letter is sufficiently detailed to demonstrate the availability of the funds. After reviewing the letter, we conclude that the applicant has failed to demonstrate that the $35 million in credit is available. 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.* The bank letter specifies no interest rate but instead states that the rate is "* * * to be negotiated at the time of FCC approval." Application, Exhibit 10, Appendix A, Item 2.1. Although the letter provide for quarterly payments over an eight year period, it furnishes no information as to the dollar amount of these payments. Under these circumstances, we cannot conclude that the Continental Bank letter provides reasonable assurance. *See Advanced Mobile Phone Service, Inc., et al. (Philadelphia Order),* CC Mimeo 1882, released January 21, 1983, at para. 6.

12. *Accuracy of cost estimates.* CMS questions the accuracy of McCaw's projected costs because the applicant's technical proposal makes reference to using microwave links and yet does not include the cost for such facilities in its projected costs. McCaw responds, however, that the proposed microwave links will not be installed prior to the fifth year of installation, so the cost of these facilities was logically omitted from the projected costs of construction and first year operation costs. The details of the application support this explanation. *See* Direct Case, Exhibit 8, Appendix, A. 4, in which telephone control and telephone interconnect costs are provided for in the financial projections for the construction period and first year of operation. The cost estimates appear to be reasonable, and the petitioner has failed to raise any serious question that has not been adequately explained by McCaw in its Opposition.

13. *Conclusion.* For the reasons discussed above, the applicant has failed to demonstrate that the $35 million loan is available. We will therefore designate an issue as to whether McCaw is financially qualified in San Jose and in the three other markets (San Francisco, Denver, and Kansas City) where McCaw applied. We have chosen to designate in this order a Financial issue as to McCaw's entire financing arrangement because we believe this approach is the most efficient way to consider the various McCaw applications, *i.e.,* it can be detemined whether McCaw has financing for one market, or all four markets, or some number in between. McCaw will at that point have greater discretion for deciding how many (and which) applications to prosecute. The alternative is to examine each application on a case-by-case basis. This approach duplicates the efforts of all parties and (in the event that McCaw can demonstrate the availability of some but not all of its financial arrangement) depends not on which applications McCaw prefers to prosecute but on the luck of the draw as to which markets are examined (and in what order) by the Commission. We will therefore examine in hearing the overall financial package of McCaw (*i.e.,* the availability of the $35 million loan) and, depending on how much funding is available, permit McCaw to modify or dismiss other applications accordingly.[4] The Administrative Law Judge may use our summary procedures to resolve this financial issue if McCaw submits an amendment submitting a bank letter which meets our "reasonable assurance" test or submits an amendment otherwise showing reasonable assurance of sufficient funds to cover its proposals.

14. *Technical qualifications.* Petitioner objects that McCaw has failed to demonstrate that microwave control facilities are available, so the application is defective. McCaw has responded by filing a corrective amendment to reflect that the applicant will use microwave facilities only during the fifth year and will use wireline control facilities during the construction period and first four years of operation. This intent is in fact reflected in the application which bases cost estimates on wireline control facilities. Direct Case, Exhibit 8, Appendix A–10. Additionally, McCaw has in its reply submitted copies of correspondence which shows that the applicant has already coordinated an 11 GHz microwave control system so that it will be available when the applicant is ready to phase it in. We therefore conclude that McCaw has fully responded to the questions raised by the petitioner, and we find the applicant technically qualified.[5]

---

[4] In the other markets where McCaw has filed (San Francisco, Denver, and Kansas City), any applicant whose proposal is electrically mutually exclusive with McCaw's application may file a motion for limited intervention on the financial issue in this proceeding

[5] In any event, we have held that the absence of information about microwave channels does not render an application defective. Metrocom of St. Louis, *et al.* (St. Louis Order), CC Mimeo 2045, released January 28, 1983, at para. 5.

CMS

15. *CGSA extension* CMS' proposed CGSA extends into the central San Francisco SMSA. Pursuant to Rule Section 22.903(a), a CGSA may not extend into another central SMSA. Therefore, we will require that CMS file a conforming amendment to bring the nonconforming CGSA and 39 dBu contour four Cell Nos. CAO1003, 91004, and 91005, into compliance with the rules. The amended 39 dBu contours shall not cover any area in the SMSA not previously covered by the nonconforming 39 dBu contour. This amendment should consider the effects, if any, that this change may have on other parts of the application. Due to this circumstance, brief extensions of time may be granted at the discretion of the Administrative Law Judge.[6]

16. *Cost estimates.* Petitioner questions the accuracy of the applicant's cost estimates, arguing that the total system will cost $9.2 million, whereas CMS has only $3.45 million available and has estimated its equipment costs at only $3 million. In its reply CMS states that, although a fully expanded multiple-site system will involve equipment costs in excess of $3 million, CMS plans initially to construct a 7-cell system, to use this system during the first year of operation, and to construct additional cells as user demand increases. CMS states that its cost estimates were based on the equipment for a 7-cell system rather than for the larger system contemplated subsequent to the first year of operation. The petitioner argues that the Commission's cellular rules require that cost estimates for construction expenses include all equipment involved in a fully developed system, even if the expanded system will not initially be constructed. We reject this interpretation. The rules contemplate a construction period and operations following construction. The Commission also contemplates that licensees will expand their systems. One of the comparative criteria for judging competing cellular applicants is how the applicants intend to expand their systems in order to meet increasing demand. CMS has properly included in its cost estimates the equipment which it intends to construct prior to commencing operations. These figures do not appear to be unreasonable, and the petitioner has not made any showing which draws into question the accuracy of these figures. We conclude that the applicant's cost estimates are reasonable and will not designate an issue on this basis.

17. *Financial qualification.* The petitioner also questions whether the applicant has adequate funds available to construct and operate its proposed system. The Commission has already concluded that the Graphic Scanning corporation, CMS' parent, is financially qualified to construct and operate cellular systems in all thirty markets, including San Jose, for which CMS has applied. *See Chicago Order, supra,* at paras. 6–12. Additionally, the San Jose application includes a letter (Appendix VIII–C) dated June 2, 1982, from the parent comany to CMS committing $6,400,000 for the CMS San Jose cellular system. The letter specifically states that none of these funds have been committed to other cellular system applications or to other projects. We find that this satisfies the requirement of section 22.917(b) that resources used to demonstrate financial ability regarding one cellular system may not include funds committed elsewhere, and we find CMS financially qualified to construct and operate the proposed cellular system in the San Jose market.

Cellnet Application

18. *Financial qualifications.* Petitioner CMS questions the accuracy of Cellnet's estimated costs for construction and first year of operation. CMS contends tht the applicant has furnished different and conflicting figures for these costs in various parts of the application and direct case. In its reply, Cellnet asserts that the petitioner's arguments are based on a misunderstanding of the figures presented in the application. the Cellnet reply includes a detailed analysis of its estimated construction costs and operational expenses for the first year. After reviewing the application and the explanatory materials in Cellnet's reply, we conclude that the applicant's cost estimate complies with the cellular rules.[7]

19. CMS further questions whether Cellnet has funds available to cover its estimated construction ($5,370,000) and first year operating ($1,605,000) costs. Cellnet relies on several sources which are discussed below. The funding arrangements for Cellnet's San Jose application also include funds for Cellnet's San Francisco application. Cellnet estimates construction costs for the San Francisco application at $15,058,000 and first year operating costs at $4,353,000. *See* Item 47, San Francisco application; Exhibit 14, application. Thoma testimony, direct Case; reply to CMS petition to deny, at pages 8 and 10. We will examine in this order the funding for both applications.

20. *Continental Bank Loan.* In Exhibit 14, Appendix 3 to its application, Cellnet submits a $5 million letter of credit from Continental Illinois National Bank (Continental Bank). CMS questions whether the bank letter is sufficiently detailed to demonstrate the availability of the funds. After reviewing the letter, we conclude that it does not provide reasonable assurance that funds are available. 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.* the bank letter specifies no interest rate but instead states that the rate is "* * * to be negotiated at the time of FCC approval." Although the letter provides for quarterly payments over seven (possibly eight) years, it furnishes no information as to the dollar amount of these payments. Under these circumstances, we cannot conclude that the Continental Bank letter provides reasonable assurance. *See Advanced Mobile Phone Service, Inc., et al. (Philadelphia Order),* CC Mimeo 1882, release January 21, 1983, at para. 6. A similar letter of credit for $15 million is submitted in Celnet's San Francisco application. For the same reason, we conclude that these funds have not been shown to be available.

21. *Equity funding.* Cellnet also furnishes a letter making a $1.7 million equity commitment to Pagenet from the Golder, Thoma fund (GTF) a venture capital firm. Application, Exhibit 14, Appendix 2. GTF holds a majority interest in Pagenet. One of the general partners of GTF, Mr. Carl D. Thoma, is Chairman of the Board and Chief Financial Officer of both the parent Pagenet and the applicant Cellnet. The petitioner argues that the applicant has not demonstrated the ability of the investor (GTF) to meet its commitment to the parent, nor that the parent is

[6] On August 17, 1982 CMS submitted amendments to modify its CGSA. Since we are directing a specific amendment to cover this problem, we are returning the amendments under separate cover. A "Motion to Strike" the amendments was filed by Celcom. Because of our action returning the amendments the Celcom "Motion to Strike" is dismissed as moot.

[7] The petitioner's misunderstanding of certain parts of the application is grounded primarily in confusion over the unusual format of the Cellnet application, which bases cost estimates on the third year of operation rather than the first. Additionally, the application includes second and third columns of figures which adjust cost estimates for inflation. While there may be sound business reasons (as explained in the reply) for this approach, we note the difficulty in determining from the application's format whether the financial showing complies with the rules. The applicant's reply has significantly clarified the information contained in the application.

committed to pass these funds on to the applicant subsidiary. The petitioner cites language in the application where Pagenet describes other planned acquisitions and argues that the applicant fails to show that the funds advanced will not be diverted to these other projects. Initially, we reject the contention that the parent will for some reason unspecified by the petitioner fail to use equity funds for their stated purpose. Which is to construct a cellular system in San Jose. We also reject the contention that the parent Pagenet may commit these funds to other projects than the San Jose celluar system. The application contains a certification that none of the funds listed (including the equity commitment to Pagenet) are committed to any other project, including any other cellular application. Exhibit 14, Appendix 2. We do not require more. The petitioner has presented no factual materials to cause us to question this certification. The applicant's showing complies with the requirements of section 22.917(b). *See Chicago Order, supra,* at para. 6. We conclude, however, that the applicant Cellnet has failed to demonstrate the availability of the equity funding from the investor GTF. In its reply, Cellnet submits an affidavit from the principal of GTF and a letter from an attorney representing GTF. See Appendx A and attachment I, Cellnet reply. These materials state that the GTF funding is based on cash commitments from the limited partners comprising GTF. Although the attorney's letter states that the limited partner's commitments are unconditional, irrevocable, and subject only to 20 days notice, these contributions have not yet been paid and cannot be considered by GTF (or the applicant) as cash or other liquid assets. We therefore conclude that the $1.7 million equity funding has not been shown to be available to Cellnet.

22. The letter committing $1.7 million equity funding for the San Jose application also commits $5 million for the San Francisco Cellnet application. For the same reasons as discussed above, we conclude that the application has not shown these funds to be available for the San Francisco proposal.

23. The San Jose application also relies on a $300,000 cash advance from Pagenet. The petitioner disputes the availability of these funds. In its reply, however, the applicant submits an affidavit from a principal of Pagenet stating that the $300,000 has in fact been transferred to the applicant. This moots the petitioner's objections.

24. For the reasons discussed above, we find that Cellnet has provided reasonable assurance that $300,000 is available. Since this amount is not sufficient to cover the applicant's construction and first-year operating costs in San Jose, we will designate a financial qualification issue. Because we have also concluded that the $20 million financing for Cellnet's San Francisco proposal has not been shown to be available, we will at the same time designate an issue in this proceeding for that market. We believe this approach is the most efficient for the same reasons as discussed above as regards the McCaw application.[8] Aslo as in the case of McCaw, the Administrative Law Judge may use our summary procedures to resolve the financial qualifying issue if Cellnet submits an amendment in response to our findings here.

25. *Cell-splitting plan.* The petitioner argues that the Cellnet application has failed adequately to indicate the basis which will be used to determine whether sufficient congestion exists to warrant cell-splitting, and that the application does not comply with Section 22.913(a)(5). The application states (Exhibit 23) that the applicant will determine when cell-splitting is warranted based on market study forecasts, monitoring of system user statistics compiled through actual operating experience, and Grade of Service design limits. These design limits require a service objective of P.02. The application goes on to explain this service objective in detail. We conclude that Cellnet has complied with the requirements of Section 22.913(a)(5) and will not designate a qualifying issue on this basis. *See Advanced Mobile Phone Service, Inc. et al. (Philadelphia Order),* CC Mimeo 1882, released January 21, 1983, at para. 31. Cell-splitting plans and proposed system expansion may be examined in the comparative portion of this proceeding to the extent relevant to the issues designated in this order. *Report and Order* CC Docket No. 79–318, 86 FCC 2d 469 at 502–03 (1981); *Advanced Mobile Phone Service, Inc. et al. (Buffalo Order),* CC Mimeo 1320, released December 14, 1982, at para. 20.

Celcom Application

26. *Site Availability.* Petitioner CMS argues that Celcom has not demonstrated the availability of the proposed sites, referring to language in the application (Exhibit No. 4) where Celcom states that it will own or lease each of the proposed sites. CMS contends that this language indicates that Celcom has not finalized arrangements to make sites available as required by the rules. We have examined the application, however, and conclude that Celcom has reasonable assurance that sites are available. In its application, Celcom has identified each of the site locations and showed their coordinates. In its reply Celcom further indicates that, based on signed statements from the owners or their agents, Celcom has a good faith belief that all cell sites are available. The petitioner has not demonstrated that any of the sites would not be available to Celcom. Absent specific evidence rebutting Celcom's showing, we find that Celcom has adequately demonstrated site availability. *See Philadelphia Order, supra.*

27. *Financial qualifications.* CMS argues that Celcom has not adequately demonstrated its costs and has not shown the availability of sufficient funds to meet its costs. The petitioner questions the accuracy of the applicant's estimates of operating expenses. In its reply, the applicant provides a detailed analysis of its cost projections including operating expenses. The information submitted in the application and the reply pleading is not unreasonable on its face and meets the requirements of the cellular rules. The petitioner has presented nothing to cause us to question the applicant's estimates. Concerning the availability of adequate funds, the petitioner refers to a letter of credit (Appendix C, Exhibit No. 5) from the Michigan National Bank, offering to serve as the lead bank in a consortium of banks which would lend the applicant up to $15 million. The letter identities the participating banks and contains the basic payment terms and the formula for the interest rate. The petitioner argues that there is no indication that the banks would in fact participate in the consortium. These same arguments were raised against Celcom in Pittsburgh and Atlanta and were rejected in our recent *Pittsburgh Order* and *Atlanta Order.*[9] Further, Celcom has submitted a letter from the Michigan National Bank which unequivocally states that all three banks have agreed to participate and that the loan is adequately secured. Accordingly, no further consideration of this issue is warranted.

[8] Any applicant in the San Francisco market whose proposal is electrically mutually exclusive with Cellnet's application may file a motion for limited intervention on the financial issue in this proceeding.

[9] Advanced Mobile Phone Service, Inc. *et al.* (Pittsburgh Order), CC mimeo 1169, released December 6, 1982; Celcom Communications Corp. of Georgia *et al.* (Atlanta Order), CC Mimeo 1988, released Januray 26, 1983, at paras. 3–6.

Intrastate Application

28. *Technical issues.* Petitioners Celcam and CMS attack the Intrastate application on a number of technical grounds. They argue that the application violates Section 22.909(a)(2) for proposing a control point outside the San Jose CGSA without requesting Commission approval. They further contend that, had the applicant requested Commission approval for such remote control facilities, the request would have been denied because such facilities, having additional points of interconnection, are more prone to service outages and service degradation. The petitioners also question whether the applicant will provide operating personnel on duty during normal rendition of service, as required by Section 22.909(a)(2). Celcam further argues that Intrastate's proposed CGSA impermissibly extends into the central SMSA of San Francisco and also into the Santa Cruz SMSA.

29. First, we reject the view that Intrastate's application violates Section 22.909(a)(2) by proposing remote control points. The rule states that "[t]he location of the control point may not be moved beyond the boundary of the authorized service area without prior Commission approval." It does not say that an applicant may not propose, and receive approval for, a remote control point. The *Report and Order,* in which the rule was adopted, does not address the rationale for the rule. Consequently, we must look at it in the context of Part 22, generally, and Section 22.513, specifically. Traditionally, the control point and the message center (defined in Section 22.2) were at the same location—the transmitter site. Developments in technology enabled carriers to automate their systems and to move control points to remote locations in the interest of economic or technical efficiency. The Commission was concerned, however, that the message center not be moved because local customers might have had to pay toll charges to reach the message centers. In that vein, Section 22.513 allows a control point, message center or control point/message center to be located outside the service area as long as the customer can access the system with a local call. More recently in its *Revision and Update of Part 22,* 47 FR 43, 842 (1982), the Commission proposed to delete Section 22.513 upon finding tentatively that marketplace competition provided adequate protection from excessive charges. *Id.* at 43, 878–79. In today's environment, there is neither an economic nor a technical reason for arbitrarily restricting the choice of control point location. The petitioners here have presented no evidence that Intrastate's choice will adversely affect the public, and we do not find any reason to include a qualifying or comparative issue based on the control point location.

30. Second, we reject the contention that the application extends into the San Francisco SMSA. In its reply, Intrastate states that it has re-examined its calculations and confirmed that no such extension exists. The petitioner Celcom has submitted no calculations or contour maps to support its allegation. Under the circumstances, we will accept the materials submitted by Intrastate in its application and reply. Concerning the alleged extension into the Santa Cruz SMSA, we have examined the amount of 39 dBu contour overlap and determined that it constitutes approximately 12 per cent of the cell site in question. The overlap area is mountainous, uninhabited area and unlikely to interfere with the service area which cellular applicants will propose to cover in the Santa Cruz area. The applicant has directionalized its antenna in order to minimize overlap. Furthermore, Intrastate explains in its application that, in order to econimize on construction costs, it chose to use a single antenna site on a high mountain instead of multiple sites at lower elevations. We conclude that the overlap is *de minimis* and that any necessary frequency coordination will be minimal. *See Memorandum Opinion and Order on Further Reconsideration,* 90 FCC 2d 571 (1982) at para. 20.

31. Finally, we reject the argument that the application is defective for not providing operating personnel as required by the rules. In its reply, Intrastate explains that it will have operators on duty at the control point during regular workdays and during other hours will monitor the system from its message and alarm center. Monitoring personnel will be able to telephone or page maintenance personnel in the event of a malfunction. This arrangement complies with the requirements of Section 22.909(a)(2). In view of the above, we conclude that Intrastate is technically qualified to construct and operate a cellular system in San Jose.

32. *Financial qualifications.* CMS contends that, in describing its financing arrangements, Intrastate has revealed that its proposal violates the cellular rules by proposing a *consolidated* cellular system to serve both the San Jose and San Francisco markets instead of separate systems for each market, as required by the rules.

33. We have examined the pertinent language in Intrastate's financial showing (Application, Exhibit 15, pp. 1–2). We conclude that the petitioner's argument is based on a misreading of the application. The applicant states:

> [IRTS] is proposing to build an initial thirteen-cell system in the San Francisco—Oakland SMSA and an initial five-cell system in the San Jose SMSA. If it is the successful applicant in both SMSA's, [IRTS] will consolidate the facilities into a single eighteen-cell system with a common switch at Hayward, California.

Clearly, Intrastate proposes separate systems and, only if the successful applicant in both markets, will Intrastate at that point in the future seek Commission approval to modify its facilities into a consolidated system. Intrastate's separate proposals for San Jose and San Francisco are thus in compliance with our rules and do not violate our prohibition against regionalized proposals which include more than one SMSA. Nor does the fact that Intrastate's single financing package to cover the proposals in both markets violate our rules. Section 22.917(b) states that resources used to demonstrate an applicant's financial ability cannot include funds committed to another project or committed to another cellular application. This rule was intended to prohibit double commitment of the same funds, not to prohibit applicants from obtaining one financing package to cover all cellular ventures. Nothing in the application or in the pleadings leads us to believe that funds committed to the San Jose proposal are also committed either to the San Francisco proposal or any other venture. Accordingly, we will not designate a financial issue on this basis.

34. CMS also questions the cost estimates submitted by Intrastate. These estimates use an incremental cost analysis, showing the increase in costs above Intrastate's present RCC business costs which will result from Intrastate's cellular operations. The petitioner argues that an applicant is not permitted to use such an incremental cost analysis without providing the Commission with evidence that this approach is a reasonable way to estimate costs. We reject this view. Intrastate estimates construction expenses for the San Jose system at $2,300,000. Application, Exhibit 15, Attachment E. This figure includes a cellular central office, cell sites, system spares, installation costs, and miscellaneous expenses. First year operation costs are estimated at $541,904. Exhibit 15, Attachment F. This figure includes maintenance and repairs, salaries, telephone expense, office

supplies, sales and advertising, depreciation and amortization, loan service, taxes, and other expenses. These categories are further itemized into 27 sub-categories. The figures and the cost analysis are not unreasonable on their face. The petitioner has presented no factual materials which call any specific item into question. The fact that, in arriving at these estimates, the applicant considered the increment in costs to run its existing facilities, does not compel a different result. The Commission has in the past sanctioned an applicant's reliance on its operating experience in estimating expenses and revenues. *See Cohen & Siegel,* 68 FCC 2d 702 (1978). Accordingly, we will not designate an issue on this basis.

35. Petitioner CMS also questions the availability of certain equity funding listed in the Intrastate application. We find it unnecessary to examine this matter, however, since, even without the equity funding, Intrastate has $10 million available to cover its construction and first year operating costs. The petitioner does not contest the availability of these funds, which will cover projected expenses of both the San Jose and San Francisco systems proposed by Intrastate. The $10 million funding is based on a letter dated June 4, 1982, from the Chase Manhattan Bank committing up to $10 million to Intrastate for cellular systems in San Jose and San Francisco. The letter specifies interest rate and payment period. We conclude that these funds are available to the applicant for the stated purpose, and we find Intrastate is financially qualified in both San Jose and San Francisco. Any financial issues unique to Intrastate's San Francisco proposal will be disposed of in the order which discusses that market.

GTE Application

36. GTE is the remaining applicant for Block B (wireline) in the San Jose market under the terms of a Limited Partnership Agreement submitted on October 19, 1982. This Agreement is one of a series of similar agreements by which AMPS and GTE, which had filed in 15 of these markets, together with 18 other wireline companies, proposed to settle their electrically mutually exclusive applications in 18 of the top 30 markets. Pursuant to the terms of the Agreements, AMPS will operate cellular systems in twelve markets and GTE will operate cellular systems in six markets, including San Jose. Each partner will continue to prosecute its cellular applications in its specified markets, while the other partners to the agreements will withdraw any applications in those markets. A Limited Partnership Agreement virtually identical to the San Jose Agreement was approved by the Commission in *Advanced Mobile Phone Service, Inc. (Los Angeles Wireline Order),* FCC 83——, released April —, 1983. We find the Commission's decision to be dispositive of all objections to the San Jose Agreement itself.[10]

37. GTE also submitted a "Request for Waiver or Acceptance of Amendments," along with amendments filed Sept. 13, 1982. The filing related to service contour overlaps of the GTE San Jose proposal into the San Francisco SMSA. We find it unnecessary to rule on the pleading or amendments. GTE also filed a cellular proposal for the San Francisco SMSA.[11] The two systems proposed by GTE are fully coordinated. Because there is no other wireline applicant for the proposed coverage of the San Francisco SMSA, and because there is no real possibility of harmful electrical interference, there is no need to require GTE to amend its application or shrink its 39 dBu contours to avoid overlap into the San Francisco SMSA. *See Advanced Mobile Phone Service, Inc. (New York Order),* CC Mimeo 2418 released February 18, 1983, at para. 41. Accordingly, the "Request for Waiver or Acceptance of Amendments" will be dismissed as moot, and the amendments will be returned under separate cover.

Conclusions

38. Based on our analysis of the applications and our resolution of the contested issues in this order, we find that the applicants are legally, technically, financially and otherwise qualified to construct and operate their proposed cellular systems, except to the extent discussed here. We are requiring CMS to bring its application into conformance with the rules as specified in this order. We emphasize that the amendment ordered here may not be used to give CMS a comparative advantage in the hearing proceeding.

39. Accordingly, *it is ordered,* pursuant to Section 22.29 of the Commission's Rules, that the Joint Request for Approval of Limited Partnership Agreement filed by GTE Mobilnet of San Jose, Incorporated, and Advanced Mobile Phone Service, Inc. *is granted* and the accompanying Limited Partnership Agreement is *approved.*

40. *It is further ordered,* That the amendment to the GTE Mobilnet of San Jose, Inc., application *is accepted,* that the amendment is exempted from the cut-off provisions under Section 22.31(e) (3) and (4); and the amended GTE application, File No. 26058–CL–P–(5)–82, is granted.

41. *It is further ordered,* That the request for withdrawal of the application filed by Advanced Mobile Phone Service, Inc., File 26025–CL–P–(3)–82, IS GRANTED and the application is dismissed.

42. *It is further ordered,* That GTE's "Request for Waiver or Acceptance of Amendments" IS DISMISSED as moot, and the related amendments will be returned under separate cover.

43. *It is further ordered,* That the authorization is conditioned upon GTE's filing an amendment to the Limited Partnership Agreement which eliminates the language contained in Section 11.1 of the Agreement, imposing restraints on the alienation of partnership interests.[12]

44. *It is further ordered,* Pursuant to Section 309 of the Communications Act of 1934, as amended, that the above-captioned applications are designated for hearing in a consolidated proceeding, upon the following issues: [13]

(a) To determine whether McCaw Cellular Communications, Inc. (MCCI), has a $35 million loan available from the Continental Illinois National Bank and is financially qualified to construct and

---

[10] The Commission required the deletion of one provision of the Los Angeles Agreement which restrained alienation of partnership interests. We also require deletion of that provision here. *See* para. 43, *infra.*

[11] Both AMPS and GTE have filed cellular applications for the San Francisco SMSA. Pursuant to a proposed settlement agreement between the two parties, GTE has filed an amendment to its application. Both the original and the modified GTE application are fully coordinated with the GTE San Jose application.

[12] The Commission will hold issuance of GTE's authorization until the amendment is received by the Mobile Services Division, Common Carrier Bureau. We also remind the partners that, pursuant to Section 212 of the Communications Act, officers or directors of more than one carrier are required to have authorizations to hold interlocking directorships.

[13] There are two issues that are not to be considered in the comparative hearing. The first is the financial qualifications of the applicants other than McCaw and Cellnet. Financial ability is a basic rather than a comparative qualification for cellular licensing. Cellular Communications Systems, 86 FCC 2d 469, 501–02 (1981). Except as noted, we have found the 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 California, 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. Answer 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. As set forth in para. 23, *infra,* the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of California, 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.

operate for one year its four proposed cellular systems;

(b) To detemine whether Cellular Network, Inc., and its parent Pagenet have equity funding available from the Golder, Thoma Fund of $1.7 million for San Jose and $5 million for San Francisco, as well as a loan from the Continental Illinois National Bank of $5 million for San Jose and $15 million for San Francisco, and is financially qualified to construct and operate for one year its four proposed cellular systems;

(c) To determine on a comparative basis the geographic area and population that each applicant proposes to serve;[14] 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;

(d) 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;[15]

(e) to determine on a comparative basis the nature and extent to the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities);[16] and

(f) 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.

45. *It is further ordered,* That the burden of proceeding with the introduction of evidence upon the financial qualification issue, and the burden of proof, shall be upon McCaw Communications of San Jose, Inc., and upon Cellular Network, Inc.

46. *It is further ordered,* That CMS is directed to file the conforming amendment specified in this order within 15 days after publication of this order in the **Federal Register** and that the date for filing rebuttal cases under Section 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge. Procedures for deciding the issues designated against McCaw and Cellnet shall be determined by the judge in the judge's discretion.

47. *It is further ordered,* That the Separated Trial Staff (the Hearing Division and other individuals specifically designated) of the Common Carrier Bureau is made a party to the proceeding.[17]

48. *It is further ordered,* That the applicants shall file written notices of appearances under Section 22.916(b)(3) of the Commission's Rules within 10 days after publication of this order in the **Federal Register.**

49. *It is further ordered,* That the hearing shall be held according to the procedures specified in Section 22.916 of the Rules, except as otherwise noted herein, at a time and place and before an Administrative Law Judge to be specified in a later order.

50. *It is further ordered,* That exceptions to the initial decision of the Administrative Law Judge under Section 1.276 of the Commission's Rules shall be taken directly to the Commission.

51. *It is further ordered,* That except to the extent granted here, the Petitions to Deny filed by the various parties ARE DENIED, and the Celcam Motion to Strike *is dismissed* as moot.

52. *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 basic qualifications to hold a cellular license following a final 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.

53. *It is further ordered,* That the GTE authorization and any other authorization granted as a result of this proceeding shall be conditioned upon the obtaining of the appropriate antenna structure clearances.

54. This Order is issued under Section 0.291 of the Commission's Rules and *Order Delegating Authority,* FCC 82-435, released October 6, 1982, and is effective on its release date. Petitions for reconsideration under Section 1.106 or applications for review under Section 1.115 of the Rules may be filed within the time limits specified in those Sections. See also Rule 1.4(b)(2).

55. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-12855 Filed 5-12-83; 8:45 am]

BILLING CODE 6712-01-M

[14] 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 as well as highways and areas likely to have high mobile usage characteristics, indications of a substantial public need for the services proposed. *See* 86 FCC 2d at 502.

[15] 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.

[16] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[17] 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 Bureau 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 Act of 1934 as amended § 409(c) (47 U.S.C. § 409(c)); Administrative Procedure Act § 554(d) (5 U.S.C. § 554(d)); Section 1.221 of the Commission's Rules.

FEDERAL EMERGENCY MANAGEMENT AGENCY

California; Notice of Major Disaster and Related Determinations

[FEMA-682-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA-682-DR), dated May 5, 1983, and related determinations.

DATE: May 5, 1983.

FOR FURTHER INFORMATION CONTACT: Sweall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter of May 5, 1983, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended, (42 U.S.C. 5121 *et seq.,* Public Law 93-288) as follows:

I have determined that the damage in certain areas of the State of California, resulting from an earthquake occurring on May 2, 1983, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts

as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to Section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25 percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Tommie C. Hamner of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of California to have been affected adversely by this declared major disaster:

The City of Coalinga in Fresno County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02)

Richard W. Krimm,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-12887 Filed 5-12-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-678-DR]

Mississippi; Amendment to Notice of Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of Mississippi (FEMA-678-DR), dated April 16, 1983, and related determinations.

DATE: May 6, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287-0501.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Mississippi dated April 16, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1983.

Covington County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02)

Richard W. Krimm,

Acting Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-12886 Filed 5-12-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-236]

United Federal Savings and Loan Association, Sarasota, Florida; Final Action Approval of Post-Approval Amendments to Mutual-to-Stock Conversion Application

Notice is hereby given that on April 27, 1983, the General Counsel of the Federal Home Loan Bank Board ("Board") acting pursuant to authority delegated to him by the Board, approved Post-Approval Amendment No. 2 to the mutual-to-stock conversion application of United Federal Savings and Loan Association, Sarasota, Florida ("Association"). The application had been approved by the Board by Resolution No. 81-458, dated August 12, 1981. Copies of the application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Atlanta, Post Office Box 56527, Atlanta, Georgia 30343.

Dated: May 4, 1983.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-12896 Filed 5-12-83; 8:45 am]

BILLING CODE 6720-01-M

GENERAL SERVICES ADMINISTRATION

Intent to Prepare a Supplement to the Final Environmental Impact Statement, Number ETN 78002, dated December 7, 1978, for the Renovation of Union Station, Nashville, Tennessee.

AGENCY: General Services Administration.

ACTION: Notice.

Purpose: The Supplement will evaluate the environmental impacts associated with the proposed discontinuation of the renovation of Union Station, Nashville, Tennessee, and the subsequent transfer of the property to the Disposal Division, General Services Administration, where no disposal action will be taken until all laws and regulations are appropriately addressed.

Direct Comments or Inquiries to: Barbara B. Bishop, Office of Public Buildings and Real Property (4PEP), General Services Administration, 75 Spring Street, SW., Atlanta, Georgia 30303, (404) 221-3080.

Alternatives Considered: The alternatives being considered are:

a. No action;

b. Continued renovation of Union Station; or

c. Declaration of Union Station excess to the needs of the General Services Administration.

Environmental Issues: The significant environmental issues to be discussed in the Supplement include the following:

a. Historic preservation, including reference to Section 106 of the National Historic Preservation Act of 1966 and the Memorandum of Agreement between the Advisory Council on Historic Preservation (ACHP), the Tennessee State Historic Preservation Officer (SHPO), and the General Services Administration. This issue includes weatherizing the building in order to protect the historically and architecturally significant elements of the structure. Another issue to be addressed will be to set forth constraints to protect the significant historical and architectural elements of this National Landmark building should a decision be made to excess Union Station.

b. Potential health hazards from the potential presence of asbestos insulation on building piping.

c. Potential health hazards from the probable presence of the fungus *Histoplasma capsulatum* which causes a respiratory disease called histoplasmosis. The fungus is commonly found in soil containing bird droppings. Testing for the presence of this fungus is currently being conducted at the Union Station site.

d. Potential health hazards from the known presence of the fungus *Cryptococcus neoformans* which grows in pigeon manure. The fungus causes a disease in humans known as meningitis. The disease attacks the covering of the brain and central nervous system and has a 50 percent mortality rate. The Centers for Disease Control has confirmed the presence of this fungus in Union Station within the last 30 days.

e. Potential health hazards from the probable presence of the fungus

Cryptococcus neoformans in the train shed which is connected to Union Station by a concourse. The shed is not owned by the General Services Administration. Any development of Union Station will or may be impacted by the probable presence of this fungus in the train shed.

Copies of the Supplement will be available in the near future. A scoping meeting is not planned; therefore, comments and suggestions concerning the Supplement are invited from all affected and interested parties and should be received in writing as soon as possible, but not later than fifteen (15) days after publication of the Notice in the **Federal Register.**

Dated: May 5, 1983.

Donald F. Layfield,

Regional Administrator of General Services.

[FR Doc. 83-12881 Filed 5-12-83; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements; Preventive Health Services-Tuberculosis Control Clinical Trial; Availability of Funds for Fiscal Year 1983

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1983 for Cooperative Agreements for a Tuberculosis Control Clinical Trial. This program is authorized by Section 301 of the Public Health Service Act (42 U.S.C. 241), as amended. Catalog of Federal Domestic Assistance Number 13.283.

Eligible applicants for this program are the official public health agencies of State and local governments and other public and private organizations.

Because of the limited funds available in Fiscal Year 1983, consideration for awarding funds will be limited to agencies or institutions that treated, in each of the preceding 2 years, at least 25 tuberculosis patients that would have met the eligibility requirements as stated in the CDC protocol "Short-Course Chemotherapy of Pulmonary Tuberculosis-U.S. Public Health Service Therapy Trial 21" (Study 21 Protocol).

Applicants must demonstrate that tuberculosis cooperative agreement funds will be used primarily for providing services necessary to enroll and treat eligible tuberculosis patients, as outlined in the Study 21 Protocol, and for ensuring that those patients are montiored for compliance with the assigned therapy regimens.

Evaluation and ranking of applications will be based on the following factors:

1. The estimated number of study eligible patients to be enrolled annually. Justification for the estimate should be provided. Applicants estimating that they will enroll fewer than 25 eligible patients annually will not be considered for awards.

2. Evidence of an applicant's capability to successfully meet the responsibilities of participating treatment centers, as listed on page 7 of the study protocol.

3. Evidence that the applicant has access to a mycobacteriology laboratory that has the expertise and willingness to provide all of the services required in the study protocol.

4. The exent to which an applicant's budget request is reasonable and consistent with the intended use of funds made available through a cooperative agreement.

5. Evidence that an applicant has access to adequate facilities, staff, and supplies to meet the requirements of the study protocol.

6. Evidence of the applicant's ability to monitor patients' compliance with thereapy and to take appropriate action (as specified in the protocol) when noncompliance is identified.

Purpose and Cooperative Activities

A. *Purpose.* The primary purpose of this multicenter clinical trial is to compare the efficacy, toxicity, and acceptability of a 6-month regimen of isoniazid (I) and rifampin (R), supplemented with pyrazinamide (Z) for the first 2 months, with a control regimen of 9 months of I and R in patients with pulmonary tuberculosis. The secondary purpose of this trial is to determine the acceptability of supervised twice-weekly therapy for patients who fail to adhere to the self-administered daily regimens. The study will be conducted in accordance with the Study 21 Protocol.

B. *Cooperative Activities.* The collaborative and programmatic involvement of recipients of funds and of CDC is as follows:

1. *Recipient Activities.* Each treatment center shall perform the following activities:

a. Participate in the conduct of the study to determine if the 6-month regimen is effective, safe, and acceptable therapy for pulmonary tuberculosis in accordance with the Study 21 Protocol.

b. Identify and select patients 18 years of age and older with newly diagnosed pulmonary tuberculosis, obtain informed consent, and conduct diagnostic medical workup, including chest X-ray, sputum examination, complete blood count, and blood chemistries. All study participants must meet specified criteria for the diagnosis of pulmonary tuberculosis, as well as other criteria outlined in the protocol. The above information will be forwarded to CDC for approval and assignment of each patient to a study regimen.

c. Administer protocol drugs and conduct appropriate followup monitoring for response to therapy and the development of adverse drug reactions.

d. Collect and process sputa for acid-fast smear and mycobacterial culture and perform followup blood tests to monitor for drug toxicity. Ship positive mycobacterial cultures to CDC for drug susceptibility testing.

e. Assure accuracy and reliability of information collected and recorded on study forms. Submit study data to CDC as collected.

2. *Centers for Disease Control Activities.* CDC will perform the following activities:

a. Design the study including: Statistical program systems requirements, specifications, development, and implementation, and statistical analysis of all data.

b. Randomly assign patients to study regimens.

c. Provide required reporting forms, strips for isoniazid urine tests, and letters and trophies used as achievement awards.

d. Provide a computer-generated weekly diary which lists all patients in a center who should be scheduled for visits that week and the procedures and reports required at that visit.

e. Receive reports and evaluate regimens. This includes coding, keypunching, error-editing, program testing, and production of tables for anylsis of all data generated, and preparation of interim and final reports based upon information and data collected from all participating centers.

f. Periodically visit each center to discuss progress of the study and adherence to the protocol.

g. Perform drug susceptibility tests on mycobacterial isolates as required by the protocol and speciate all organisms found to be drug resistant.

It is anticipated that enrollment of patients will continue for up to 2 years. Patients will be followed for an additional 2 years after completion of treatment. Quarterly reports will be prepared by CDC and sent to all participating treatment centers. Financial status reports are required no later than 90 days after the end of each

budget period. Final financial status and progress reports are required 90 days after the end of a project period.

During Fiscal Year 1983, approximately $180,000 will be available to fund two or three new cooperative agreements and 10 to 12 continuation awards. Individual project awards are expected to range from $7,000 to $20,000.

Applications should be submitted for a 1-year budget period and a 1- to 2-year project period. Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change due to budgetary uncertainties.

Cooperative agreement funds may be used to support personnel and to purchase supplies and services directly related to the clincal trial. Project funds may not be used to supplant funds supporting existing tuberculosis control services provided by a State or locality, or to support construction costs.

New applications for a cooperative agreement must include a narrative which summarizes: (1) The background and need for project support including information that relates to factors by which the applications will be evaluated; (2) the objectives of the proposed project which are consistent with the purpose of the clinical trial and which are specific, measurable, realistic, and time-framed; (3) the methods which will be employed to accomplish the objectives (of special importance will be the methods used to monitor and insure patients' compliance with therapy); (4) the methods which will be employed to evaluate the successfulness of enrolling eligible patients; (5) fiscal information pursuant to utilization of awarded funds in a manner consistent with the purpose and objectives of the project; and (6) any other information which will support the request for assistance.

Continuation applications need to provide only new short-term objectives for the new budget period; and progress report on activities performed during the prior budget period; a description of any changes in the method of operation, need for cooperative agreement support, and evaluation procedures compared to information provide in previous applications; and fiscal and other supporting information as indicated in (5) and (6) in the preceding paragraph.

The original and one copy of application must be submitted to the address in 1.a. below on or before 4:30 p.m. (e.d.t.) on July 5, 1983. Applicants may meet the deadline by either delivering or mailing the application on or before the date, provided the following conditions are met:

1. *Mailed applications.* Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date by Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, or

b. Sent by first class mail postmarked on or before the deadline date, and received by the granting agency in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or use U.S. Postal Service express mail, or certified mail, and obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physcially received at the place specified in paragraph 1. above before close of business on or before the deadline date (4:30 p.m. e.d.t., July 5, 1985).

3. *Late applications.* Applications which do not meet the criteria in either paragraph 1. or 2. above are considered late applications and will not be considered in the current competition.

Applications are not subject to the review requirements of the National Health Planning and Resource Development Act of 1974, as amended, or to intergovernmental review pursuant to Executive Order 12372.

Information on application procedures, copies of application forms, copies of the Study 21 Protocol, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, at the address in paragraph 1.a. above, or by calling (404) 262-6575, or FTS 236-6575. Technical assistance may be obtained from Mr. Donald E. Kopanoff, Division of Tuberculosis Control, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-2523, or FTS 236-2523.

Dated: May 4, 1983.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 83-12900 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 83M-0138]

Alcon Laboratories, Inc.; Premarket Approval of OPTI-CLEAN™ Cleaning Solution

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 OPTI-CLEAN™ Cleaning Solution sponsored by Alcon Laboratories, Inc., Fort Worth, TX. 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 June 13, 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, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On June 2, 1982, Alcon Laboratories, Inc., Fort Worth, TX, submitted to FDA an application for premarket approval of the OPTI-CLEAN™ Cleaning Solution for use in a heat or chemical lens care system to clean daily or extended wear soft (hydrophilic) contact lenses with 55 percent or less water content. 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. On April 7, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-925, 90 Stat. 539-583), cleaning solutions for use in cleaning hydrophilic contact lenses were regulated as new drugs. Because the amendments broadened the definition of

the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such cleaning solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition for approval, that sponsors of applications for premarket approval of soft contact lenses or the cleaning solutions for the above use comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles 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.

The labelling of the OPTI-CLEAN ™ Cleaning Solution states that the solution is indicated for use in a heat or chemical lens care system to clean daily or extended wear soft (hydrophilic) contact lenses with 55 percent or less water content. Sponsors of any such soft (hydrophilic contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with such an approved soft contact lens, the sponsor of each such lens shall correct its labeling to refer to the new solution at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to the new cleaner that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(3)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 505(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 13, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 5, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-12721 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0276; DESI 7630]

Drugs for Human Use; Certain Anabolic Steroids, Drug Efficacy Study Implementation; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of four new drug applications for certain anabolic steroid products for which FDA offered an opportunity for hearing, but for which no hearing was requested. The products lack substantial evidence of effectiveness.

EFFECTIVE DATE: June 13, 1983.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific drug product should be identified with Docket No. 80N-0276 and reference number DESI 7630 and directed to the Division of Drug Labeling Compliance (HFN-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nicholas Reuter, National Center for Drugs and Biologics (HFN-8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 18, 1983 (48 FR 2208), the Director of the National Center for Drugs and Biologics revoked the temporary exemption (37 FR 266231) for the continued marketing of certain anabolic steroid drug products. The manufacturers of these products had not complied with the marketing conditions announced on October 31, 1980 (45 FR 72292). The notice also proposed to withdraw approval of the new drug applications, including conditionally approved abbreviated applications, that provide for these products and offered an opportunity for a hearing on the proposal. The basis of the proposal was a lack of substantial evidence of effectiveness.

Products for Which No Hearing Was Requested

Because the holders of the following new drug applications did not request a hearing, approval of the applications is now being withdrawn.

1. NDA 8-736; Methylandrostenediol Aqueous Suspension containing methandriol 25 or 50 mg/mL; Maurry Biological Co., Inc., South Western Ave., Los Angeles, CA 90047.

2. NDA 11-761; Adroyd Tablets containing oxymetholone 2.5, 5, or 10 mg/tablet; Parke-Davis, Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950.

3. NDA 12-226; Dianabol Tablets containing methandrostenolone 2.5 or 5 mg/tablet; Ciba Pharmaceutical Co., Division Ciba-Geigy Corp., 556 Morris Ave., Summit, NJ 07901.

4. NDA 12-733; Anadrol Tablets containing oxymetholone 2.5 mg/tablet; Syntex Laboratories, Inc., 3401 Hillview Ave., Stanford Industrial Park, Palo Alto, CA 94304.

(This notice does not affect Anadrol-50 Tablets, containing oxymetholone 50

mg/tablet, marketed by Syntex for use in the treatment of certain anemias.)

Approval of the new drug applications for the following anabolic steroids was withdrawn in previous **Federal Register** notices, at the request of the applicants because they had discontinued marketing the products. (The January 18, 1983 notice incorrectly stated the reasons for the previous actions withdrawing approval.) These products were named in the January 18 notice offering an opportunity for a hearing because the question of the effectiveness of the drugs had not previously been resolved and neither those applicants nor firms marketing identical, similar, or related drugs had had an opportunity to request a hearing on that decision or on issue relating to the legal status of the products. No hearing on these products has been requested.

1. NDA 7–630; Stenediol Injection containing methandriol 25 or 50 mg/mL; Organon, Inc., 375 Mount Pleasant Ave., West Orange, NJ 07052.

2. NDA 10–400; Nilevar Tablet containing norethandrolone 10 mg/tablet; G. D. Searle & Co., P.O. Box 5110, Chicago, IL 60680.

3. NDA 11–019; Nilevar Injection containing norethandrolone in sesame oil, 25 mg/mL; G. D. Searle & Co.

4. NDA 11–638; Nilevar Drops; containing norethandrolone 8.3 mg/mL; G. D. Searle & Co.

Any drug products that are identical, related, or similar to one of the eight products name above and are not the subject of an approved application are covered by the applications listed above, and are subject to this notice. Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)), and under authority delegated to him (see 21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982) finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications listed above were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling. Therefore, pursuant to this finding, approval of application numbers 8–736, 11–761, 12–226, and 12–733 and all amendments and supplements applying to them is withdrawn effective June 13, 1983. Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Products for Which Hearing Was Requested

This notice does not apply to the products that are the subject of the following conditionally approved abbreviated new drug applications, the holders of which have requested hearings. These products will be addressed in a future **Federal Register** notice.

1. ANDA 87–465; Methandrostenolone 2.5 mg tablets; Bolar Pharmaceutical Co. Inc., 130 Lincoln St., Copiage, NY 11726.

2. ANDA 87–466; Methandrostenolone 5 mg tablets; Bolar Parmaceutical Co. Inc.

3. ANDA 87–945; Methandrostenolone 5 mg tablets; Par Parmaceutical Inc., 12 Industrial Ave., Upper Saddle River, NJ 07458.

4. ANDA 87–951; Methandrostenolone 2.5 mg tablets; Par Parmaceutical Inc.

Products for Which Exemption Has Not Been Revoked

The six products covered by the NDA's and the conditionally approved ANDA's listed below are still subject to the exemption identified above and the action taken in this notice does not apply to them. Nandrolone phenpropionate which was listed in the January 18, 1983 notice as still exempt was the subject of a subsequent **Federal Register** notice (48 FR 11515) which revoked the exemption.

1. NDA 12–885; Winstrol Tablets containing stanozolol 2 mg/tablet; Winthrop Laboratories, Division of Sterling Drug Inc., 90 Park Ave., New York, NY 10016. (Note: NDA 13–268 for Winsteroid Tablets (stanozolol) listed in the June 24, 1970 notice has been assimilated into NDA 12–885 at the request of the holder because both NDA's cover the same product.)

2. NDA 13–132; Deca-Durabolin Injection containing nandrolone decanoate 50 mg/mL, 100 mg/mL, or 200 mg/mL (previous notices listed the 50 mg/mL strength only); Organon, Inc.

3. ANDA 86–385; Nandrolone Decanoate 50 mg/mL; Carter Glogau Laboratories, Inc., 5160 W. Bethany Home Rd., Glendale, AZ 85301.

4. ANDA 86–598; Nandrolone Decanoate 100 mg/mL; Carter Glogau Laboratories, Inc.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)), and under authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982).

Dated: May 2, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-12534 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

Elanco Products Co., Corderm Ointment, Renazide Tablets, Tylan Boluses, and Methagon Tablets; Withdrawal of Approval of NADA'S

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of four new animal drug applications (NADA's) providing for use of the following products: (1) Corderm Ointment, a corticosteroid/antibiotic for canine use; (2) Renazide Tablets, a canine diuretic; (3) Tylan Boluses, an antibiotic for intrauterine use in beef cattle; and (4) Methagon Tablets, a corticosteroid for canine and feline use in certain dermatoses. The sponsoring firm, Elanco Products Co., requested the withdrawal of approvals.

EFFECTIVE DATE: May 23, 1983.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46206, is sponsor of the following four NADA's: (1) NADA 13–133, Corderm Ointment (Flurandrenolide/neomycin), originally approved on September 27, 1962, for use on dogs for topical management of allergic dermatitis, otitis externa, and superficial pyoderma which may be threatened or complicated by bacterial infections; (2) NADA 13–547, Renazide Tablets (cyclothiazide), originally approved on May 24, 1963, for use in dogs for its diuretic and saluretic effects; (3) NADA 13–730, Tylan Boluses (tylosin base), originally approved on July 10, 1963, for treating intrauterine infections in beef cattle; and (4) NADA 33–240, Methagon Tablets (flumethasone), originally approved December 1, 1966, for use in dogs and cats to help control the pruritis, irritation, and inflammation associated with certain dermatoses.

By letter of October 7, 1982, to the Bureau of Veterinary Medicine, Elanco

requested withdrawal of approval of the NADA's because the products are not being manufactured or marketed and the firm has no intention of marketing them in the future.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) 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 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's and all supplements for NADA 13–133, Corderm Ointment; NADA 13–547, Renazide Tablets; NADA 13–730, Tylan Boluses; and NADA 33–240, Methagon Tablets, is hereby withdrawn, effective May 23, 1983.

Approval of NADA's 33–240 and 13–730 have not been codified in the Code of Federal Regulations, but approval of NADA's 13–547 and 13–133 is reflected in § 520.526 *Cyclothiazide tablets* and § 524.1000 *Flurandrenolide with neomycin sulfate ointment.* In a separate document published elsewhere in this issue of the **Federal Register**, the agency is removing those sections that reflect approval of the NADA's.

Dated: May 2, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-12544 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; 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:

Panel on Review of Allergenic Extracts

Date, time, and place. June 3 and 4, 9 a.m., Rm. 115, Bldg. 29, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, June 3, 9 a.m. to 10 a.m.; open committee discussion, June 3, 10 a.m. to 5 p.m., June 4, 8:30 a.m. to 1:30 p.m.; Clay Sisk, National Center for Drugs and Biologics (HFN–6), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

General function of the committee. The committee reviews and evaluates data on the safety, effectiveness, and appropriate use of allergenic products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, or issues pending before the committee.

Open committee discussion. The committee will continue the reevaluation of allergenic biological products previously classified in Category IIIA, the designation for those licensed biological products judged to have insufficient available data to classify as safe and effective, but which should remain licensed pending completion of further testing as provided in 21 CFR 601.25(e). The products are being reclassified under the procedures described in the **Federal Register** of October 15, 1982 (47 FR 46138) and 21 CFR 601.26. Allergenic extracts of pollens, molds, basidiomycetes, insects, foods, house dust, and inhalant allergens will be discussed.

Dematologic Drugs Advisory Committee

Date, time, and place. June 13, 9 a.m., Conference Rms. G and H, Parklawn, Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; David Bostwick, National Center for Drugs and Biologics (HNF–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6798.

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 the treatment of dermatological disorders.

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 ketoconazole (NDA 18–533, Janssen Pharmaceutica) and lindane (NDA 6–309, Reed and Carnrick, Inc.).

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 meetings are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: May 9, 1983.

William F. Randolph,

Acting Assistant Commissioner for Regulatory Affairs.

[FR Doc. 83-12847 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation: Notice of Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Philadelphia District Office, chaired by Loren Y. Johnson, District Director. The topic to be discussed is Direct-to-Consumer Advertising of Prescription Drugs.

Date: Friday, May 20, 1983, 10 a.m. to 12 m.

Address: Federal Bldg., Rm. 3306–10, 6th and Arch Sts., Philadelphia, PA 19106.

For further information contact: Theresa A. Young, Consumer Affairs Officer, Food and Drug Administration, U.S. Customhouse, Rm.

900, 2d and Chestnut Sts., Philadelphia, PA 19106, 215–597–0837.

Houston Station, chaired by Anthony J. Whitehead, Chief. The topics to be discussed are Health Quackery and Direct-to-Consumer Advertising of Prescription Drugs.

Date: Wednesday, May 25, 1983, 10 a.m. to 12 m.

Address: Food and Drug Administration, 1440 North Loop, Suite 250, Houston, TX 77009.

For further information contact: Sheryl Lunnon-Baylor, Consumer Affairs Officer, Food and Drug Administration, 1440 North Loop, Suite 250, Houston, TX 77009, 713–229–3530.

Boston District Office, chaired by Frederick R. Carlson, District Director. The topics to be discussed are Updates on Insulin and Nutrition Labeling and Direct-to-Consumer Advertising of Prescription Drugs.

Date: Thursday, May 26, 1983, 10 a.m. to 12:30 p.m.

Address: New England Dairy and Food Council, 155 Legion Way, Cranston, RI 02910.

For further information contact: Carolyn L. Hommel, Consumer Affairs Officer, Food and Drug Administration, 585 Commercial St., Boston, MA 02109, 617–223–5857.

Minneapolis District Office, chaired by John Feldman, District Director. The topics to be discussed are the Reclassification of Prescription to Nonprescription or Over-the-Counter (OTC) Status and Direct-to-Consumer Advertising of Prescription Drugs.

Date: Wednesday, June 1, 1983, 9:30 a.m. to 11:30 a.m.

Address: United Way Bldg., 2059 Atwood St., Madison, WI 53704.

For further information contact: Blanche Erkel, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612–725–2121.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

May 9, 1983.

[FR Doc. 83-12846 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0154]

International Drug Scheduling; Convention of Psychotropic Substances; Benzodiazepines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests interested persons to submit data or comments concerning abuse potential, actual abuse, and medical usefulness of 12 "benzodiazepine" or "minor tranquilizer" drugs. This information will be considered in preparing a response from the United States to the World Health Organization (WHO) regarding the abuse liability of these drugs. WHO will use this information to consider whether to recommend that international restrictions be placed on these drugs. Benzodiazepines are used to treat anxiety or seizure disorders and have a tranquilizing action on the central nervous system. This notice requesting information is required by law.

DATE: Comments by June 13, 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: Edwin V. Dutra, Jr., National Center for Drugs and Biologics (HFN–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6490.

SUPPLEMENTARY INFORMATION: The United States is a party to the 1971 Convention on Psychotropic Substances. Article 2 of the Convention on Psychotropic Substances provides that if a party to that Convention or WHO has information about a substance that is not yet under international control, which in its opinion may require such control, it shall so notify the Secretary-General of the United Nations and provide the Secretary-General with information in support of its opinion.

The Controlled Substances Act (CSA) (Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970) provide that, when WHO notifies the United States under Article 2 of the Convention on Psychotropic Substances that it has information that may justify adding a drug or other substance to one of the schedules of that Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State must transmit the notice to the Secretary of the Department of Health and Human Services (HHS). The Secretary of HHS must then publish the notice in the **Federal Register** and provide opportunity for interested persons to submit comments to assist HHS in preparing scientific and medical evaluations about the drug or substance.

Normally, the **Federal Register** notice is published after the Secretary of HHS receives a notice from WHO on behalf of the Secretary-General identifying substances that WHO will consider recommending for possible international control. The United Nations notice usually contains a call for the submission of information on the abuse potential of each identified substance and also requests the submission of any other pertinent or relevant data. FDA has learned from the Department of State that WHO has forwarded such a notice concerning the 12 benzodiazepine substances named below.

Although the official notification from WHO on behalf of the Secretary-General has not been received by the Secretary of HHS, FDA is publishing this **Federal Register** notice at this time to give interested persons a full 30 days to comment on the United Nations' request and at the same time to allow FDA, on behalf of HHS, adequate time to review any submissions from interested persons and to transmit to the United Nations the requested material by July 15, 1983.

When the official United Nation's notification is received by the Department of State and forwarded to HHS it will be published in a subsequent **Federal Register** notice as required by the Controlled Substances Act (21 U.S.C. 811(d)(2)(A)).

Therefore, as required by section 201(d)(2)(A) of the Controlled Substances Act (21 U.S.C. 811(d)(2)(A)), FDA on behalf of HHS invites interested persons to submit data or comments regarding the named benzodiazepine drugs. The 12 minor tranquilizer drugs are clotiazepam, delorazepam, ethyl loflazepate, etifoxine, haloxazolam, loprazolam, lormetazepam, pirenzepine, proprizepine, tibezonium, tofisopam, and zopiclone.

None of these drugs are currently commercially available in the United States nor are any of them currently controlled domestically under the CSA. Also, none of the 12 drugs listed above are currently scheduled internationally.

Data and information received in response to this notice will be included in the materials that HHS forwards to WHO, through the Secretary of State, for WHO's consideration in deciding whether to recommend international control of any of these drugs. Such control could limit, among other things, the manufacture and distribution (import/export) of these drugs, and could impose certain recordkeeping requirements on them.

HHS will not make any recommendations to WHO regarding whether any of these 12 drugs should be subjected to international controls. Rather, HHS will defer such consideration until WHO has made official recommendations to the Commission on Narcotic Drugs, which

are expected to be made in the fall of 1983. Any HHS position regarding international control of these drugs will be preceded by another **Federal Register** notice soliciting public comment on the WHO recommendations, as required by 21 U.S.C. 811(d)(2)(B).

Interested persons may, on or before June 13, 1983, submit to the Dockets Management Branch (address above) written comments regarding this action. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Note.—In the **Federal Register** of April 10, 1981 (46 FR 21447) and May 7, 1982 (47 FR 19793), FDA requested the submission of information similar to the information requested by this notice for 27 other benzodiazepine drugs. In the April 1981 document, FDA requested information about chlordiazepoxide, clonazepam, clorazepate, diazepam, flurazepam, lorazepam, medazepam, nitrazepam, oxazepam, oxazolam, prazepam, and temazepam.

WHO recommended these 12 drugs for international control by the Commission on Narcotic Drugs (CND) at the February 1982 CND meeting. At that CND meeting, however, a vote on these 12 drugs was deferred pending a WHO review of additional substances.

In the May 1982 document, FDA requested information about alprazolam, bromazepam, camazepam, clobazam, cloxazolam, estaolam, fludiazepam, flunitrazepam, halazepam, ketazolam, nimetazepam, nordazepam, pinazepam, tetrazepam, and triazolam. Fourteen of these 15 drugs along with the 12 drugs listed in the April 1981 document were recommended for international control be WHO to the CND at the February 1983 meeting. (WHO did not recommend international control of halazepam.) At that 1983 meeting, however, none of the 26 drugs recommended for control by WHO (of the 27 considered by WHO) received a sufficient number of votes at the CND to be controlled under the treaty. All the previously considered drugs (from April 1981 and May 1982) and the 12 drugs that are the subject of this notice are now expected to be considered together by WHO when making its recommendations to the CND for the possible international control of each member of the entire class at the February 1984 meeting.

The information and comments submitted in response to the April 10, 1981 and May 7, 1982 notices on these other 27 benzodiazepine drugs have been retained by FDA. Thus, it is not necessary for interested persons to resubmit those data for these other 27 drugs. However, any new information on these other 27 drugs, i.e., information generated since those notices were published or information not previously submitted, may be submitted to the Dockets Management Branch (address above).

Dated: May 9, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-12844 Filed 5-12-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 78P-0173 et al]

Availability of Approved Variances for Laser Light Shows

Correction

In FR Doc. 83-8235 beginning on page 14042 in the issue of Friday, April 1, 1983, make the following corrections in the table on page 14044:

1. In Docket No. 82P-0234, in the column designated "Demonstration laser products", the last line which reads "Contain Class IIIb Helium-Neon Lasers." should read "Contain Class III Helium-Neon Lasers."

2. In Docket No. 82P-0296, in the column designated "Effective date/ termination date", the entry should read "Sept. 20, 1982, Sept. 20, 1992."

BILLING CODE 1505-01-M

[Docket Nos. 76N-0366 and 83C-0102]

Color Additives; Denial of Petition for Listing of D&C No. 17 for Use in Ingested Drugs and Cosmetics; Withdrawal of Petition for Use in Cosmetics Intended for Use in the Area of the Eye

Correction

In FR Doc. 83-8419 beginning on page 14045 in the issue of Friday, April 1, 1983, make the following corrections:

1. On page 14045, the third column, the second complete paragraph, the fifth line, the word "Orange" should appear immediately following "D&C".

2. On page 14046, the first column, the sixth complete paragraph, the fourteenth line which reads "announcing in this issue of the" should read "announcing the expiration of the".

3. On the same page, in the same column, the last paragraph, the seventh line should read "dinitrophenylazo)-2-naphthol."

BILLING CODE 1505-01-M

Public Health Service

Title V of the Public Health Service Act; Miscellaneous Delegation of Authority

Correction

In the correction appearing on page 19232 in the issue of Thursday, April 28, 1983, in the second column, the reference to "Section 301" should have read "Section 501".

BILLING CODE 1505-01-M

Office of the Secretary

Delegation of Authority Under Social Security Act, As Amended

Notice is hereby given that on April 18, 1983, the Secretary of Health and Human Services delegated to the Inspector General, with the authority to redelegate: (1) The authorities for controlling fraud and abuse in the Department's health care financing program under sections 1128, 1156(b), 1160(b) (as set forth prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248), and 1862(d) (1) and (2) of the Social Security Act, as amended; and (2) the authorities to take action under sections 1866(b)(2) (D), (E), and (F), and to take actions under section 1866(c)(1) with respect to actions taken under section 1688(b)(2) (D), (E), and (F). The authorities to conduct hearings and to issue regulations were excluded from the delegation.

The Secretary also rescinded previous delegation of these authorities to the Administrator, Health Care Financing Administration.

The delegation provides the Inspector General with additional authority to investigate allegation of fraud and abuse in the Department's health care financing programs and to suspend or exclude certain health care practitioners and providers of health care services from participation in these programs.

Dated: May 3, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-12906 Filed 5-12-83; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-83-1239]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection To OMB

Proposal: CDBG Special Quarterly Status Report.
Office: Community Planning and Development.
Form Number: None.
Frequency of Submission: Quarterly.
Affected Public: State or Local Governments.
Estimated Burden Hours: 19,260.
Status: New.
Contact: Bob Duncan, HUD (202) 755-6306, Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 28, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-12947 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1240]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information, (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Initial Study of Community Housing Resource Board Program.
Office: Housing.
Form Number: None.
Frequency of Submission: Single-Time.
Affected Public: Individuals or Households.
Estimated Burden Hours: 90.
Status: New.
Contact: Judson L. James, HUD, (202) 426-1520 Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 11, 1983.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 83-12948 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6986-A, AA-6986-B]

Alaska Native Claims Selection; Cape Fox Corp.

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Cape Fox Corporation for

approximately 428 acres. The lands involved are within T. 74 S., R. 90 E., and T. 75 S., R. 92 E., Copper River Meridian, Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Ketchikan Daily News, upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until June 13, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Managment, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are: Cape Fox Corporation, P.O. Box 8558, Ketchikan, Alaska 99901; Sealaska Corporation, One Sealaska Plaza, Suite 400; Juneau, Alaska 99801.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-12895 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 782]

California; Filing of Plat of Survey

May 6, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, California

T. 10 N., R. 7 E.

2. This plat, representing the metes-and-bounds survey of Tract 42, T. 10 N., R. 7 E., Humboldt Meridian, under Group No. 782, California, was accepted April 27, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the U.S. Department of Agriculture, Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-12898 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-84-M

California; Filing of Plat of Survey

May 7, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, California

T. 16 N., R. 8 E.

2. This supplemental plat of the NW ¼ of section 2, T. 16 N., R. 8 E., Mount Diablo Meridian, was accepted April 26, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-12899 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-84-M

[Group 727]

California Filing of Plat of Survey

May 6, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, California

T. 4N., R. 1W., T. 5N., R. 1W.

2. These plats, representing the (1) reestablishment of the record meander lines and survey of accretion and present meander lines of the Pacific Ocean and Humboldt Bay in section 6, T. 4N., R. 1W., and (2) the dependent resurvey of a portion of the south boundary and subdivisional lines, and the reestablishment of the record meander lines, the extension survey of the south boundary over accreted land, the survey of the subdivision and present meanders of the Pacific Ocean and Humboldt Bay, section 31, and Parcel A in section 6, T. 4N., R. 1W., and section 31, T. 5N., R. 1W., Humboldt Meridian, under Group No. 727, California, were accepted April 25, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 83-12900 Filed 5-12-83; 8:45 am]

BILLING CODE 4210-84-M

California; Use Fee Schedule for Permitted Recreation Activities

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice, California; Special Recreation Permit Fees.

SUMMARY: The document establishes the fee schedule for permitted recreation related activities which occur on Federal lands managed by the Bureau of Land Management in California.

EFFECTIVE DATE:

FOR FURTHER INFORMATION CONTACT: John Skibinski, Outdoor Recreation Planner, Bureau of Land Management, (916) 484–4701.

SUPPLEMENTARY INFORMATION: Costs associated with Special Recreation Permit management have risen dramatically over the past several years, as have the costs associated with providing and maintaining the services, facilities and the natural resources where permitted recreation activities occur. In order to continue with a viable recreation use permit program, a greater portion of those costs must be borne by groups and/or individuals who derive the greatest direct benefits from the Bureau's recreation permit programs.

On May 28, 1982, California BLM announced the proposed 1983 recreation fee increases through news releases and other means requesting comments on the proposed fee increases until June 15, 1982. An extension on the comment period was requested by the interested public and was granted until July 15, 1982. After review of the public comments presented, the California State Director found it to be in the best interest of the United States to increase recreation fees. With respect to river management fees, this decision will provide consistency in California between the two major federal land use agencies, the U.S. Forest Service and the BLM.

Pursuant with Section 304 of Pub. L. 94–579 of 1976 (43 U.S.C. 1734) and regulations in 43 CFR 8372.4, the following fees apply:

1. Commercial use fees (other than permits for events that are both commercial and competitive) for all recreation use on rivers managed by the Bureau in California are $3.00 per user day except for the following rivers:

	Fee/user day
South Fork of the American River	$1.50
Sacramento River	2.00

2. Competitive use fees for off road vehicle events and other activities (includes competitive commercial events) are $2.00 per user day or five percent of the gross receipts, whichever is greater;

3. Special area (individual/group/family use permits) fees are $2.00 per user day where the authorized officer determines that fees are required;

4. Noncommercial, noncompetitive (over 50 vehicles) off road vehicle use fees are $2.00 per user day.

The authorized BLM officer may charge higher fees than those listed in the categories above when the anticipated costs of processing, issuing, and monitoring the permit would exceed the minimum fee.

For the purpose of this fee schedule, a "user day" is defined as one person/user in any part of a calendar day. User days are based on actual participants, not spectators, unless the spectators are required by the permittee to pay a fee.

Dated: May 6, 1983.

Ed Hastey,

State Director.

[FR Doc. 83-12894 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-84-M

[M-53572]

Montana; Realty Action—Exchange

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Notice of Realty Action M–53572, Exchange of Coal Interests in McCone County.

SUMMARY: The following Federal coal interests hereinafter described as the North Tract have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, Pub. L. 94–579.

PRINCIPAL MONTANA MERIDIAN

		Acres	
T20N, R44E			
US	24	400	NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T20N, R45E			
US	2	679.2	Lots 1 thru 4, S½N½, S½.
US	4	628.76	Lots 1 thru 3, S½N½, S½.
US	8	600	NE¼, E½NW¼, SW¼NW¼, S½.
US	10	640	All.
US	18	400	E½, E½SW¼.
US Sec.	20	640	All.
US	30	628.8	Lots 1 thru 4, E½, E½W½.
US	32	640	All.
US	33	40	SW¼SW¼.
T19N, R45E			
US Sec.	4	240.96	Lots 1 thru 4, S½NW¼.
T20N, R46E			
US Sec.	6	630.57	Lots 1 thru 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T21N, R45E			
US Sec.	22	280	NW¼SW¼, S½SW¼, SE¼.
US	26	640	All.

PRINCIPAL MONTANA MERIDIAN—Continued

		Acres	
T21, R45E (o.)			
US	32	400	S½NE¼, S½.
US	34	640	All.

Total acres of Federal coal 8,126.29.

In exchange for coal interests in these lands, the United States will acquire from Meridian Land & Mineral Company, a wholly owned subdivision of Burlington Northern, Inc., coal interests in the following described lands, hereinafter described as the South Tract:

PRINCIPAL MONTANA MERIDIAN

		Acres	
T18N, R44E			
BN Sec.	1	639.44	Lots 1 thru 4, 2½N½,S½.
BN	3	640.04	Lots 1 thru 4, S½N½,S½.
BN	5	640.48	Lots 1 thru 4, S½N½,S½.
BN	9	640	All.
BN	11	640	All.
T19N, R44E			
BN Sec.	1	640.32	Lots 1 thru 4, S½N½,S½.
BN	3	641.08	Lots 1 thru 4, S½N½,S½.
BN	5	40	SE¼SE¼.
BN	9	640	All.
BN	11	520	N½,SW¼,NE¼SE¼.
BN	13	120	N½NE¼,SE¼NE¼.
BN	15	640	All.
BN	17	360	E½,NE¼NW¼.
BN	21	640	All.
BN	23	640	All.
BN	27	640	All.
BN	33	640	All.
BN	35	640	All.
T19N, R45E			
BN Sec.	7	631.88	Lots 1 thru 4, E½,E½W½.
BN	17	40	NW¼NW¼.
T20N, R44E			
BN Sec.	33	240	E½SW¼,SE¼.
BN	35	640	All.

Total acres of BN coal 11,553.24.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the Montana State Director, BLM, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final decision of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange, including the environmental assessment and land report, is available for review at the Miles City District Office, P.O. Box 940, Miles City, Montana 59301.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the affected public lands or interest in lands from settlement, sale, lease, location and entry under the public land laws, including the mining laws but not from

exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

This exchange is in the public interest and provides better land management by blocking up the existing checkerboard coal ownership pattern.

The exchange will be made subject to:

1. The reservation to the United States of all minerals except coal in the Federal estate being transferred.

2. All valid existing rights of record.

3. Satisfactory evidence that qualified surface owner consents are available for the lands overlying the federal coal to be exchanged in the North Tract. It must also be shown that qualified surface owner consents are available overlying all coal in the South Tract, with the exception of State owned coal.

4. The Federal Government will require a one percent (1 percent) freestanding royalty on the total production in the North Tract.

5. A four year delay stipulation will be required preventing Meridian from filing for a mine plan or facility siting permit to allow the successful federal bidder an opportunity to develop and organize plans.

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The public interest will be served by completion of this exchange.

Dated: May 6, 1983.

Bruce G. Whitmarsh,

Acting District Manager.

[FR Doc. 83-12887 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Advisory Committee on Minerals Accountability; Monthly Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of monthly meeting.

SUMMARY: The purpose of the Advisory Committee on Minerals Accountability is to develop over a 1-year period an expanded policy of cooperation with States and Indian tribes in the royalty management area and to develop a detailed plan for carrying out Federal/State/Indian cooperation on a comprehensive basis. The purpose of the Advisory Committee meeting will be to have industry representatives address the Committee on any subject and to voice any complaints or opinions concerning the Royalty Management Program.

The meeting will be open to the public. However, facilities and space to accommodate attendees are limited and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file with the Advisory Committee a written statement concerning the matters to be discussed.

Notice of the next monthly meeting will be published 15 days before the meeting is to take place.

DATE: Wednesday, May 25, 1983, 9:00 a.m.

ADDRESS: Holiday Inn Golden Gateway, 1500 Van Ness Avenue, San Francisco, California.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Department of the Interior, 18th & C Streets, N.W., Room 4216, Washington, D.C. 20240, telephone: (202) 343-3526.

SUPPLEMENTARY INFORMATION: The Advisory Committee was created by the Secretary of the Interior on November 15, 1982 (Order No. 3071).

The Committee will have one or more Executive Sessions at this meeting.

Dated: May 11, 1983.

David C. Russell,

Acting Director, Minerals Management Service.

[FR Doc. 83-13021 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Trail Markers; Michigan et al.

AGENCY: National Park Service, Interior.

ACTION: Marking of designated national scenic trail route and notice of intent to secure trademark registration of the trail marker symbol.

In the matter of, Michigan, Minnesota, New York, North Dakota, Ohio, Pennsylvania; intent to utilize trail markers bearing a distinctive symbol to mark segments of the North Country National Scenic Trail and intent thereby to establish use of the marker logo for purposes of securing trademark registration.

SUMMARY: This notice is to advise that the National Park Service will proceed to implement plans for the marking of the North Country National Scenic Trail route established as a component of the National Trails System by Pub. L. 96-199, March 5, 1980. Implementation will establish official use of the specific trail marker symbol design (figure 1) for purposes of securing trademark registration of the design.

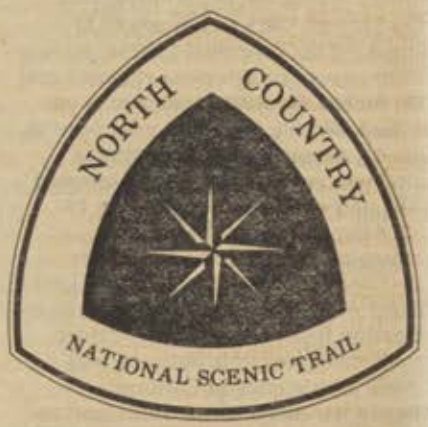
DATE: Action described will commence May 13, 1983.

ADDRESS: Written comments should be sent to: Director, National Park Service, Attention: Chief, Park Planning and Special Studies Division, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Chidlaw, Planner, Park Planning and Special Studies Division, (202) 272-3566.

SUPPLEMENTARY INFORMATION: Uniform marking of each national scenic trail with an appropriate and distinctive symbol is required under provisions of Section 7(c) of the National Trails System Act, Pub. L. 90-543 as amended (82 Stat. 919; 16 U.S.C. 1241 et seq.). In order to prevent proliferation of the distinctive symbol, (figure 1) approved by the North Country National Scenic Trail Advisory Council, and to assure against its use for other than the purpose of marking the scenic trail route the National Park Service will proceed to secure trademark registration under 15 U.S.C. through specific use identifying to the public the designated trail route and the services provided by the Park Service in establishing and maintaining such routes for outdoor recreation and conservation purposes.

(Figure 1)



Trail markers bearing the symbol will be erected at appropriate points where the North Country National Scenic Trail route crosses lands administered by Federal agencies and will be maintained by each Federal agency in accordance with standards established by the Secretary of the Interior. Where the North Country National Scenic Trail route crosses non-Federal lands written cooperative agreements will be entered into with State and local Government agencies for lands under their administration and with private landowners for the erection and maintenance of trail markers to be provided by the Secretary.

Dated: May 3, 1983.

Mary Lou Grier,

Acting Director, National Park Service.

[FR Doc. 83-12914 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-70-M

Trail Markers; North Carolina et al.

AGENCY: National Park Service, Interior.

ACTION: Marking of designated national historic trail route and notice of intent to secure trademark registration of the trail marker symbol.

In the matter of, North Carolina, South Carolina, Tennessee, Virginia; intent to utilize trail markers bearing a distinctive symbol to mark segments of the Overmountain Victory National Historic Trail and intent thereby to establish use of the marker logo for purposes of securing trademark registration.

SUMMARY: This notice is to advise that the National Park Service will proceed to implement plans for the marking of the Overmountain Victory National Historic Trail route established as a component of the National Trails System by Pub. L. 96-344, September 8, 1980. Implementation will establish official use of the specific trail marker symbol design (figure 1) for purposes of securing trademark registration of the design.

DATE: Action described will commence May 13, 1983.

ADDRESS: Written comments should be sent to: Director, National Park Service, Attention: Chief, Park Planning and Special Studies Division, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Childlaw, Planner, Park Planning and Special Studies Division, (202) 272-3566.

SUPPLEMENTARY INFORMATION: Uniform marking of each national historic trail with an appropriate and distinctive symbol is required under provisions of Section 7(c) of the National Trails System Act, Pub. L. 90-543 as amended (82 Stat. 919; 16 U.S.C. 1241 et seq.). In order to prevent proliferation of the distinctive symbol, (figure 1) approved by the Overmountain Victory National Historic Trail Advisory Council, and to assure against its use for other than the purpose of marking the historic trail route the Natioal Park Service will proceed to secure trademark registration under 15 U.S.C. through specific use identifying to the public the designated trail route and the services provided by the Park Service in establishing and maintaining such routes for historical purposes.



Trail markers bearing the symbol will be erected at appropriate points where the Overmountain Victory National Historic Trail route crosses lands administered by Federal agencies and will be maintained by each Federal agency in accordance with standards established by the Secretary of the Interior. Where the Overmountain Victory National Historic Trail route crosses non-Federal lands written cooperative agreements will be entered into with State and local Government agencies for lands under their administration and with private landowners for the erection and maintenance of trail markers to be provided by the Secretary.

Dated: May 4, 1983.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 83-12912 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-70-M

Trail Markers; Wisconsin et al.

AGENCY: National Park Service, Interior.

ACTION: Marking of designated national scenic trail route and notice of intent to secure trademark registration of the trail marker symbol.

In the matter of, Wisconsin, intent to utilize trail markers bearing a distinctive symbol to mark segments of the Ice Age National Scenic Trail and intent thereby to establish use of the marker logo for purposes of securing trademark registration.

SUMMARY: This notice is to advise that the National Park Service will proceed to implement plans for the marking of the Ice Age National Scenic Trail route established as a component of the National Trails System by Pub. L. 96-370, October 3, 1980. Implementation will establish official use of the specific trail marker symbol design (figure 1) for purposes of securing trademark registration of the design.

DATE: Action described will commence May 13, 1983.

ADDRESS: Written comments should be sent to: Director, National Park Service, Attention: Chief, Park Planning and Special Studies Division, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Childlaw, Planner, Park Planning and Special Studies Division, (202) 272-3566.

SUPPLEMENTARY INFORMATION: Uniform marking of each national scenic trail with an appropriate and distinctive symbol is required under provisions of Section 7(c) of the National Trails System Act, Pub. L. 90-543 as amended (82 Stat. 919; 16 U.S.C. 1241 et seq.). In order to prevent proliferation of the distinctive symbol (figure 1) approved by the Ice Age National Scenic Trail Advisory Council, and to assure against its use for other than the purpose of marking the scenic trail route the National Park Service will proceed to secure trademark registration under 15 U.S.C. through specific use identifying to the public the designated trail route and the services provided by the Park Service in establishing and maintaining such routes for outdoor recreation and conservation purposes.



Trail markers bearing the symbol will be erected at appropriate points where the Ice Age National Scenic Trail route crosses lands administered by Federal agencies and will be maintained by each Federal agency in accordance with standards established by the Secretary of the Interior. Where the Ice Age National Scenic Trail route crosses non-

Federal lands written cooperative agreements will be entered into with State and local Government agencies for lands under their administration and with private landowners for the erection and maintenance of trail markers to be provided by the Secretary.

Dated: May 4, 1983.

Mary Lou Grier,

Acting Director, National Park Service.

[FR Doc. 83-12913 Filed 5-12-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the fifty-sixth meeting of the Board for International Food and Agricultural Development (BIFAD) on June 1–2, 1983.

On June 1, from 5:30 p.m. to 7:30 p.m. the Board will meet with the BIFAD Support Staff to prepare for the June 2 meeting and consider future staff actions. This meeting will be held in Room 710, National Association of State Universities and Land Grant Colleges, 1 Dupont Circle, Washington, D.C. The meeting will continue from 8:00 a.m. to 8:45 a.m. on June 2, in Room 1207, New State Department Building, 22nd and C Street, NW., Washington, D.C.

On June 2, the regular BIFAD meeting will be held to consider: a report on development and implementation of AID policy on advanced development countries; a staff study of the process for matching university resources and AID project needs; BIFAD recommendations on the study of incentives for university involvement in Title XII programs; university standards of performance on AID projects; increasing use of historically Black Colleges and Universities in AID projects; a status report on SECID resource conservation and utilization project in Nepal; AID policy on "Women in Development"; and a report on activities of the Joint Committee on Agricultural Research and Development (JCARD). This meeting will begin at 9:00 a.m.; recess at 12:00 noon, and reconvene from 1:30 to 3:15 p.m. It will be held in Room 1107, New State Department Building, 22nd and C Streets, NW., Washington, D.C.

The meetings are open to the public. Any interested person may attend, may file written statements with the board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Dr. Erven J. Long, Coordinator, Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring futher information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235–8929.

Dated: May 9, 1983.

Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 83-12925 Filed 5-12-83; 8:45 am]

BILLING CODE 6116-01-M

Housing Guaranty Program; Investment Opportunity; Barbados

The Agency for International Development (A.I.D.) has authorized guaranties of a loan or loans to the Government of Barbados (Borrower) as part of A.I.D.'s development assistance program. The proceeds of these loans, amounting to Fifteen Million Dollars ($10,000,000), will be used to finance shelter projects for low income families residing in Barbados. The following is the name, addess, and telephone number of the representative of the Borrower to be contacted by interested U.S. lenders or investment bankers:

Barbados

Project: 538–HG–002—$10,000,000 Ministry of Finance, Government Headquarters, Bay Street, Bridgetown Barbados
Attention: Martin Cox or Ralph Carvallo
Telephone: (809) 61671 or 63688

Investors should contact the Borrower as soon as possible and indicate their interest in providing financing for this Housing Guaranty project. Following its discussions with interested investor, the Borrower will decide upon a procedure for selecting an investor and will inform interested investors of the procedure to be followed.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty covering the loans. Disbursements under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to the authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate estabished by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. Housing Guaranty program can be obtained from: Director Office of Housing and Urban Programs, Agency for International Development, Room 625, SA–12, Washington, D.C. 20523, Telephone: (202) 632–9637.

Dated: April 6, 1983.

Sean P. Walsh,

Deputy Director (Acting), Office of Housing and Urban Programs.

[FR Doc. 83-12936 Filed 5-12-83; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

IJC Meetings on Great Lakes Water Uses

The diversions and consumptive uses of Great Lakes waters will be the subject of public meetings to be held in seven Great Lakes communities by the International Joint Commission this June.

The Canadian and United States governments have welcomed the decision of the IJC to initiate a public consultation process on diversions and consumptive uses. Information obtained from the comments of those interested in the matter will be considered by the Commission in preparing a report to the Governments of Canada and the United

States pursuant to a Reference received from the Governments in 1977.

Discussion will focus on the report of the International Great Lakes Diversions and Consumptive Uses Study Board, a technical Board of advisors to the Commission, as well as on its broader policy implications, but will also be open to any related issues.

The Board's report to the Commission, released last year, concluded that the greatly increasing consumptive use of Great Lakes water by a wide variety of interests will have a significant effect on the levels of the Lakes in future years, and should be monitored.

In addressing the diversions aspect, the Board found that present diversion rates could be modified without structural changes at existing locations, but concluded that managing diversions to raise extreme low lake levels was not feasible. The Board also concluded that these diversion rates could not be managed to reduce extreme high levels without causing an overall long-term economic loss. The Board did not have a mandate to investigate speculative large scale diversions out of the Great Lakes Basin.

An earlier series of public workshops assisted the Board in preparing its technical report. The present meetings are expected to expand the public discussion. Citizens of both countries may participate in either Canada or the United States. The public is encouraged to send written comments to IJC offices if unable to attend.

The Commission encourages any persons having opinions or points of views on diversions and consumptive uses to participate. Prepared briefs will also be received as is customary, but they should be summarized for verbal presentation.

The following is the schedule and locations:

June 7, 1983—Chicago, Illinois, American Congress Hotel, 532 South Michigan Avenue, Sessions beginning at: 2 p.m. and 7 p.m.

June 8, 1983—Duluth, Minnesota, Radisson Hotel, 505 West Superior Street, Sessions beginning at: 2 p.m. and 7 p.m.

June 9, 1983—Windsor, Ontario, Cleary Auditorium, 201 Riverside Drive West, Sessions beginning at: 2 p.m. and 7 p.m.

June 13, 1983—Cleveland, Ohio, Cleveland Engineering Society, 3100 Chester Avenue, Sessions beginning at: 2:30 and 7 p.m.

June 14, 1983—Rochester, New York, Rochester Inst. of Technology, Webb Auditorium, Sessions beginning at: 2:00 and 7 p.m.

June 15, 1983—Toronto, Ontario, Harbourfront, York Quay Centre, 235 Queen's Quay West, Sessions beginning at: 2:00 and 7 p.m.

June 16, 1983—Cornwall, Ontario, Cornwall Civic Complex, 100 Water Street East, Sessions beginning at: 2:00 and 7 p.m.

Dated: May 10, 1983.

David A. La Roche,

Secretary, United States Section.

[FR Doc. 83-12944 Filed 5-12-83; 8:45 am]

BILLING CODE 4710-14-M

INTERSTATE COMMERCE COMMISSION

[No. 38895] [1]

Motor Carriers; International Transport, Inc., et al.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioners' existing operations granted at 47 Fed. Reg. 55537 (December 10, 1982) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioners' future contracts is granted.

DATE: Comments are due on May 31, 1983. The provisional exemption of petitioners' future contracts will become final on June 15, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38895, Room 2139, Interstate Commerce Commission, Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Suzanne Higgins, (202) 275–7181 or Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, or call 289–4357 in the DC metropolitan area or toll free (800) 424–5403.

Decided: May 6, 1983.

By the Commission, Division 1, Commissioners Andre, 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. 83-12881 Filed 5-12-83; 8:45 am]

BILLING CODE 7035-01-M

[No. 38990 et al.] [1]

Motor Carriers; James S. Batt, d.b.a. Batt Trucking—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final exemption of existing operations and provisional exemption of future operations.

SUMMARY: The provisional exemption of petitioners' existing operations granted at 48 Fed. Reg. 6423 (February 11, 1983) is made final. Additionally, in accordance with current Commission policy, a provisional exemption of petitioners' future contracts is granted.

DATES: Comments are due on May 31, 1983. The provisional exemption of petitioners future contracts will become final June 15, 1983, unless in response to timely filed adverse comments, the Commission issues a future decision withdrawing this relief.

ADDRESS: Send an original and 15 copies of comments to: No. 38990 et al., Room 2139, Interstate Commerce Commission,

[1] This proceeding embraces the following petitions for exemption from tariff filing requirements: No. 38895, International Transport, Inc.; No. 38897, Quality Operations, Inc.; No. 38903, Wilson Certified Express, Inc.; No. 38906, Otto Feldt, Inc.; No. 38908, Bowman Transportation, Inc.; No. 38912, K.J. Transportation, Inc.; No. 38920, L.R.C. Truck Line, Inc.; No. 38922, Mercury Tanklines Limited; No. 38926, Ridgefield Park Transport Co. Inc.; No. 38927, P&P Trucking Company, Inc.; No. 38928, Refrigerated International Cargo Haulers, Inc.; No. 38932, National Transportation, Inc.; No. 38934, Processed Beef Express, Inc.; 38935, Trafik Services, Inc.; No. 38937 Central Transport, Inc.; No 38938, Willard D. Van Zuiden Trucking, Inc.; No. 38939, Carnaco Transport, Inc.; No. 38942, Quad City Spotting Service, Inc.; No. 38943, J.R.S. Leasing Charter, Inc.; No. 38944, National Freight, Inc.; No. 38945, Mr. Frank Inc.; No. 38947, Capstan Transportation Co.; No. 38952, Nu-Car Carriers, Inc.

[1] This proceeding embraces 18 petitions for exemption filed by motor contract carriers: No. 38990, James S. Batt, d/b/a Batt Trucking; No. 38992, W. E. BATTLES, d/b/a Jobbers Freight Service; No. 38993, Enterprise Transporation Company; No. 38994, Lykes Transport, Inc.; No. 38995, Romer, Inc.; No. 38996, Service Transportation, Inc.; No. 38997, Associated Transport Service, Inc. No. 39000, Trans Continental Transport, Inc.; No. 39003, Aladdin, Inc., No. 39004, Warehouse Freight, Inc.; No. 39005, Illinois Auto Delivery, Inc., d/b/a Auto Delivery Company; No. 39006, Warehouse Transportation Company, Inc.; No. 39009, Gemini Trucking, Inc.; No. 39011, Catawba Trucking Co., Inc.; No. 39012, Allstate Carriers, Inc.; No. 39013, Winters Trucking Inc.; No. 39014, Jodan Transport, Inc.; No. 39017, Signal Delivery Service, Inc.

Office of Proceedings, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Robin Williams, (202) 275-7697
or
Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2227, 12th and Constitution Ave., N.W., Washington, D.C. 20423, or call 289-4357 in the DC metropolitan area or toll free (800) 424-5403.

Decided: May 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. 83-12860 Filed 5-12-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Notice of Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of Approved Exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on June 13, 1983. Petitions for reconsideration must be filed by June 2, 1983. Petitions for stay must be filed by May 23, 1983.

FOR FURTHER INFORMATION CONTACT:
Warren C. Woods (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further informaton, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW, Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403 Toll-Free outside the DC area.

Agatha L. Mergenovich,

Secretary.

MC-F-15108, RONALD AND FLORENCE WHITEFORD—continuance in control exemption—WHITEFORD NATIONALEASE, INC, d.b.a. DEDICATED TRUCK SERVICE AND WHITEFORD TRUCK LINES, INC. Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Petitioner's representative: Alki E. Scopelitis, 1301 Merchants Plaza East Tower, Indianapolis, IN 46204. Pleadings should refer to No. MC-F-15108. Decided: May 3, 1983. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C 11343(b)(2), the continuance in control of Whiteford Nationalease, Inc., doing business as Dedicated Truck Service (MC-164764) by Whiteford Truck Lines, Inc. (MC-136635). 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.

MC-F-15151, DICK IRVIN, INC.—purchase exemption—SHOEMAKER TRUCKING COMPANY (Loren Wetzel, trustee-in-bankruptcy). Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioner's representative: David E. Wishney, Attorney at Law, P.O. Box 837, Boise, ID 83701. Pleadings should refer to No. MC-F-15151. Decided: May 6, 1983. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(2), the purchase by Dick Irvin, Inc. of the interstate operating rights of Shoemaker Trucking Company contained in Docket No. MC-138875 [Sub-Nos. 55, 74F, 93F, 108F, 116F, 127F, 147F, 214F, 239F, 277F, 298, and 299, and paragraphs (1)(m), (7)(g), (13), (16), (19), (22), (45)(b), (45)(d), (51), and (56) of Sub-No. 312X]. By the Commission, Division 1, Commissioners Andre, 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

MC-F-15092, APPLE CITY EXPRESS, INC.—purchase exemption—SPECTOR RED BALL, INC. Addresses: Send pleadings to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioners' representatives for Spector: J. Raymond Chesney, 3177 Irving Blvd., P.O. Box 47407, Dallas, TX 75247. For Apple City: L. W. Ward, P.O. Box AB, Murphysboro, IL 62966. Pleadings should refer to No. MC-F-15092. Decided: May 6, 1983. Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a), the purchase by Apple City Express, Inc., (MC-159973) of that portion of the operating authorities of Spector Red Ball, Inc., set forth in Certificate No. MC-2229, Sub-No. 171, authorizing the transportation of general commodities (with exceptions), over a regular route extending between Memphis, TN, and New Orleans, LA, those portions of Sub-No. 257 at pages 2 through 26, authorizing the regular route transportation of general commodities (with exceptions) and certain specified commodities, and certain limited irregular route transportation, serving numerous points in named midwestern and southern States, those portions of Sub-No. 119 at sheets 1 through 8 and 10 through 14, authorizing the regular route transportation of general commodities (with exceptions) and certain specified commodities, serving named points in Arkansas, Louisiana, and Mississippi, that portion of Sub-No. 254 at sheet 5, authorizing the transportation of refractories, serving points in three named Missouri counties as off-route points, that portion of Sub-No. 258 at sheet 2, authorizing the transportation of general commodities (with exceptions), serving Raymond, MS, and named plant sites in Whitley County, IN, and near Henderson, TN, as off-route points, that portion of Sub-No. 259 at sheet 5, authorizing the transportation of general commodities (with exceptions), serving Frankfort, IN, as an off-route point, that portion of Sub-No. 260 at sheets 3 through 5, authorizing the transportation of general commodities (with exceptions, serving named facilities near Nashville, TN, as an off-route point, and operating over specified alternate routes in Illinois and Kentucky, that portion of Sub-No. 265 at sheets 2 and 3, authorizing the transportation of general commodities (with exceptions), serving named facilities near Brownsville, TN, as an off-route point, and the transportation of lawn and garden equipment and specified related commodities, serving named facilities near Sebastopol, MS, as an off-route point, that portion of Sub-No. 266 at sheets 2 and 3, authorizing the transportation of general commodities (with exceptions), serving named facilities near Murray, KY, as an off-route point and serving Prentiss, MS, as an off-route point, that portion of Sub-No. 267 at sheet 5, authorizing service at Lexington, TN, as an off-route point, that portion of Sub-No. 269 at sheet 3, authorizing the transportation of general

commodities (with exceptions), serving Calvert City, KY, as an off-route point, that portion of Sub-No. 131 at sheets 2 and 3, authorizing the transportation of general commodities (with exceptions), serving specified points in Louisiana and Texas, that portion of Sub-No. 182 at sheet 2, authorizing the transportation of general commodities (with exceptions), serving named points in Mississippi and Louisiana over specified alternate routes, and the following certificates authorizing the regular route transportation of general commodities (with exceptions): Sub-Nos. 54 and 118, authorizing service at named Arkansas and Louisiana points, Sub-Nos. 126, 130, and 145, authorizing service at named Louisiana points, Sub-Nos. 136, 139, and 140, authorizing service at named off-route points in Mississippi, and Sub-Nos. 148, 150, 168, 187, and 230, authorizing service at named off-route points in Louisiana. 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.

[FR Doc. 83-12859 Filed 5-12-83; 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 (fitnesses-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries about the following to Team 2, (202) 275-7030.

Volume No. OP2-210

Decided: May 4, 1983.
By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. Member Ewing not participating.

MC 155743, filed April 27, 1983. Applicant: VENEER CHIP TRANSPORT, INC., 7117 40th West-#7, Tacoma, WA 98466. Representative: Jim Pitzer, 15 South Grady Way, Suite 321, Renton, WA 98055, 206-235-1111. Transporting (1) for or on behalf of the United States Government, *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), and (2) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 157132, filed April 28, 1983. Applicant: FREEDOM TRANSPORT, INC., 33 N.E. Middlefield Rd. #111, Portland, OR 97211. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210, 503-226-3755. As a *broker of general commodities* (except household goods), between points in the U.S.

Please direct status inquiries about the following to Team 3 at (202) 275-5223

Volume No. OP3-203

Decided: May 5, 1983.
By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell. Member Krock not participating.

MC 167455, filed April 15, 1983. Applicant: INTER-CONTINENTAL CUSTOM BROKERS, INC., d.b.a. ICCB, 406 North Oak Street, Inglewood, CA 90301. Representative: Samuel PLON (same address as applicant), (213) 674-9376. As a *broker* of *general commodities* (except household goods) between points in the U.S.

Please direct status inquiries about the following to Team 5 at (202) 275-5223

Volume No. OP5-214

Decided: April 29, 1983.
By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 167449, filed April 15, 1983. Applicant: FRANK H. LOWRY, 21 Heron Drive, Marlboro, NJ 07746. Representative: George A. Olsen, P.O.

Box 357, Gladstone, NJ 07934, (201) 234–0301. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–218

Decided: April 29, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 162789, filed April 22, 1983. Applicant: MAJESTIC TOURS AND CHARTER, INCORPORATED, P.O. Box 9384, 1445 Continental Dr., Holly Hill, FL 32017. Representative: Ervin Ross, Jr., 430 Jabaly St., Daytona Beach, FL 32014, (904) 255–4615. Transporting *passengers*, in special and charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 164899 (Sub-1), filed April 22, 1983. Applicant: UNITED STATES MOVING & STORAGE CORP., 350 Coney Island Ave., Brooklyn, NY 11218. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. 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), between points in the U.S. (except AK and HI), and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167488, filed April 19, 1983. Applicant: FREEMAN BUS CORPORATION, 122 Eames Rd., Watertown, NY 13601. Representative: Robert C. Freeman, Jr. (same address as applicant), 315–788–1900. Transporting *passengers* in charter and special operations, beginning and ending at points in Cayuga, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Saratoga, Seneca, St. Lawrence, Warren and Wayne Counties, NY, and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 167518, filed April 19, 1983. Applicant: PILGRAM CONSOLIDATORS, INC., 1029 Pearl St. Brockton, MA 02401. Representative: Joseph Glasson, 94 Braemoor Road, Brockton, MA 02401, (617) 587–5656. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167519, filed April 20, 1983. Applicant: JOHN B. CAMPBELL, d.b.a. CAMPBELL LIMOUSINE, 1926 Columbia Pike, Apt. #1, Arlington, VA 22204. Representative: John B. Campbell (same address as applicant), (703) 521–2624. Transporting *passengers*, in charter and special operations, between points in MD, VA, and DC.

Note.—Applicant seeks to provide privately funded special and charter transportation.

MC 167549, filed April 21, 1983. Applicant: JERRY JONES, d.b.a. PIONEER FREIGHT LINES, P.O. Box 3983, Central Point, OR 97502. Representative: Jerry Jones, 508 Fairmont, Medford, OR 97501, 503–772–8708. 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).

Volume No. OP5–221

Decided: May 6, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 167448, filed April 15, 1983. Applicant: TYMAN M. WELLS, 2955 D½ Road, Grand Junction, CO 81501. Representative: Tyman M. Wells (same address as applicant), (303) 242–7362. 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 167538, filed April 19, 1983. Applicant: SIR RICHARDS LIMOUSINE SERVICES, INC., 35 Allen Lane, Hammonton, NJ 08037. Representative: Jerry A. Casser, 80 Main St., West Orange, NJ 07052, (201) 736–9800. 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 167579, filed April 21, 1983. Applicant: LLOYD MATTIX, d.b.a. MATTIX AND SONS, 4928 Foxfire Trail, Middleton, WI 53562. Representative: Richard D. Armstrong, 925 Hyland Drive, Stoughton, WI 53589, (608) 873–8929. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, (3) *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, and (4) *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 167598, filed April 20, 1983. Applicant: SECURITY STORAGE & MOVING SERVICE OF ALBANY, INC., 913–915 Roosevelt Ave., Albany, GA 31702. Representative: G. Harold Posey, P.O. Box 566, Columbus, GA 31902, 404–324–2910. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83–12866 Filed 5–12–83; 8:45 am]
BILLING CODE 7035–01–M

[Finance Docket No. 30158]

Rail Carriers; The Atchison, Topeka and Santa Fe Railway Co.; in Lease Exemption—Toledo, Peoria and Western Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C 11343, the Atchison, Topeka and Santa Fe Railway Company's lease of an 11.7–mile Line to the Toledo, Peoria and Western Railroad Company. The lease involves Santa Fe's line between milepost 36.6 at Pekin Junction and milepost 48.3 near Morton, IL.

DATES: This exemption shall be effective on June 13, 1983. Petitions to stay the effectiveness of this decision must be filed by May 23, 1983. Petitions for reconsideration must be filed by June 2, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30158 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Michael W. Blaszak, 80 East Jackson Boulevard, Chicago, IL 60604

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: May 3, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett concurred except for the third ordering paragraph. Commissioner Andre would not have imposed a deadline for consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12862 Filed 5-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 144)]

Rail Carriers; Chicago and North Western Transportation Company—Abandonment—in Waukesha, Jefferson, and Dane Counties, WI; Notice of Findings

The Commission has issued a certificate authorizing Chicago and North Western Transportation Company to abandon its 48.2-mile rail line between Waukesha, WI (milepost 20.6) and Cottage Grove, WI (milepost 71.0) in Waukesha, Jefferson, and Dane Counties, WI. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (throughly subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12865 Filed 5-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-No. 99)]

Rail Carriers; Illinois Central Gulf Railroad Company—Abandonment—in Smith and Jones Counties, MS; Notice of Findings

The Commission has found that the public convenience and necessity permit the Illinois Central Gulf Railroad Company to abandon its 10.3 mile rail line between milepost 131.5 near Taylorsville, Smith County, MS, and milepost 141.8 at Soso, Jones County, MS. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12863 Filed 5-12-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 67)]

Rail Carriers; Seaboard System Railroad, Inc.—Abandonment—in Orange County, FL; Notice of Findings

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc. to abandom its 10.33-mile rail line from milepost AVB-832.07 near Ococee, to milepost AVB-821.74 at Dr. Phillips, in Orange County, FL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-12864 Filed 5-12-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 40 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.

Please direct status inquiries about the following to Team 2, (202) 275-7030.

Volume No. OP2-210-FC

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81344. By decision of May 6, 1983 issued under 49 U.S.C. 10926 and the transfer rules of 49 C.F.R. 1181, Review Board Number 2 approved the transfer to transferee B & B FORWARDING, INC., Torrance, CA, of Permit FF-623, issued March 8, 1983, to transferor, B & B FOREST PRODUCTS d.b.a. B & B FORWARDING, Torrance, CA, authorizing the transportation as a freight forwarder, in connection with the transportation of household goods, baggage, and transportation equipment, between points in the U.S. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036.

MC-FC-81411. By decision of May 6, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 2, approved the transfer to CHRISTIAN CARRIERS, INC. (corporation), Buena Park, CA, of authority issued to RAYMOND W. GILLIAN AND JOSEPH L. MONDERINE, d.b.a. R & L PROPERTIES, CHRISTIAN CARRIERS (partnership) Buena Park, CA, in Certificate MC-153842, , issued June 1, 1982, authorizing the transportation of passengers and their baggage, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Orange County, CA, and extending to points in the United States. Representative Raymond W. Gilligan, 5671 Altura Blvd., Buena Park, CA, 90620.

Please direct status inquiries about the following to Team 4 at (202) 275-7669.

Volume No. OP4-FC-276

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81445, filed April 29, 1983. By decision of May 5, 1983 issued under 49 U.S.C. 10926 and the Commission's transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to Joseph Merola d.b.a. Transport Service, Pardeesville, PA, of Certificate No. MC-158956, issued March 28, 1983, to Joseph Callavini (An Individual), Lattimer, PA, authorizing the transportation of paper and paper products, between points in Columbia County, PA and Gregg County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517 (717) 344-8030.

Please direct Status inquiries about the following to Team 5 at (202) 275-7289.

Volume No. OP5-FC-216

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC-FC-81437. By decision of May 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 ACTION DELIVERY SERVICE, INC., Grand Prairie, TX, of Certificates Nos. MC-150088 Subs 1, 2, 3, 4, 5, 6, 7, 8, and 10, and Permit No. MC-150088 Sub 9, issued September 17, 1981, April 22, 1981, February 9, 1981, February 9, 1981, March 3, 1981, August 7, 1981, November 19, 1981, June 30, 1982, July 6, 1982, and June 17, 1982, respectively, to STERLING TRANSPORT DIVISION, INC., (A. William Brackett, Trustee in Bankruptcy) Grand Prairie, TX, authorizing the transportation of household appliances, air conditioning units, television sets and stands, between points in Pulaski County, AR, on the one hand, and, on the other, points in TX and OK; such commodities as are dealt in or used by retail, variety or department stores, between Memphis, TN, and points in CO, KS, MO, LA, TX, AR, and OK; specified food products between points in named counties in TX, and points in AR, LA, OK, and NM; carpet from points in Hempstead County, AR, to points in Dallas and Tarrant Counties, TX; malt beverages between points in named counties in TX, on the one hand, and, on the other, points in named counties in AR; general commodities, with exceptions, between points in Dallas County, TX, on the one hand, and, on the other, points in TX; and general commodities, with exceptions, between points in the U.S. under continuing contract(s) with Sterling Warehousing & Distribution, Inc., of Grand Prairie, TX. An application for TA has been filed. REPRESENTATIVES: A. William Brackett, Attorney for Transferee, 623 South Henderson, 2nd floor, Fort Worth, TX 76104; and Daniel J. Sherman, Trustee in Bankruptcy, 509 North Montclair, Dallas, TX 75201.

Agatha L. Mergenovich,
Secretary.

[FR Doc 83-12922 Filed 5-12-83; 8:46 am]
BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b) (1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Florida Rock Industries, Inc., 155 East 21st Street, Jacksonville, FL 32206.

2. Wholly owned subsidiaries which will participate in the operations, and address of their respective principal offices:

Rich-E-Mix Concrete Products, Inc., 155 East 21st Street, Jacksonville, FL 32206

Virginia Concrete Company, Inc., 155 East 21st Street, Jacksonville, FL 32206

Cardinal Concrete Company, 155 East 21st Street, Jacksonville, FL 32206

Florida Rock & Tank Lines, Inc., 155 East 21st Street, Jacksonville, FL 32206

Commonwealth Aggregates, Inc., 155 East 21st Street, Jacksonville, FL 32206

Motor Fuel Carriers, Inc., 155 East 21st Street, Jacksonville, FL 32206

Maryland Rock Industries, Inc., 155 East 21st Street, Jacksonville, FL 32206

Breton Bay Water Transportation Co., 155 East 21st Street, Jacksonville, FL 32206.

1. Parent corporation and address of principal office: Fluor Corporation, 3333 Michelson Drive, Irvine, California 92730.

2. Directly and indirectly wholly owned subsidiaries which will participate in the operations and states of incorporation:

(i) Aftermarket Diesel, Inc., a South Carolina corporation
(ii) Deer Park Equipment Company, a California corporation
(iii) Fluor Alaska, Inc., an Alaska corporation
(iv) Fluor Canada Ltd.-Fluor Canada Ltee., a Canada corporation
(v) Fluor Constructors, Inc., a California corporation
(vi) Fluor Distribution Companies, Inc., a California corporation
(vii) Fluor Engineers, Inc., a California corporation
(viii) Fluor Northwest, Inc., an Alaska corporation

(ix) Fluor Pipe and Piling Company, a Delaware corporation
(x) Fluor Power Services, Inc., a Delaware corporation
(xi) Fluor Supply Company, a Texas corporation
(xii) Kilsby-Roberts Co., an Illinois corporation
(xiii) Liquefied Coal Development Corporation, a California corporation
(xiv) Republic Supply Company of California (The), a California corporation.

1. Parent corporation and address of principal office: Guttman Oil Company, Speers Road, Belle Vernon, PA 15012

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: Mid-Penn Refining Company, a Pennsylvania corporation.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-12921 Filed 5-12-83; 8:45 am]
BILLING CODE 7035-01-M

[Docket AB-1; Sub-152]

Chicago and North Western Transportation Company—Abandonment—In Blackhawk and Tama Counties, IA; Findings

On April 15, 1983, the Commission issued a certificate authorizing the Chicago and North Western Transportation Company to abandon its 9.3-mile rail line between milepost 28.8 near Buckingham and milepost 38.1 near Hicks, in Blackhawk and Tama Counties, IA. The abandonment certificate will become effective 15 days after this publication unless the Commission also finds that (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-13044 Filed 5-12-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Fiscal Year 1984 Final Planning Estimates for Wagner-Peyser Activities

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces fiscal year 1984 Final Planning Estimates for Wagner-Peyser Activities.

FOR FURTHER INFORMATION CONTACT: Richard C. Gilliland, Director, United States Employment Service (Attention: TEEPP) 601 D Street, NW., Washington, D.C. 20213, Telephone: 202/376-6289.

SUPPLEMENTARY INFORMATION: Section 6(b)(5) of the Wagner-Peyser Act, as amended by Pub. L. 97-300, October 13, 1982, requires that the Secretary shall provide final planning estimates to all States not later than May 15, of the fiscal year preceding the year in which the fund will be used. Preliminary planning estimates were made available on March 15 (48 FR 10950), as required by statute.

The revisions to the Act also require that at least 97 percent of the funds appropriated for allotments to States be distributed by the formula provisions contained in Sections 6(a) and (b) of the Act. An amount not to exceed 3 percent of the sums available for allotment shall be reserved by the Secretary in accordance with Section 6(b)(4).

The statute requires that FY 1983 payments available to the States be used to compute each State's relative share of FY 1983 resources. State specific allocation data and fiscal data contained in approved FY 1983 State plans were used for this purpose. Identifiable activities not authorized under the amended legislation were excluded from the data base.

The FY 1984 appropriation request for Wagner-Peyser activities subject to the formula allotment requirements of Section 6 is $707,993,000. Of this amount, $1,712,498 is allotted to Guam and the Virgin Islands in accordance with Section 6(a); $685,040,712 is allotted to States in accordance with the formula in Section 6(b). Calendar year 1982 (January 1982–December 1982) average annual civilian labor force and unemployment data were used in making the formula calculations. The final planning estimates reflect changes to the data base made as a result of recent benchmarking by the Bureau of Labor Statistics.

The Secretary reserved $21,239,790 under the provision of Section 6(b)(4); the distribution of these funds is included in these final planning estimates. Of this total, $8,573,620 was allocated to the 12 States whose relative share decreased from FY 1983 to FY 1984 and which have a civilian labor force (CLF) below 1 million and are below the median CLF density. These States are held harmless at 100 percent of their FY 1983 relative share. The remaining $12,666,120 was distributed to the remaining 23 States losing in relative share from FY 1983 to FY 1984.

Further information regarding the allocation methodology is available upon request.

Signed at Washington, D.C., on May 1, 1983.

Albert Angrisani,
Assistant Secretary of Labor.

WAGNER-PEYSER ALLOTMENTS TO STATES, FISCAL YEAR 1984, FINAL PLANNING ESTIMATES, MAY 13, 1983

	Allotment
Alabama	10,771,686
Alaska	7,567,292
Arizona	8,178,473
Arkansas	8,421,763
California	66,803,683
Colorado	9,274,958
Connecticut	9,216,033
Deleware	1,977,585
District of Columbia	6,250,675
Florida	23,784,488
Georgia	13,200,109
Hawaii	3,388,094
Idaho	6,427,076
Illinois	31,114,464
Indiana	14,729,629
Iowa	10,812,469
Kansas	8,718,786
Kentucky	9,131,893
Louisiana	10,260,332
Maine	3,822,121
Maryland	10,983,492
Massachusetts	15,048,479
Michigan	26,646,582
Minnesota	12,191,021
Mississippi	9,329,118
Missouri	13,081,643
Montana	5,231,011
Nebraska	6,312,159
Nevada	5,105,729
New Hampshire	2,385,570
New Jersey	18,729,130
New Mexico	5,840,141
New York	65,244,286
North Carolina	15,248,747
North Dakota	5,348,351
Ohio	29,561,576
Oklahoma	14,917,612
Oregon	10,441,707
Pennsylvania	31,388,222
Puerto Rico	6,879,066
Rhode Island	3,052,358
South Carolina	8,272,105
South Dakota	4,920,761
Tennessee	12,054,904
Texas	45,159,532
Utah	10,748,666
Vermont	2,315,634
Virginia	13,119,715
Washington	12,843,433
West Virginia	4,624,964
Wisconsin	13,368,077
Wyoming	3,835,102
Guam	314,734
Virgin Islands	1,397,764
National total	707,993,000

[FR Doc. 83-13070 Filed 5-12-83; 8:45 am]
BILLING CODE 4510-30-M

Occupational Safety and Health Administration

[V-83-2]

Block 67 Limited

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order. (2) Grant of interim order.

SUMMARY: This notice announces the application of Block 67 Limited, for variance and interim order pending a decision on the application for variance from the standard prescribed in 29 CFR 1910.66(b)(3), concerning the design requirements of powered platforms for exterior building maintenance.

It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is May 13, 1983. The last date for interested persons to submit comments is June 13, 1983. The last date for affected employers and employees to request a hearing on the application is June 13, 1983.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third St. & Constitution Ave., NW., Room N-3662, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, Telephone: 202-523-7183.

Or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffen Square Building, Room 602, Dallas, Texas 75202

U.S. Department of Labor, Occupational Safety and Health Administration, 2320 LaBranch Street, Room 2118, Houston, Texas 77004

Notice of Application

Notice is hereby given that Block 67 Limited, s/Gerald D. Hines Interests, 2100 Post Oak Tower, Houston, Texas, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standard prescribed in 29 CFR 1910.66(b)(3) powered platforms for exterior building maintenance—design requirements.

The address of the place of employment that will be affected by the application is as follows: Texas Commerce Tower in United Energy Plaza, 600 Travis Street, Houston, Texas 77002.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 CFR 1910.66(b)(3) which states that all new powered platforms for exterior building maintenance shall meet the requirement of Part II and III of ANSI A120.1-1970. The ANSI standard requires that the design of the building or structure face in conjunction with the design of the building contact member on the working platform shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of dead and live loads on the working platform.

The face of the building shall be provided with continuous T-rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform. On buildings where the working platform has a rise of less than 130 feet, guides providing positive engagement are not required.

The applicant contends that its design does not allow for continuous vertical mullions and, therefore, does not provide continuous T-rails or indented mullions required by ANSI A120.1-1980, since the building height is approximately 1000 feet.

The applicant proposes to use a system of intermittent stabilization of his Type "F" (four-point suspension) powered platform on the the southwest building facade to prevent horizontal translation of the platform with respect to the face of the building. The system will consist of stainless steel round head machine screws, threaded into stainless steel building anchors located in the facade's spandrel panel at every third floor (approximately 40 feet) from the ninth to the fifty-fourth floor, and at every other floor (approximately 28 feet) from the fifty-fourth floor to the seventy-second floor. They are spaced horizontally, in vertical rows, to allow a stabilization for each of the two suspension wire ropes near each end of the platform. The stablization attachment, a quick connect—quick disconnect tie, each containing a fixed length lanyard and two nylon rollers to allow positioning of the suspension wire ropes vertically parallel to the face of the building, will be attached to each anchor as each elevation of tie-in anchorage is reached during tthe decent of the working platform. The process will be reversed as the platform ascends. The removal will be assured in that the platform will be provided with electrical interlocks to interrupt power to its hoist(s) in the event either interlock contacts a stabilizer during the ascent of the platform. The platform will also be equipped with building facade rollers.

The platform has been designed for two modes of operation on the building's southwest facade. The first is the main 40 foot by 2½ foot platform, which will be used for window cleaning and light maintenance of the curtain wall area between the two end buttresses. The second mode is a small auxiliary triangular shaped platform, approximately 54 inches by 80 inches overall, which will be secured on the inboard side at one or the other end of the main platform, to allow the triangular shaped masonry buttresses to be occasionally serviced. The maximum projection inboard will be 54 inches. The appendage platform will be positively secured to the main platform by L-shaped hooks and gravity lock pins.

The applicant contends that its alternative method of securing the powered platform, as described above, is as safe and healthful as the requirements of the standard from which a variance is sought.

All interested persons, including employers and employees who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than June 13, 1983. In addition, employers and employees who believe thay would be affected by a grant or denial of the variance may request a hearing on the application no later than June 13, 1983, in conformance with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

Grant of Interim Order

The applicant also requested an interim order to be effective until a

decision is made on the application for variance.

It has been determined that an interim order from 29 CFR 1910.66(b)(3) shall be issued. Therefore, it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8–76 (41 FR 25059) that Block 67 Limited is hereby subject to the following conditions in lieu of complying with 29 CFR 1910.66(b)(3) of the Occupational Safety and Health Standards:

1. The employer shall assure that all procedures required for the proper functioning of the intermittent stabilization system are carried out, in particular the requirement for connecting the lanyards attached to the suspension ropes to the building anchors during the descent of the platform.

2a. The main platform shall be no greater than 40 feet in length nor 2½ feet in width.

2b. The main platform with its appendage shall not be more than 40 feet long and 7 feet in overall width at the appendage.

3. The weight of the platform (no load) shall be no less than 1500 pounds.

4. The platform shall have openings or gaps to facilitate upward air flow.

5. The suspension rope angulation shall be designed into the suspension system and the tie-in lanyard so that the platform shall exert a minimum pressure of approximately 8 pounds against the face of the building.

6. The anchors in the face of the building shall be spaced vertically a maximum distance of 43 feet apart. The minimum tensile strength of the anchor bolt shall be 600 pounds.

7. The powered platform shall not be operated when the wind velocity is 25 miles per hour or greater. At the very least, an instrument which will accurately measure wind velocity shall be located on the roof of the building.

8. Operators shall be provided with full-body, parachute-type, harnesses, which include leg straps, connected to a lanyard of no greater than 3 feet in length. This lanyard shall, in turn, be connected by means of an automatic blocking rope grab to a horizontal wire rope fastened in a taut manner across the rear of the platform. The ends of this wire rope shall be secured to structural members of the platform, and the mid-point of the rope secured to the rear guardrail. This system, consisting of the harness, the lanyard, the anchorage points, and any additional hardware involved, shall at a minimum be capable of withstanding a static load of 5000 pounds.

9. The platform shall be provided with a sensing device that will interrupt its power supply in the event that the platform contacts the tie-in lanyard assembly, to prevent further ascent and ensure that the lanyard assembly can be disengaged from the building anchor.

10. The intermittent stabilization system including its building anchor, shall have a factor of safety of 4 against failure.

11. Operators shall have knowledge of and training in the operation of the intermittent stabilization system.

12. The employer shall comply with all provisions in this interim order and, in addition, shall not be relieved from compliance with all other applicable provisions of 29 CFR 1910.66.

Block 67 Limited shall give notice of this grant of interim order to employees affected thereby by the same means required to be used to inform them of the application for variance. This interim order shall become effective on May 13, 1983. The Assistant Secretary may revoke this interim order at any time if the applicant does not comply with any requirement of the interim order or the relevant standards; or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until a decision is made on the application for variance.

Signed at Washington, D.C., this 10th day of May 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-12926 Filed 5-12-83; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Mine Safety and Health Administration
Safety Defect Record of Self-Propelled Equipment
MSHA 422R
Other—each shift equipment is to be used
Businesses or other institutions; small business or organization
SIC: Multiple
14,900,000 responses; 2,731,666 hours

Requires operator before placing self-propelled equipment into operation to make a visual and operational check of various primary operating systems affecting safety, i.e., brakes, lights, tires,

steering, and related items. Any safety defects found are reported to the responsible supervisor who is required to make a record of the reported defects and schedule repairs of same.

Ventilation Tests and Examinations in Underground Coal Mines
MSHA 222R, 223R, 226R, 227R, 228R
Other and weekly
Businesses or other institutions; small business or organization
SIC 111 and 121
4,173,698 responses; 1,893,200 hours
3 forms

Standards require that main fans be inspected daily; that preshift examinations be made for hazardous conditions; that examinations be made weekly for hazardous conditions, including tests for methane and for compliance with mandatory health and safety standards; that weekly tests be made of air entering the main intakes and leaving the main returns, etc.; and that tests be made at 4-hour intervals for methane.

Inspections of Fire-Fighting Equipment
MSHA 419R
On occasion
Businesses or other institutions; small business or organization
SIC: Multiple
14,900 responses; 715,200 hours

Firefighting equipment inspection needs vary with the type of equipment, use, environmental exposure, and manufacturer's recommendations. Inspections are necessary to assure protection intended when the need arises. The equipment involved includes firefighting trucks, hoses, hydrants, fittings, extinguishers, sprinklers, etc.

Rock Bolt Test Procedures and Rock Bolt Anchorage Capacity Tests
MSHA 418R
On occasion
Businesses or other institutions; small business or organization
SIC: Multiple
450 responses; 7,200 hours

Rock bolting is an acceptable method of ground support in a majority of the strata encountered in underground mines. The anchorage method varies with the strata and individual methods may vary within a single mine. Each anchorage method must be tested to assure the ultimate competency of the ground and to prevent ground tested to assure the ultimate competency of the ground and to prevent ground falls.

First Aid Training for Supervisory Employees
MSHA 219R
Annually
Businesses or other institutions; small business or organization
SIC: 111 and 121
5,419 responses; 2,710 hours

Used in training new employees in fundamentals of first aid and to practice such in event of a mine accident to prevent furhter injury to a miner.

Extension (Burden Change)

Employment Standards Administration
Homework Handbook
WH-75
Other—varies
Individuals or households
Small business or organization
30,000 responses; ½ hour; 1 form (recordkeeping handbook)

This handbook is needed to provide a record of the hours worked and wages paid to industrial homeworkers covered by the Fair Labor Standards Act. This record is reviewed to insure that these workers receive the minimum and overtime wages to which they are legally entitled.

Reinstatement

Occupational Safety and Health Administration
Diving Related Recordkeeping 29 CFR Part 1910; 1910.217g
On occasion
Business or other institutions
Small business or organization
SIC: 739, 131, 162, 373
406,200 responses; 109,250 hours

This regulation is necessary to help insure safe decompression of divers who are exposed to hyperbaric conditions.

Mine Safety and Health Administration
Weekly Inspections of Fire Suppression Devices
MSHA 230R
Weekly
Businesses or other institutions; small business or organization
SIC: 111 and 121
117,045 responses; 287,516 hours

Standard requires that firefighting equipment be maintained and available and operable at all times. The records indicate that emergency safety equipment has been inspected as required and reduces the possibility of equipment failure in an emergency.

Escapeways and Escape Facilities
MSHA 225R
Weekly
Businesses or other institutions; small business or organization
SIC: 111 and 121
194,554 responses; 194,554 hours
One form

Requires examination of escapeway routes by a certified person. The information is used to ensure compliance with safety regulations.

Record of Results of Examinations of Self-Rescuers
MSHA 243R
Quarterly
Businesses or other institutions; small busines or organization
SIC: 111 and 121
10,404 responses; 11,028 hours

Requires operators to record and make available results of examinations of self-rescuers. The information is used to ensure that the self-rescuers are in a safe, usable condition.

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

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-12928 Filed 5-12-83; 8:45 am]
BILLING CODE 4510-43-M

LIBRARY OF CONGRESS

American Folklife Centers Board of Trustees; Meeting

In accordance with Pub. L. 94-463, the Board of Trustees of the American Folklife Center announces its meeting to be held in two sessions: one, on Thursday afternoon, June 2, 1983 from 2-4:30 p.m., and another on Friday Morning, June 3, 1983, from 9:30-1:00 p.m., in the Whittall Pavilion of the Library of Congress. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Streb, American Folklife Center (202) 287-6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publications, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model

projects for the field of American folklife.

Raymond L. Dockstader,

Deputy Director, American Folklife Center.

[FR Doc. 83-12901 Filed 5-12-83; 8:45 am]

BILLING CODE 1410-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Quality Assurance During Construction; Meeting

The ACRS Subcommittee on Quality Assurance During Construction will hold a meeting on June 1, 1983, Room 1046, 1717 H Street, NW, Washington, DC.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff., Persons desiring to make oral statements should notify the Cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendence.

The agenda for subject meeting shall be as follows:

Wednesday, June 1, 1983—8:30 a.m. Until the Conclusion of Business

The Subcommittee will be briefed by the NRC Staff on its quality assurance initiatives, including those related to the "Ford Amendment" of Pub. L. 97-415. The Subcommittee will also review the priorities given in NUREG-0933, A Prioritization of Generic Safety Issues, to generic items related to construction quality assurance. Finally, the Subcommittee will discuss with the Institute of Nuclear Power Operations (INPO), INPO's efforts related to construction quality assurance (e.g., Construction Projects Evaluation Program).

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. David C. Fischer, (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: May 9, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-12937 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-313 and 50-368]

Arkansas Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amended Nos. 79 and 46 to Facility Operating License Nos. DPR-51 and NPF-6 issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications (TS) for operation of Arkansas Nuclear One, Unit Nos. 1 and 2 respectively (the facilities), located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments revise the TS to require verification of leak rate testing of the purge valves.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendments.

For further details with respect to this action, see (1) the applications for amendments dated September 17, 1981 and March 12, 1982, as supplemented March 16, 1983, (2) Amendment Nos. 79 and 46 to Facility Operating License Nos. DPR-51 and NPF-6, and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12938 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-368]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. NPF-6 issued to Arkansas Power & Light Company (the Licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit 2 (the facility), located in Pope County, Arkansas. The amendment was effective as of the date of issuance.

The amendment revises the Environmental Technical Specifications (Appendix B to Facility Operating License), to delete the requirement for remote aerial surveillance monitoring and to delete the requirement to conduct bird impaction event studies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other

than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application for amendment dated February 15, 1983, (2) Amendment No. 47 to Facility Operating License No. NPF-6, and (3) the Commission's Environmental Impact Appraisal dated May 5, 1983 and (4) the Commission's letter dated May 5, 1983. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and at the Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12939 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 57 to Facility Operating License No. DPR-67, issued to Florida Power & Light Company (the licensee), which revised Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of the date of issuance.

The amendment provides for the removal of the chlorine detectors from the control room air intakes because the main source of chlorine at the site no longer exists.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 9, 1983 (2) Amendment No. 57 to License No. DPR-67 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12940 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-410]

Niagara Mohawk Power Corp., et al.,[1] Nine Mile Point Nuclear Station, Unit 2; Receipt of Application for facility operating License; Availability of Applicant's Environmental Report; Consideration of Issuance of Facility Operating License: and Opportunity for Hearing

Notice is hereby given that the Nuclear Regulatory Commission (the Commission) has received an application for a facility operating license from the Niagara Mohawk Power Corporation, acting for itself and as agent for Rochester Gas & Electric Corporation, Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation and Long Island Light Company (the applicants) for a facility operating license. Niagara Mohawk Power Corporation has sole responsibility for design, procurement, construction, operation and all related functions with respect to Nine Mile Point Nuclear Station, Unit 2, a boiling water nuclear reactor (the facility) located on the southeast shore of Lake Ontario, in the town of Scriba, Oswego County, New York. The reactor is designed to operate at a core power level of 3323 megawatts thermal, with an equivalent net electrical output of approximately 1080 megawatts.

Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in 10 CFR Part 51, the applicants filed an environmental report as part of the application. The report, which discusses environmental considerations related to the proposed operation of the facility, is being made available at the State Clearinghouse, New York State Division of the Budget, State Capitol, Albany, New York 12224 and Central New York Regional Planning and Development Board, Midtown Plaza, 700 East Water Street, Syracuse, New York 13210.

After the environmental report has been analyzed by the Commission's staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the **Federal Register**, a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The notice will also contain a statement to the effect that any comments of Federal agencies and State and local officials will be made available when received. The draft environmental statement will focus only on any matters which differ from those previously discussed in the final environmental statement prepared in connection with the issuance of the construction permit. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register**.

The Commission will consider the issuance of a facility operating license to the applicants which would authorize the Niagara Mohawk Power Corporation to posses, use and operate the Nine Mile Point Nuclear Station Unit 2 in accordance with the provisions of the license and the technical specifications appended thereto, upon: (1) The completion of a favorable safety evaluation of the application by the Commission's staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51; (3) the receipt of a report on the applicant's applications for a facility operating license by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the

[1] Rochester Gas & Electric Corporation, Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation and Long Island Lighting Company

application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR–112, issued by the Commission on June 24, 1974.

With regard to Executive Order 11988, Floodplain Management, (See Volume 42, Federal Register 26921, 1977) the Nine Mile Point Nuclear Station Unit 2 facility must identify structures and construction activities located on the floodplain. The subject of floodplain management will be discussed in the Commission's environmental statement referenced above.

Prior to issuance of an operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the contruction permit. In addition, the license will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicants will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By June 13, 1983 the applicants may file a request for a hearing with respect to issuance of the facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceeding" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the Commission, or designated Atomic Safety and Licensing Board, will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, DC by June 13, 1983. A copy of the petition must also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Conner & Wetterhahn, P. C., Suite 1050, 1747 Pennsylvania Avenue, NW, Washington, DC 20006, Attention: Troy B. Conner, Jr., Esquire, attorney for the applicants. Any requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(iv) and 2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating license, including the Final Safety Analysis Report and the Environmental Report, forwarded on April 6, 1983, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. As they become available, the following documents may be inspected at the above locations: (1) the safety evaluation report prepared by the Commission's staff; (2) the draft environmental statement; (3) the final environmental statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating license; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of the proposed operating license and the ACRS report, when available, may be obtained by request to the Director, Division of Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 2nd day of May 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 83-12941 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment To Facility Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 85 to Facility Operating License No. DPR–65, issued to The

Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (the licensees), which temporarily revised the Technical Specifications (TS) for operation of the Millstone Nuclear Power Station Unit No. 2 (the facility) located in the Town of Waterford, Connecticut. The amendment was effective upon the date of its issuance.

The amendment added a footnote to 3.9.4.a to allow the use of a temporary equipment hatch door to maintain containment integrity during fuel movement or core alterations while the Unit is shutdown for Cycle 6 refueling.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated April 25, 1983, (2) Amendment No. 85 to License No. DPR-65 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 5th day of May, 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12942 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-282 and 50-306]

Northern States Power Co. (Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2); Exemption

I

The Northern States Power Company (the licensee) is the holder of Facility Operating License Nos. DPR-42 and DPR-60 which authorize operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Goodhue County, Minnesota.

II.

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R became effective on February 17, 1981. Section III. of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G., is the subject of this exemption request. Specifically, Subsection III.G.2 requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

III

By letter dated June 30, 1982 as supplemented by letter dated October 22, 1982, the licensee requested an exemption from the requirements of Subsection III.G.2 of Appendix R in nine (9) fire areas, as follows.

Train A Hot Shutdown Panel; Instrument Air Room and Auxiliary Feedwater Pump Room, Fire Area 31

Train B Hot Shutdown Panel; Instrument Air Room and Auxiliary Feedwater Pump Room, Fire Area 32

Auxiliary Building Ground Floor Level Unit 1, Fire Area 58

Auxiliary Building Ground Floor Level Unit 2, Fire Area 73

Auxiliary Building Mezzanine Level Unit 2, Fire Area 74

Unit 1 Normal Switchgear Room, Fire Aea 37

Auxiliary Building Operating Level Unit 1, Fire Area 60

Auxiliary Building Operating Level Unit 2, Fire Area 75

Auxiliary Building Mezzanine Level Unit 1, Fire Area 59

The acceptability of the exemption request for five of these fire areas is addressed below. More details are contained in the NRC staff's related Safety Evaluation (SE) dated May 4, 1983, which is included herein by reference.

IV

Train A Hot Shutdown Panel; Instrument Air Room and Auxiliary Feedwater Pump Room, Fire Area 31

Train B Hot Shutdown Panel; Instrument Air Room and Auxiliary Feedwater Pump Room, Fire Area 32

The licensee requested and exemption from Subsection III.G.2 to the extent that these areas lack twenty feet separation free of intervening combustibles between components of redundant trains needed for safe shutdown or one hour fire rated enclosure of one of the redundent trains.

Fire Area 31 contains Motor Control Centers MCC-2A1 and 2A2, #12 (motor-driven Unit 1) and #22 (turbine-driven Unit 2) Auxiliary Feedwater Pumps, #123 Instrument Air Compressor with associated equipment, and "A" Train Hot Shutdown Panel for Units 1 and 2. One of the two motor control centers (either 2A1 or 2A2) is necessary for safe shutdown as are the auxiliary feedwater pumps. It should be noted, however, that opposite train pumps are located in Fire Area 32, thereby ensuring separation by 3-hour fire rated barriers. Of the three instrument air compressors, one is located in Fire Area 31, representing Division A. The other two compressors

(Division B) are located in Fire Area 32, again providing separation by 3-hour fire rated barriers.

Fire Area 32 contains Motor Control Centers MCC–1A1 and MCC–1A2 (only one of which is necessary for safe shutdown), #11 (turbine driven, Unit 1) and #21 (motor driven, Unit 2) Auxiliary Feedwater Pumps, #121 and #122 Instrument Air Compressors with associated equipment, and "B" train Hot Shutdown Panel for Units 1 and 2.

The safe shutdown evaluation identified the coexistence of redundant power and control cables required for safe shutdown with less than twenty feet horizontal separation. The redundant cables are installed in open horizontal cable trays between 16 and 18 feet above the floor, and within 3 feet of the ceiling. The redundant cables cross over one another and are separated by approximately one foot at the crossover. The licensee proposes to install thermal barriers on the top and bottom of the Division B cable trays and wrap all Division B conduits in one-hour fire rated barriers. By letter dated October 22, 1982, the licensee proposed to modify the existing automatic sprinkler systems presently installed at the ceiling level, to also provide area sprinkler coverage in accordance with NFPA–13 below the cable trays and piping in the areas.

The combustibles in Fire Area 31 are lubricating oil and cable insulation. The combustibles comprise a fuel load of 10,714 BTU/sq. ft., which if totally consumed, would correspond to a fire severity of 8 minutes on the ASTM E–119 standard time temperature curve.

The combustibles in Fire Area 32 are lubricating oil and cable insulation. The combustibles comprise a fuel load of 16,954 BTU/sq. ft., which if totally consumed, would correspond to a fire severity of 12 minutes on the ASTM E–119 standard time temperature curve.

The fire protection in these areas consists of automatic sprinklers, ionization smoke detectors, nearby standpipe hose stations that could service both fire areas and portable fire extinguishers. Other features in these areas offering compensation for the lack of 20 feet separation or one hour barriers are the thermal shield installed on both the top and bottom of the Division B cable trays. The thermal shields are not considered equivalent to a one-hour fire rated barrier, as they may only inhibit fire damage for several minutes. However because of the low in-situ combustible fuel loads, we find for anticipated transient combustible exposure fires the thermal shields will protect the Division B cable trays from direct flame impingement or a descending hot layer for a reasonable time period until the automaic sprinklers installed at the ceiling level and below the cable trays are activated to mitigate the effects of the fire.

In addition, the low in-situ fuel load in conjunction with the proposed thermal shields provides reasonable assurance that the automatic detection and sprinkler systems will be activated before the redundant cables are damaged.

Based on our evaluation, we conclude that with the modifications proposed by the licensee and the existing level of safety in the Train A and Train B Hot Shutdown Panel, Instrument Air and Auxiliary Feedwater Pump Rooms (Fire Areas 31 and 32) are equivalent to the requirements specified in Subsection III.G.2 of Appendix R and therefore the licensee's exemption request is granted for these fire areas.

Unit 1 Normal Switchgear Room, Fire Area 37; Auxiliary Building Operating Level Unit 1, Fire Area 60; Auxiliary Building Operating Level Unit 2, Fire Area 75

These areas do not comply with subsection III.G.2 because they do not have an automatic fire suppression system. There is no alternative shutdown capability independent of these areas. Fire protection in these areas consists of ionization smoke detectors standpipe hose stations, and portable fire extinguishers. In addition all redundant motor control centers and associated cables entering and leaving these areas are horizontally separated by at least 20 feet or more.

The licensee justifies the request for the exemption from Subsection III.G.2 on the basis of (1) all cables are qualified to IEE–383, (2) the in-situ combustible loadings are light, and (3) ionization smoke detection is provided in each area.

We agree with the licensee that, because there are negligible in-situ combustibles in these areas, any postulated fire would be limited to transient combustible material. Hazardous quantities of transient combustibles would not be expected in these fire areas for several reasons. First, the areas are not adjacent to or near any major plant traffic route. Second, maintenance and operations in these areas do not involve the use of combustible materials. Third, accessibility to these areas is restricted to personnel performing essential duties in the areas because of potential radiation hazards. On this basis, we agree with the licensee that any fires in these areas resulting from transient combustibles would be of limited severity and duration. The installed early warning detection system would be able to promptly detect incipient fire conditions, and the separation between redundant trains in each area will maintain the intergrity of the cables and equipment until the fire brigade is able to respond and to extinguish the fire. The fire brigade should be capable of reaching each of these areas within a few minutes after an alarm is received in the control room. It is our opinion that this combination of protective features provides reasonable assurance that one train of equipment necessary for safe shutdown will be maintained free of fire damage.

Based on our evaluation, the level of existing protection for Fire Areas 37 Unit 1 Normal Switchgear Room, Fire Area 60 Auxiliary Building Operating Level, Unit 1 and Fire Area 75 Auxiliary Building Operating Level, Unit 1 provides a level of fire protection equivalent to the requirements specified in Subsection III.G.2 of Appendix R. Therefore, the exemption from the requirements specified in Subsection III.G.2 for these fire areas is granted.

V.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Subsection III.G.2 of Appendix R to 10 CFR Part 50 to the extent discussed in Section IV above.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 4th day of May, 1983.

For the Nuclear Regulatory Commission.

Darrel G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-12943 Filed 5-12-83 8:45 am]

BILLING CODE 7590-01-M

[Docket No. P-564A]

Pacific Gas and Electric Co. (Stanislaus Nuclear Project, Unit No. 1); Order

May 9, 1983.

The Northern California Power Agency has moved for leave to

withdraw its appeal from the January 19, 1983 memorandum and order of the Administrative Law Judge in this antitrust proceeding. LBP-83-2, 17 NRC ———. The motion is *granted*. Accordingly, our April 20, 1983 order scheduling the appeal for oral argument on May 18, 1983 is hereby *vacated*.

It is so ordered.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-12944 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co.; Issuance of Amendments to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 47 and 30 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the audit frequencies of the North Anna Power Station Emergency Plan and Security Plan and their implementing procedures to provide for a review at least once per twelve (12) months by the Quality Assurance Department. The amendments are administrative in nature and do not involve a safety related matter.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in these license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 22, 1982; (2) Amendment Nos. 47 and 30 to Facility Operating License Nos. NPF-4 and NPF-7 and (3) the Commission's related letter dated May 4, 1983. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 4th day of May 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-12945 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. [50-266 and 50-301]

Wisconsin Electric Power Co.; Issuance of Amendment to Facility Operating Licenses

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR-24 and Amendment No. 78 to Facility Operating License No. DPR-27 Issued to Wisconsin Electric Power Company (the Licensee), which revised Technical Specifications for operation of Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in the Town of Two Creeks, Manitowoc County, Wisconsin. The amendments are effective upon the date of issuance.

The amendments allow temporary isolation of the shared motor driven auxiliary feedwater pumps for a unit during periods of startup, shutdown and surveillance testing provided the turbine driven auxiliary feedwater pumps are operable and capable of automatically delivering flow.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments does not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 24, 1983, (2) Amendment Nos. 73 and 78 to License Nos. DPR-24 and DPR-27, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Joseph Mann Library, 1516 16th Street, Two Rivers, Wisconsin 54241. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 4th day of May 1983.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-12946 Filed 5-12-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee Annual Report; Notice of Availability

Pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 41 CFR Part 101-6, notice is hereby given to the availability of the Federal Prevailing Rate Advisory Committee 1982 Annual Report.

The report summarizes the activities and recommendations of the Committee to the Director, Office of Personnel Management in dealing with the Federal prevailing rate systems for craft, trade, and labor employees paid from either appropriated or nonappropriated funds during calendar year 1982.

Single copies of the report will be furnished without charge. Multiple copies can be furnished at a fair and equitable fee upon written request addressed to the Chairman, Federal Prevailing Rate Advisory Committee, Office of Personnel Management, Room 1340, 1900 E Street, N.W., Washington, D.C. 20415.

The report may be otherwise examined and/or copies obtained at the above office and address between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, legal holidays excluded.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

May 6, 1983.

[FR Doc. 83-12880 Filed 5-12-83; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13224; 812-5421]

Bankers National Life Insurance Co. et al.; Application for Order Granting Exemptions

May 9, 1983.

Notice is hereby given that Bankers National Life Insurance Company ("Bankers National"), Bankers National Variable Account B ("Variable Account B"), a separate account registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and BNL Securities Inc. (collectively, "Applicants"), 1559 Littleton Road, Parsippany, N.J. 07054, filed an application on January 5, 1983 and amendments thereto on March 18, 1983, April 15, 1983, and May 2, 1983 for an order of the Commission pursuant to Section 6(c) of the Act granting exemptions from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the transactions described in the application and pursuant to Section 11 of the Act approving the terms of certain offers of exchange. All interested persons are referred to the application and amendments on file with the Commission for a statement of the facts and representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for a statement of the relevant provisions.

Bankers National established Variable Account B for the purpose of funding certain variable annuity contracts which it intends to offer. Purchase payments under the contracts less a front-end sales load and applicable permium taxes, are allocated to a sub-account of Variable Account B investing in either the BNL Money Market Portfolio or the BNL Government Securities Portfolio of the Bankers National series Trust (the "Portfolios"). Contractowners will be permitted to transfer accumulated contract values between sub-accounts. Applicants state that the following deductions will be made from contract values: (i) A contract administrative charge of $36.00 per contract on each contract anniversary or upon total redemption of a contract prior to a contract anniversary; (ii) a mortality risk premium equal on an annual basis to 0.75% of the daily net asset value of Variable Account B; (iii) a transfer processing fee of $5.00 for each transfer; and (iv) any applicable premium taxes.

Applicants assert that the mortality risk premium is reasonable in relation to the risk assumed under the contracts, is consistent with the protection of investors in that it is designed to be competitive while not exposing Bankers National to undue risk of loss, and falls within the range of similar charges under comparable variable annuity products. In this respect, applicants represent that they reviewed the prospectuses of several comparable products to determine whether the charges were reasonable in relation to industry practice. Bankers National has examined other comparable variable annuity contracts and has determined that the mortality risk premium is less than or equivalent to the risk charges assesssed in those other contracts. Applicants represent that they have reviewed the contracts and registration statements of other separate accounts offering variable annuity contracts with comparable provisions and guarantees, which include pre-retirement death benefits, guaranteed annuity rates, non-guaranteed administrative charges and mortality charges. Based upon this review, applicants have concluded that the mortality risk premium is fair and reasonable. Applicants further represent that they will maintain and preserve at their offices, available to the Commission, the list of variable annuity contracts reviewed by them and the description of the basis upon which Applicants determined those contracts to be comparable. Applicants further represent that the contract administrative charge and transfer processing fee have been set at a level no higher than the estimated actual costs of administering the contracts and without expectation of profit.

Section 6(c) of the Act provides, in pertinent part, that the Commission may exempt any person from any provision of the Act or its rules and Regulations if and to the extent necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request, pursuant to that provision, that they be granted exemptions from the provisions of sections 26(a) and 27(c) to allow: (i) The assets of variable account B to be held by the custodian, First Pennsylvania Bank, in open account in lieu of actual share certificates, and under an agreement that does not create a trust; (ii) deduction of the mortality risk premium; (iii) deduction of the contract administrative charge; (iv) the imposition of the transfer processing fee; and (v) deduction for premium taxes. Applicants also request exemptions from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1), and 27(d) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the imposition of the full contract administrative charge upon total redemption prior to a contract anniversary date.

Finally, Applicants request approval pursuant to Sections 11(a) and 11(c) of the Act to the extent requested to permit the transfer between the Portfolios described in the application.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 31, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12978 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organization; Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

May 9, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and

Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Moog, Inc.
Class A Common Stock, $1 Par Value (File No. 7-6626)
UAL, Inc.
Convertible Preferred Series B, No Par Value (File No. 7-6627)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 31, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12971 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22928; 70-6821]

Central Power and Light Co.; Proposed Issuance and Sale of Adjustable Rate Preferred Stock at Competive Bidding

May 6, 1983.

Central Power and Light Company ("CP&L"), 120 North Chaparral St., Corpus Christi, Texas 78401, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a post-effective amendment to a declaration previously filed with this Commission pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

By prior order in this proceeding (HCAR No. 22873, March 8, 1983), the Commission authorized CP&L to issue and sell $100 million principal amount of first mortgage bonds and reserved jurisdiction over a proposal to issue and sell up to 500,000 shares of preferred stock at competitive bidding, with a fixed dividend rate, in one or more series from time to time through December 31, 1983. The declaration has now been amended to seek authorization to sell all or part of the preferred stock either with a fixed dividend rate or an adjustable dividend rate, depending on market conditions at the time of sale.

With regard to the adjustable rate preferred stock, the dividend rate for the initial dividend payment period will be a fixed percentage. Thereafter, the adjustable dividend rate will be determined quarterly on the basis of a certain percentage ("reset amount") above or below the highest of (1) the average of the two most recent weekly per annum market discount rates for three-month U.S. Treasury bills, as published by the Federal Reserve Board during a specified period prior to each dividend payment period, (2) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten years) during a specified period prior to each dividend payment period, or (3) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of twenty years) during a specified period prior to each dividend payment period. In no event will the effective annual dividend rate, as adjusted in any quarter, be less than 5% or greater than 15%.

In the event that any series of preferred stock is sold with an adjustable dividend rate, the terms of such series will include a prohibition for five years against redeeming such series with funds derived from the issuance of equity or debt securities at a lower effective cost of financing than the effective annual dividend cost to CP&L based upon the initial dividend rate for the appropriate series.

CP&L intends to issue and sell the preferred stock through a primary shelf registration program in accordance with Rule 415 of the Securities Act of 1933 (17 CFR 230.417). When specific provisions relating to the initial dividend period and the reset amount have been determined, except as indicated hereafter, CP&L proposes to employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). CP&L states, however, that the sales of additional preferred stock may require the assistance of underwriters, dealers or agents if market conditions at the time of the offering of the securities are unfavorable. Accordingly, CP&L may amend this filing to seek an exemption from Rule 50 to offer the preferred stock through either negotiated or private sales.

The declaration, as amended by the post-effective amendment, and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by June 1, 1983, to the Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12982 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13221; 812-5506]

Fidelity Tax Exempt Money Market Trust; Application for Order Granting Exemption

May 6, 1983.

Notice is hereby given that Fidelity Tax Exempt Money Market Trust ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, an open-end, diversified management investment company, filed an application on March 24, 1983, and an amendment thereto on April 29, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), for an order of the Commission amending a previous order dated December 26, 1979 (Investment Company Act Release No. 10999), which exempted the Applicant from Section 2(a)(41) of the Act and the provisions of Rules 2a-4 and 22c-1 thereunder. The requested amended order would grant an exemption from Section 12(d)(3) of the Act to permit Applicant to acquire rights to sell its portfolio securities to broker-dealers and would exempt Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit it to value such rights in the

manner proposed in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the Rules thereunder for the complete text of those provisions thereof from which an exemption is being sought.

The application states that under the previous order Applicant may compute its net asset value per share according to the amortized cost method subject to certain conditions, including, inter alia, a requirement that Applicant neither (a) purchase any instrument with a remaining maturity of greater than one year (except that Project Notes may have a maturity not to exceed 375 days), nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. Applicant states that the conditions contained in its existing order comply in all respects with proposed Rule 2a–7 under the Act.

Applicant now requests that the previous order be amended to permit it to purchase securities together with a right to resell then to brokers or dealers at an agreed upon price or yield within a specified period prior to the maturity date of such securities ("stand-by commitments") and to value such commitments in the manner proposed in the application. Applicant states that it intends to enter into stand-by commitments solely for the purpose of maintaining portfolio liquidity. It represents that its acquisition of stand-by commitments will not affect the valuation or assumed maturity of the underlying municipal obligations which would continue to be valued at amortized cost.

Section 6(c) of the Act provides, in part, that the Commission upon application may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules 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.

According to the application, the stand-by commitments will have the following features: (1) They will be in writing and will be physically held by the Applicant's custodian; (2) they may be exercisable by the Applicant at any time or during specified periods prior to the maturity of the underlying security; (3) they will be entered into only with dealers, banks and broker-dealers who, in the judgment of the Board of Trustees, present an minimal risk of default; (4) Applicant's right to exercise them will be unconditional and unqualified; (5) although they may not be transferable, municipal obligations purchased subject to such commitments could be sold to a third party at any time, even though the commitment was outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the municipal obligations which are subject to the commitment (excluding any accrued interest which the Applicant paid on their acquisition), less any amortized market premium or plus any amortized or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the securities were owned by the Applicant.

The Applicant states that it intends to acquire stand-by commitments solely to facilitate portfolio liquidity and does not intend to exercise its rights thereunder for trading purposes. Applicant further states that since it values its municipal obligations on an amortized cost basis, the amount payable under a stand-by commitment will be substantially the same as the value assigned by Applicant to the underlying security. Applicant submits there is little risk of an event occurring which would make amortized cost valuation of its portfolio securities inappropriate. In the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, the securities may, in the discretion of the Trustees, be valued on the basis of available market information and held to maturity. In such event, however, Applicant expects to refrain from exercising the stand-by commitments in such a situation to avoid imposing a loss on a dealer and jeopardizing Applicant's business relationship with that dealer.

If necessary and advisable, the Applicant states that it will pay for the stand-by commitments, either separately in cash or by paying a high price for portfolio securities which are acquired subject to the commitment. As a matter of policy, the total amount "paid" in either manner for outstanding stand-by commitments held in Applicant's portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any stand-by commitment is acquired.

It is contended that the acquisition of stand-by commitments will not affect the Applicant's net asset value per share and will not pose new investment risks. It is further contended that it is difficult to evaluate the likelihood of use or the potential benefit of a stand-by commitment. Therefore, it is expected that Applicant's Trustees will determine that stand-by commitments have a "fair value" of zero, regardless of whether any direct or indirect consideration was paid. Where the Applicant has paid for a stand-by commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, Applicant states that for purposes of complying with the condition of its amortized cost order that the dollar-weighted average maturity of its portfolio shall not exceed 120 days, the maturity of portfolio security shall not be considered shortened or otherwise affected by any stand-by commitment to which such security is subject.

Applicant represents that the relationship between it and the dealer will be comparable to a fully collateralized broker-dealer repurchase agreement or security loan and that the risk of loss that would result from the failure of a broker or dealer to fullfill its obligation under the stand-by commitment is not qualitatively different from the risk of loss faced by an investment company holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. It is contended that Applicant's acquisition of stand-by commitments will not meaningfully expose its assets to the entrepeneurial risks of the investment banking business. Applicant further states that it will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its share, or to obtain research services.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 31, 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. 83-12984 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19747; File No. SR-OCC-83-10]

Filing and Immediate Effectiveness of Proposed Rule Change by Options Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 21, 1983, the Options Clearing Corporation ("OCC") filed with the Securities Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change reduces the fees applicable to clearing options on Government National Mortgage Association certificates, U.S. Treasury bills, bonds and notes, bank certificates of deposit, foreign currencies, stock indices, and other underlying non-equity instruments on which OCC may undertake to issue, clear and settle options in the future. The proposal, which reduces the fees for market-maker/specialist scratch trades from $.05 contract to $.015 per contract and for all other trades from $.40 to $.075 per contract, is designed to reflect more accurately the operating costs of OCC's non-equity options system based on current and anticipated volume levels. OCC believes that the proposed fee schedule allocates reasonable fees in an equitable manner among OCC's Clearing Members since the costs associated with the clearance of non-equity options are borne by those Clearing Members that participate in the clearance of non-equity options. Accordingly, OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested person are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street N.W., Washington, D.C. 20549. Reference should be made to File No. SR-OCC-83-10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in acordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspectin and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12978 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19748; File No. SR-NSCC-83-5]

Filing and Immediate Effectiveness of a Proposed Rule Change by the National Securities Clearing Corporation.

May 9, 1983.

The National Securities Clearing Corporation ("NSCC") filed a proposed rule change on April 20, 1983, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934, that establishes the Funds Only Settlement service ("FOSS"). Under new NSCC Rule 41, NSCC participants must use FOSS to effect New York City delivery to, and receipt from other NSCC participants of items not related to securities ("FOSS items"), *e.g.*, marks-to-the-market related to member-to-member stock loan activity. Previously, NSCC participants used NSCC's Envelope Settlement Service ("ESS") to effect delivery and receipt of those items. FOSS items will not include securities or due bills. Thus, the effect of the proposal is to create a physically and legally separate delivery vehicle for FOSS items and to permit ESS to be used exclusively for the delivery of securities-related items.

FOSS's proposed operating procedures contained in new NSCC Rule 41 are almost identical to the procedures for ESS in NSCC Rule 9, § 1. For example, FOSS items, like ESS items, will be delivered inside envelopes with attached credit lists. FOSS envelopes and credit lists, however, will be distinctively colored for easy identification. The only significant procedureal differences between ESS and FOSS are that (1) FOSS envelope deliveries can be made for the present only at NSCC's New York City facilities; (2) each FOSS envelope may be used to charge the account of a single receiving NSCC participant and can contain no more than five different FOSS items; and (3) a receiving NSCC participant, in the case of any irregularity or error, may adjust the questioned FOSS item directly with the delivering NSCC member.

In addition, the proposal amends NSCC's Statement of Policy respecting NSCC's guarantee of ESS debits or credits. Previously, NSCC indicated in the Statement that NSCC would not guarantee debits and credits regarding items not related to securities which had been delivered or received through ESS. Under the proposal, the Statement is amended to clarify that NSCC's guarantee for securities-related debits and credits extends only to ESS items and does not cover items processed through FOSS.

Finally, the proposal includes FOSS fees and adjusted ESS fees. For each FOSS envelope delivered, received or reclaimed, NSCC will charge $.35 per envelope. NSCC has increased its per envelope ESS delivery charge from $.35 to $.45 during the "night zone," from $.50 to $.65 during the "early a.m. zone" and from $1.00 to $1.25 during the "late a.m. zone." NSCC states in its filing that these fee revisions are necessary because certain costs connected with ESS, such as bar code reader equipmen., guard service and insurance, do not apply to FOSS, and, as a result, will need to be spread over reduced ESS activity. The propsed FOSS fees reflect the lower estimated costs for operating FOSS independently from ESS.

NSCC believes that FOSS will benefit both NSCC and its participants in several ways. First, NSCC believes that separation of FOSS from ESS will enable NSCC to monitor more effectively the value of ESS activity, payment of which is guaranteed by NSCC under its Rules. Because of this enhanced monitoring capability, NSCC

should be able to track more accurately its potential financial exposure from ESS activity. Second, because NSCC's potential financial exposure should be more readily identifiable, NSCC should be able to tailor its safeguarding mechanisms to that exposure, *e.g.*, NSCC might be able to adjust the portion of its participants' clearing fund obligations related to ESS usage. Third, because of the proposal, NSCC should be better able to locate and control pending ESS and FOSS items and to take appropriate action under its Rules regarding those items. *See, e.g.*, NSCC Rules 9 and 12. As a result, NSCC and its participants should have enhanced protection against financial exposure from participant default.

In its proposal, NSCC states that the proposed rule change is consistent with the Securities Exchange Act of 1934 in that the proposal will facilitate the prompt and accurate clearance and settlement of securities transactions, while assuring the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–NSCC–83–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12979 Filed 5–12–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19744; SR–MSTC–82–19; SR–MCC–82–15]

Midwest Securities Trust Company ("MSTC") and Midwest Clearing Corporation ("MCC"); Order Approving Proposed Rule Change

May 9, 1983.

On September 10 and October 4, 1982, MSTC and MCC, respectively, filed with the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(2) ("Act") and Rule 19b-4 thereunder, proposed changes to MSTC's and MCC's audit rules. These changes provide that: (1) the annual financial statements of MSTC and MCC be audited in accordance with generally accepted auditing standards by a firm of independent public accountants selected by MSTC's and MCC's Board of Directors, respectively; and (2) a study and evaluation of the system of internal accounting control pertaining to participants' security positions and related money balances be conducted on an annual basis by independent public accountants in accordance with standards established by the American Institute of Certified Public Accountants. MSTC's and MCC's existing rules and proposed changes are identical to one another and each consist of two sections.

Notice of the proposed rule changes together with their substantive terms was given, with regard to MSTC, by publication of a Commission Release (Securities Exchange Act Release No. 19615, March 18, 1983) and by publication in the **Federal Register** (48 FR 12879, March 28, 1983) and with regard to MCC, by publication of a Commission release (Securities Exchange Act Release No. 19614, March 18, 1983) and by publication in the **Federal Register** (48 FR 12880, March 28, 1983).

The amendments to the first section of MSTC's Rule 17 and MCC's Rule 23 adopt the language of the American Institute of Certified Public Accountants with respect to the auditing of financial statements of corporations.

The amendments to the second section provide that a study and evaluation of the system of internal accounting control pertaining to participants' security positions and related money balances be conducted annually by independent public accountants in accordance with standards established by the American Institute of Certified Public Accountants. These changes expand the scope of work performed by MSTC's and MCC's independent public accountants. The amendments also allow MSTC and MCC flexibility in the timing and degree of physical count and confirmation verification of participants' security positions and open transactions. This procedure is consistent with the manner in which other clearing agencies perform count and confirmation verification. Additionally, MSTC and MCC have stated that the language "participants' security positions and related money balances" encompasses all activities that they perform for their participants and, in particular, all activities performed within the MST System. The MST System is an automated securities processing and reporting system that provide a variety of services for MSTC's and MCC's participants, including trade recording and processing, settlement, depository and other special services.

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A of the Act. In addition, the Commission finds that the proposed rule changes are consistent with the guidelines as set forth in Securities Exchange Act Release No. 16900 regarding the registration of clearing agencies and, in particular, with respect to the scope and period of the study and evaluation of the system of internal accounting control.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–12973 Filed 5–12–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 19743; SR-MSRB-82-11]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

May 9, 1983.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, N.W., Washington, D.C., 20036, submitted on July 23, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to require the managing underwriter of a new issue of municipal securities to ensure that an application is made for the assignment of CUSIP numbers to the new issue and to ensure that the assigned CUSIP numbers are affixed to or imprinted on the certificates of a new issue. It is the MSRB's belief that the generalized use of the CUSIP numbering system in the clearance and processing activities of the municipal securities industry will contribute to the improved efficiency of such activities and will enable dealers to place greater reliance on the CUSIP identification of these securities.

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. 18959, August 13, 1982) and by publication in the **Federal Register** (47 FR 36737, August 23, 1982). All written statements filed with the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public in the Commission's Public Reference Room.

Of the seven comment letters received by the Commission on the proposed rule change five supported[1] and two opposed, the proposed rule change.[2] The two commentators opposed to the proposed rule change view the eligibility criteria for assignment of CUSIP numbers as being overly inclusive. Under the proposed rule, the managing underwriter will be required to obtain a CUSIP number for any new issue which meets one of the following criteria:[3] (1) the par value of the issue is at least $500,000; (2) the par value of the issue is at least $250,000 and the issuer has outstanding debt in excess of $250,000; or (3) the issuer has outstanding debt in excess of $500,000, and a CUSIP subscriber requests assignment of a number to an issue regardless of par amount. Both commentators noted that, in their experience, bond issues of $500,000 are marketed locally and are frequently bought by one investor who keeps the issue until maturity, thus assignment of CUSIP numbers would impose a cost without a commensurate benefit. While this observation applies to any bond issue which is bought and held to maturity by one investor, the goal of the proposed rule is to affix CUSIP numbers to as large a universe as is practicable thereby encouraging the use of and reliance upon CUSIP numbers. Indeed, when the MSRB first published this proposed rule change,[4] a number of commentators felt that the proposed eligibility criteria would omit a substantial number of new issues and thereby limit the effectiveness of the rule. In light of these views, the MSRB decided to leave the eligibility criteria as initially proposed and consider changing the eligibility criteria as a separate matter.[5]

The MSRB also received a comment letter raising a potential anticompetitive aspect of the proposed rule change.[6] The commentator questioned the appropriateness of requiring underwriters to provide the information required by Rule G–34 solely to the CUSIP Service Bureau rather than providing the information to "all interested parties." The MSRB, in its contract with the CUSIP Service Bureau,[7] addressed this concern. The contract provides for limited use of the information provided pursuant to Rule G–34.[8] If the information is to be used for any other purpose or made available to any other person, the CUSIP Service Bureau is required to make the information available to all interested parties at the same time.

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 self-regulatory organization and, in particular, the requiremnts of Section 15B of the Act 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.[9]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12972 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[1] Letter from Eleanor L. Bissinger, Executive Vice President, Lebenthal and Co., Inc. to Donald F. Donahue, MSRB, dated August 18, 1982; letter from Frank S. Penna, Vice President, National Bank of North America to Donald F. Donahue, MSRB, dated August 4, 1982; letter from Arthur J. Kalita, Executive Director, Public Securities Association to George A. Fitzsimmons, Secretary, SEC, dated September 10, 1982; letter from Gloria Rice, InterFirst Bank to MSRB, dated September 10, 1982; letter from Clemens G. Hrounda, Bond Operations Officer, Continental Bank to Donald F. Donahue, dated September 7, 1982.

[2] Letter from Ray T. Reed, President, First Securities Company to Sarah Ackerson, Securities and Exchange Commission ("SEC"), dated August 19, 1982; letter from R. Mack Brow, President, First Midstate Inc. to Donald F. Donahue, Deputy Executive Director, MSRB, dated August 12, 1982.

[3] Issues of local assessment bonds or notes of one year or less to maturity are excepted.

[4] The proposed rule change was published in the *MSRB Reports* in January 1982 for comment from the MSRB membership and other interested parties. Such publication for comment is referred to as the "exposure draft." In response to the exposure draft, the MSRB received 21 comment letters, 20 of which favored the proposed rule change.

[5] On May 2, 1983, the MSRB published a proposed modification of the eligibility criteria for public comment.

[6] *See* 15B(b)(2)(C).

[7] Letter from Anthony M. Madolini, Chairman, MSRB to CUSIP Servie Bureau, Standard and Poor's Corporation, dated March 10, 19893.

[8] The information provided is to be used solely for the purpose of assigning and disseminating CUSIP numbers.

[9] 17 CFR 200.30-3(a)(12).

[Release No. 19742; SR-MSRB-83-2]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

May 9, 1983.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, submitted on March 8, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to require inclusion of the CUSIP number on the customer confirmation for any municipal issue to which a CUSIP number has been assigned. The MSRB believes that the rule change will promote more accurate identification of and more efficient transfer of municipal securities held by customers.

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. 19647, April 4, 1983) and by publication in the **Federal Register** (48 FR 15357, April 8, 1983). All written statements filed with the Commission and all written communications between the Commission and any person relating to

the proposed rule change were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission received one comment letter on the proposed rule change, which was in favor of the 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 self-regulatory organization and, in particular, the requirements of Section 15B 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.[1]

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12970 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19636A; SR-PSE-83-3]

Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

May 9, 1983.

On January 28, 1983, Securities Exchange Act Release No. 19636 was issued approving a proposed rule change by the Pacific Stock Exchange, Inc. ("PSE") 618 Spring Street, Los Angeles, CA 90014, to amend PSE Options Floor Procedure Advice B-6, concerning a market maker's use of floor brokers to effect transactions for the market maker's account. The advice was amended to provide, among other things, that a market maker "if possible" prepare a written order ticker. The Federal Register publication of the release, 48 FR 14796, April 5, 1983, incorrectly referred to a "floor broker" as the subject of this exchange requirement; the correct designation should be "market maker".

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George a. Fitzsimmons,

Secretary.

[FR Doc. 83-12980 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[1] 17 CFR 200.30-3(a)(12).

[Release No. 13222; 811-698]

Pligrowth Fund, Inc.; Application for Order

May 6, 1983.

Notice is hereby given that Pligrowth Fund, Inc. ("Applicant"), Two Shell Plaza, 777 Walker, Suite 2000, Houston, TX 77002, registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application on January 24, 1983, for an order of the Commission pursuant to Section 8(f) of the Act, declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized under the laws of Delaware and registered under the Act on November 11, 1955. The application further states that on March 22, 1982, Applicant's Board of Directors approved a Plan and Agreement of Merger ("Plan") pursuant to which Applicant and Southwestern Investors, Inc., would be merged into Plitrend Fund, Inc. ("Merger"). On June 11, 1982, a Notice of a Special Meeting of Stockholders, Prospectus/Proxy Statement, and Proxy Card were mailed to holders of record of Applicant's capital stock as of May 26, 1982. At that Special Meeting, held on July 23, 1982, Applicant's stockholders approved and adopted the Plan, and the Merger was consummated on July 26, 1982. The application also states that Applicant has no assets and no shareholders, is not a party to any litigation or administrative proceedings, and is not engaged in any business activities other than those necessary for the winding-up of its affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 31, 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. 83-12983 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19739; File No. SR-AMEX-82-22, Amdt. No. 3]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc. Relating to Stock Index Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 2, 1983 the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" of the "Exchange") is amending File No. SR-AMEX-82-22 to make certain revisions to the "Information Technology" index and the "Oil and Gas" index, which were proposed in that submission as underlying indices for Exchange-traded options. The Exchange is also redesignating the "Information Technology" index as the "Computer Technology" index.

The Exchange is also proposing to establish $100 million equivalent value as the ceiling for position limits (to be expressed in terms of numbers of option contracts) which the Exchange may establish in respect of options on industry indices. (For the purpose of establishing position limits, the dollar value of a position is deemed to be the product of the current index group value and the index multiplier times the

number of contracts on the same side of the market.)

In addition, the Exchange is proposing to adopt a Commentary under its rule governing stock index option trading rotations, halts and suspensions (Rule 918C) to provide that, in the case of options on an industry index, an opening trading rotation may not be commenced until underlying stocks accounting for at least 50% of the aggregate market value of all of the stocks on which the index is based have opened for trading in the primary market(s) for such stocks, and that trading in such options will be halted if trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the current index group values.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of adjusting the group of stocks comprising the proposed "Information Technology" index as originally filed is to concentrate the focus of the index more specifically on corporations which are strongly involved in the computer industry. The index has, accordingly, been redesignated as the "Computer Technology" index. The "Oil and Gas" index has been modified to add Texas Oil and Gas Corp., and to delete General American Oil.

The Exchange is proposing to fix $100 million equivalent dollar value as the ceiling for industry index option position limits in order to establish position limits for industry index options at a level which would bear an appropriate relationship to position limits which the Commission has approved for options on broad-market stock indices and for options on individual stocks. With respect to the Oil and Gas and Computer Technology index options, the Exchange is proposing to establish 8,000 contracts as the initial position and exercise limits.

[1] Although the Commission has approved minimum customer margin requirements applicable to "uncovered" short positions in options on broad market indices, the appropriate margin for options on industry indices has not yet been determined. *See* Securities Exchange Act Release Nos. 19587 (especially footnote 17) and 19686 (March 10, 1983 and April 18, 1983), 48 FR 11193 and 17425 (March 16, 1983 and April 22, 1983). *See* File Nos. SR-CBOE-82-20 and SR-Amex-82-20.

The Exchange is proposing to adopt the standards herein proposed regarding openings and trading halts for industry index options because Rule 918C contemplates that the Exchange will establish such standards for each stock index option approved for trading on the Exchange, and the Exchange believes that the proposed standards are comparable to those adopted in regard to other stock index options.[1]

The Exchange believes that the implementation of trading in industry index options and, in particular, in options on the proposed Computer Technology and Oil and Gas indices, under the Exchange's general rules governing stock index options (Part V, Section 11 of the Exchange's rules) as proposed to be amended by this submission would be consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange. Such trading would specifically comport with Section 6(b)(5) of the Act, in that members of the public would be provided with useful new hedging and trading opportunities under a scheme of regulation designed to facilitate the maintenance of a fair and orderly market, prevent fraudulent and manipulative acts and practices, and promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 6, 1983.

George A. Fitzsimmons,

Secretary.

Exhibit A.—Computer Technology Index (Previously designated as "Information Technology" Index)

Chart I attached hereto lists the stocks included in the Computer Technology index, together with information as to the exchanges on which they are listed, the exchanges on which options on those stocks are traded, and the price per share, number of shares outstanding, and market value of each stock. Italics indicate the names of stocks which have been added to the Information Technology index in connection with converting that index into the Computer Technology index.

Chart II lists the stocks which have been deleted from the Information Technology index in connection with converting that index into the Computer Technology index, together with the same categories of information included in Chart I.

CHART I—COMPUTER TECHNOLOGY INDEX

Company	Stock exchange listed	Options listed	Shares outstanding (in millions)	Stock price, April 26, 1983	Market value (in billions)
Amdahal Corporation	A	C	17.33	44⅛	0.77
Automatic Data Processing, Inc	N	Phil	34.17	36	1.23
Burroughs Corporation	N	A/C	42.08	46¾	1.97
Commodore International Limited	N	Phil	15.21	89⅝	1.36
Computer Sciences Corporation	N	C	13.48	18½	.25
Control Data Corporation	N	C	37.15	48½	1.80
Cray Research, Inc	N	Pac	13.68	37	.51
Data General Corporation	N	Pac	10.99	63	.69
Datapoint Corporation	N	C	19.97	19¼	.38
Digital Equipment Corporation	N	A/C	55.35	115⅝	6.40
Electronic Data Systems Corporation	N	Phil	28.90	59¼	1.71
Hewlett-Packard Company	N	C	125.35	77½	9.72
Honeywell, Inc	N	C	22.70	103¼	2.34
International Business Machines Corporation	N	C	600.46	117⅛	70.33
Lanier Business Products, Inc	N		14.98	13¼	.20
Mohawk Data Sciences Corporation	N	Pac	13.40	16¼	.22
Motorola, Inc	N	A	38.09	108	4.11
National Semiconductor Corporation	N	A/C	23.40	32¼	.76
NBI, INC	N		9.88	38⅛	.38
NCR Corporation	N	C	26.56	119¼	3.17
Paradyne Corporation	N	C	14.46	24	.35
Prime Computer, Inc	N	A	29.79	30¼	.90
Sperry Corporation	N	C	45.18	35¼	1.59
Storage Technology Corporation	N	C	33.36	21⅝	.72
Tandy Corporation	N	A/C	103.86	61¼	6.36
Telex Corporation (The)	N	A	13.84	24	.33
Texas Instruments, Incorporated	N	C	23.58	145½	3.43
Tymshare, Inc	N	Phil	11.92	18⅝	.22
Wang Laboratories, Inc. (B)	A	Pac	112.64	37⅞	4.25
Xerox Corporation	N	C/Pac	84.51	45⅛	3.82

CHART II.—STOCKS DELETED FROM INFORMATION TECHNOLOGY INDEX

Company	Stock exchange listed	Options listed	Shares outstanding (in millions)	Price Apr. 26, 1983	Market value (in billions)
Apple Computer	O		57.12	50¼	2.84
Barry Wright Corporation	N		8.55	26¼	.22
Dataproducts Corporation	A	P	8.83	23¼	.21
Dennison Manufacturing Company	N		9.30	30	.28
Intel Corp	O		44.45	47¼	2.10
Management Assistance, Inc	N		8.30	13⅜	.11
Minnesota Mining & Manufacturing Company	N	C	117.41	85½	10.04
Modular Computer Systems, Inc	N		5.30	13⅜	.07
Pitney-Bowes, Inc	N	A	16.20	64	1.04
Tandem	O		37.37	28	1.05
Triad Systems	O		7.20	21	.15

[FR Doc. 83-12974 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19675A; File No. SR-NASD-83-1]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 20, 1983, the National Association of Securities Dealers, Inc. ("Association") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to supplement its earlier notice published in 48 FR 17166 (April 21, 1983) and solicit comments on the additional issues presented in this notice.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change adds a new section to Schedule D to Article XVI of the Association's By-Laws for the purpose of implementing a system for the exchange of information on direct participation program (primarily limited partnership) securities ("System"). The provisions of the proposed rule change describe qualifications for subscribers to the System and the securities on which information may be entered into the System.

II. Self Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these comments may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This proposed rule change is the result of many months study by the Association's Real Estate Committee of possible means for developing a system for the exchange of information on direct participation program securities, during which a survey of members was conducted in early 1980 to determine interest in such a System. Almost 20

percent of the membership responded, with 69 percent favoring establishment of a System.

In order to implement such an information system, the Association is proposing to amend Schedule D to Article XVI of the Association's By-Laws to incorporate certain technical rules as new Part XV. This proposed rule change is consistent with Sections 15A(b)(6) and 15A(b)(11) of the Securities Exchange Act of 1934, as amended ("Exchange Act").

Description of System

The proposed rule change would enable the Association to establish an "electronic bulletin board" that will provide a means of communications for an exchange of information but no execution capability. Broker/dealers participating in the System will not be required to maintain firm, continuous or two-sided quotations and will not necessarily function as market-makers in the normal sense. The System will be accessed through NASDAQ terminals and will provide subscribing members with on-line ability to enter and update indications of interest in any security approved for the System and to query a data base to review information on individual securities or groups.

Analysis of Proposed Amendment to Schedule D to By-Laws

Following is a discussion of the provisions of proposed Part XV to Schedule D.

Section A: General

Section A contains a general prohibiton on the entry of information into the System except in accordance with the proposed rule.

Section B: Definitions

Section B incorporates definitions of "direct participation program system," "eligible broker/dealer," "authorized security," and "trading unit" into the proposed rule. The terms defined in Section B are, for the most part, self-explanatory. The term "trading unit" is defined to be the minimum number of direct participation program securities which can be transferred as a unit pursuant to the terms contained in the partnership agreement of the program.

Section C: Eligible Broker/Dealers

Paragraph 1 of Section C sets forth the qualifying criteria which a broker/dealer must meet in order to be considered eligible to enter information into the System. The first two criteria, Subparagraphs 1.a. and b., are the familiar requirements that a broker/dealer must be registered with the Securities and Exchange Commission and a member in good standing of the Association, as well as qualified with the Association to conduct a general securities business or a business in direct participation programs.

Subparagraph 1.c. of Section C requires that a broker/dearler must maintain net capital of at least $25,000 to be eligible to enter information into the System. The Association's interpretation of the $25,000 net capital requirement relates only to actual capital held and not to the firm's ability to hold customer funds or securities. Under this interpretation, a firm can elect to participate in the System by obtaining the requisite additional capital, although the firm is not qualified to handle customer funds and securities.

In addition, the Association has determined that broker/dealers unable to meet the $25,000 net capital standard may be able to arrange to have access to the system through other broker/dealers. Under this interpretation, a firm without sufficient net capital may be able to enter into a relationship with a firm with the requisite $25,000 net capital to clear the transaction in the System.

Paragraph 2 of Section C establishes the general requirement that a broker/dealers entering information into the System must have reasonable grounds to believe that the information represents a bona fide indication of interest in the purchase or sale of a trading unit of securities. In addition, where the indication of interest is for the sale of a trading unit, the broker/dealer must have reasonable grounds to believe that the unit will be transferred to a purchaser.

Section D: Authorized Securities

Paragraph 1 of Section D requires that the security be issued by a direct participation program and be currently registered under Section 12(g) of the 1934 Act; that the issuer be current in its reporting requirements under the 1934 Act; that the partnership have issued and outstanding at least 10,000 trading units owned by not less than 300 persons; and that at least one broker/dealer stands ready to enter information into the System on the security.

Paragraph 2 of Section D describes the circumstances under which an otherwise eligible security shall not be authorized for entry into the System and an authorized security will be subject to suspension or cancellation of its authorization. Such circumstances include the suspension of the security from being traded over-the-couter, failure by the issuer to promptly disclose to the public any material information which may affect the value of its securities or influence investors' decisions, and the fact that the security is no longer registered under Section 12(g) of the 1934 Act. Paragraph 2 of Section D also includes the restriction that an eligible security is not authorized where the security is the subject of a public offering which has not yet been terminated.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will promote competition to the extent that the System will provide a more efficient means to publicize offers to buy or sell partnership securities, resulting in a more efficient pricing mechanism for such securities. At the same time, the proposed rule change will have an impact on competition to the extent that only members of the Association qualified to deal in direct participation program securities that maintain net capital of at least $25,000 will be eligible to enter information into the System, while other members of the Association and non-members will not be similarly eligible. However, the Association believes that the burden imposed is not unduly burdensome or inappropriate in light of the regulatory objectives sought to be achieved in furtherance of the Association's obligations under the Exchange Act.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for member comment in Notice to Members 82–13 (March 9, 1982). The Association received a total of 18 comments on the rule proposal. After due consideration of the comments received, the Board of Governors approved an amended version of the rule. The Commission, however, is particularly interested in receiving comments on the following matters which were among the issues raised in the comment letters.

1. Should the issuer of a DPP security be involved in the decision concerning whether to include the Security in the System?

2. Is the requirement of 10,000 trading units an appropriate standard for determining if a DPP should be authorized for entry into the System?

3. Should restrictions apply to when a broker/dealer can enter quotes for an Approved Security into the System: during the public offering, after the public offering, or after a specified

"seasoning period" following the offering?

4. Will the inclusion of an Approved Security in the System and the subsequent secondary trading of the security affect its tax status as a partnership?

5. Is the requirement of a minimum of $25,000 worth of net capital for a Qualified Member appropriate or should the amount be greater or lower?

6. If a DPP contain a provision wherby the issuer will buyback interests in the DPP at a specified price, should the quotes entered into the System be no lower than the "buy-back" price or should such quotes, at least, indicate the estimated buy-back price?

7. In light of the fact that the value of a DPP security is often dependent on a particular investor's tax objectives, will broker-dealers have a resonable basis for the submission of priced indications of interest?

8. Should the System display trade information (*e.g.*, price, time or size of the last transaction) concerning the prior sales of an Approved Security?

9. Due to the possibility that different units of the same DPP may have different tax bases, should information on a security inserted into the System include details regarding the current tax bases of the units offered for sale?

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this Notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

May 9, 1983.

[FR Doc. 83-12975 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22931; 70-6863]

Southwestern Electric Power Co.; Proposal To Issue and Sell Pollution Control Bonds; Exception From Competitive Bidding

May 9, 1983.

Southwestern Electric Power Company ("SWEPCO") P.O. Box 1106, Shreveport, Louisiana 71156, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to Sections 6(a), 7, 9(a)(1), 10, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 50(a)(5) promulgated thereunder.

By order dated August 20, 1981 (HCAR No. 22171), the Commission authorized SWEPCO to enter into an Installment Sale Agreement ("Agreement") with the Sabine River Authority of Texas (the "District"), an instrumentality of the State of Texas. Pursuant to the Agreement, the District would finance certain pollution control facilities for a SWEPCO generating plant being contructed near Hallsville, Texas. The District issued $72,500,000 of 11½% Pollution Control Revenue Bonds in September 1981, due October 1, 1984 (the "1981 Bonds"). SWEPCO pledged revenues to the District to cover the costs of the 1981 Bonds. Republic Bank Dallas N.A. is Trustee under the bond indenture. The bonds were payable from and secured by SWEPCO's pledge of revenue. After construction of the facilities, title to the facilities will automatically vest in SWEPCO.

SWEPCO seeks Commission authorization to enter into an Amendment to the Agreement ("Amendment") for the issuance and sale of additional bonds ("Bonds") prior to October 1, 1984, to refinance the 1981 Bonds and to cover additional facilities costs. The Bonds will bear interest payable semi-annually and will mature within 30 years. The District will issue and sell the Bonds through negotiation pursuant to an Underwriting Agreement, subject to SWEPCO's approval. SWEPCO will not be a party to the underwriting agreement, but will make certain representations to the underwriters. The terms and conditions of the Bonds will be determined by negotiation. The Amendment will contain an unsecured commitment by SWEPCO to pay the District at specified times amounts sufficient to cover the Bonds' debt service, including principal, interest, and redemption premiums, as well as other District expenses associated with the Bonds. The Bonds will be special obligations of the District payable only out of SWEPCO's payments under the Amendment and are not general obligations of the District.

SWEPCO requests an exception from the competitive bidding requirements of Rule 50 pursuant to subsection 50(a)(5) because the District's Bonds are being issued and sold by the District through its selected underwriters.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 2, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12977 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22927; 70-6820]

West Texas Utilities Co.; Proposal To Issue and Sell Adjustable Rate Preferred Stock at Competitive Bidding

May 6, 1983.

West Texas Utilities Company ("West Texas"), 301 Cypress, Abilene, Texas 79601, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a post-effective amendment to a declaration previously filed with this Commission pursuant to Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50 promulgated thereunder.

By prior order in this proceeding (HCAR No. 22918, April 20, 1982), West Texas was authorized to issue and sell at competitive bidding up to 250,000 shares of preferred stock, with a fixed dividend rate, from time to time during the period ending December 31, 1983. The declaration has now been amended to seek authorization to sell all or part of the preferred stock either with a fixed dividend rate or an adjustable dividend rate, depending on market conditions at the time of sale.

With regard to the adjustable rate preferred stock, the dividend rate for the initial dividend payment period will be a fixed percentage. Thereafter, the adjustable dividend rate will be determined quarterly on the basis of a certain percentage ("reset amount") above or below the highest of (1) the average of the two most recent weekly per annum market discount rates for three-month U.S. Treasury bills, as published by the Federal Reserve Board during a specified period prior to each dividend payment period, (2) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten years) during a specified period prior to each dividend payment period, or (3) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of twenty years) during a specified period prior to each dividend payment period. In no event will the effective annual dividend rate, as adjusted in any quarter, be less than 5% or greater than 15%.

In the event that any series of preferred stock is sold with an adjustable dividend rate, the terms of such series will include a prohibition for five years against redeeming such series with funds derived from the issuance of equity or debt securities at a lower effective cost of financing than the effective annual dividend cost to West Texas based upon the initial dividend rate for the appropriate series.

West Texas intends to issue and sell the preferred stock through a primary shelf registration program in accordance with Rule 415 of the Securities Act of 1933 (17 CFR 230.415). When specific provisions relating to the initial dividend period and the reset amount have been determined, except as indicated hereafter, West Texas proposes to employ alternative competitive bidding procedures in accordance with the Commission's statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 22623, September 2, 1982). West Texas states, however, that the sales of additional preferred stock may require the assistance of underwriters, dealers or agents if market conditions at the time of the offering of the securities are unfavorable. Accordingly, West Texas may amend this filing to seek an exemption from Rule 50 to offer the preferred stock through either negotiated or private sales.

The declaration, as amended by the post-effective amendment, and any further amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 1, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues or fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 12981 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. PA-7]

Privacy Act of 1974; Amendments to System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notification of amendments to the system of records.

SUMMARY: The Commission is amending two systems of records governing maintenance of employee performance appraisal related documents in order to conform the rules to new regulations concerning government-wide maintenance of Employee Performance File ("EPF") systems recently adopted by the Office of Personnel Management.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Laurie Schaffer, Office of the General Counsel (202) 272-2453.

SUPPLEMENTARY INFORMATION: The Commission today announces amendments to its System of Records (the "System") published[1] pursuant to the Privacy Act of 1974,[2] the amendments, which are effective immediately, change two sections of the System: SEC-47, concerning Office of Personnel Code of Conduct and Employee Performance Files;[3] and SEC-50, concerning Office of Personnel Position Classification files.[4] The amendments are necessary in order to conform the Commission's system with recent amendments to Office of Personnel Management ("OPM") regulations governing maintenance and use of personnel records by federal agencies.[5]

Prior to the amendments to federal personnel regulations enacted by OPM, records and files maintained by the Commission to implement its employee performance appraisal plan were considered part of the government-wide Privacy Act system of records, identified as OPM/GOVT-1, General Personnel Records.[6] Recently OPM determined that performance appraisal records of government employees should be categorized as a new system of records in order to facilitate accurate description of the categories of records in personnel folders, identify the purposes for which such records are maintained and narrow the scope of permissible routine uses of the information. Performance appraisal records, whether maintained in an envelope in lieu of a separate file or in automated or microform versions, are

---

[1] *See* 41 FR 41550 (September 22, 1976).

[2] 5 U.S.C. 552a(e)(4)(1974). *See* 5 CFR 293, Subpart D which requires each agency to establish and maintain an Employee Performance File Record System.

[3] *See* 41 FR 41590 (September 22, 1976).

[4] *See* 41 FR 41593 (September 22, 1976).

[5] *See* Office of Personnel Management, Federal Personnel Bulletin 293-20 (February 22, 1982); *see also* 47 FR 3231 (January 22, 1982).

[6] *See* 45 FR 78415 (November 25, 1980).

considered part of a new system of records, identified as OPM/GOVT-2 and may be disclosed only according to routine uses promulgated in the OPM/GOVT-2 EPF system notice.[7]

Accordingly, in order to avoid duplicative designations, the Commission is amending the System to delete certain categories, and routine uses of records and to change the method of record retrieval. The following categories of records are being deleted from SEC-47: (1) Initial performance evaluations; (2) employee questionnaires; (3) reports on employees completing their probationary year; and (4) award recommendations. The categories of records which are being deleted from SEC-50 are: (1) organization charts and (2) annual performance rating and position classification certifications. In addition, the category entitled "super-grade position submissions" in SEC-50 is being changed to "supergrade history file." Amendments to the sections in SEC-47 and 50 concerning routine uses and retention and retrieval are also being made to reflect the changes in the categories.[8]

SEC-47 and SEC-50 as amended are set forth below.

1. In "Categories of records" remove paragraphs (a) through (d) and redesignate paragraphs (e) through (g) as paragraphs (a) through (c).

2. In "Routine uses of records" remove paragraphs (1) through (5) and redesignate paragraphs (6) through (13) as paragraphs (1) through (8); revise newly redesignated paragraph (1).

3. Revise paragraph titled "Retention and disposal".

4. In "Systems manager(s) and address" remove "500 North Capitol" and add "450 5th Street, NW."

5. In "Notification procedure" remove "1100 L Street" and add "450 5th Street."

6. In "Records source categories" remove paragraphs (a) through (d) and redesignate paragraphs (e) through (g) as paragraphs (a) through (c).

As amended, SEC-47 reads as follows:

[7] See 47 FR 3232 (January 22, 1982).

[8] The routine uses that are being deleted are those which reflect the internal purposes for which the Commission uses the records. However, these deletions are not intended to restrict the Commission's use of the records. Under the Privacy Act of 1974 (5 U.S.C. 552a), records may be disclosed to officers and employees of the SEC who have a need for the record in performance of their duties without the requirement that the internal agency uses be published.

SEC-47

SYSTEM NAME:

Office of Personnel Code of Conduct and Employee Performance Files—SEC.

SYSTEM LOCATION:

Securities and Exchange Commission, Washington, D.C. 20549. Such records also may be maintained in other Offices and Divisions in the Commission and Regional and Branch Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

SEC employees, past and present.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records includes information in the following categories of records:

(a) Adverse action cases, regulatory appeal files, grievances and complaints relating to an employee; (b) Code of conduct files-established under SEC employee conduct regulations (17 CFR 200.735-1 et seq.): Rule 2—Outside employment material; Rule 3—Employee securities transactions; Rule 4—Actions in cases of personal interest; Rule 5—Negotiations for private employment; Rule 6—Practice by former members and employees of the SEC; Rule 7—Employee Debts; Rule 9—Statements of employment and financial interest (GS 15's and above); Rule 10—Statements of employment and financial interest (Special Employees); (c) Investigatory materials gathered in connection with the individual's initial appointment to the agency as well as materials gathered in connection with investigations into allegations of employee misconduct.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and the information contained in these files may be used for the following:

1. Assigned Office of Personnel Staff uses records in category (b) above to verify employee compliance with SEC Conduct Regulations.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETENTION AND DISPOSAL:

Records n category (a) are retained 2 years and then discarded. Records in category (b) are kept for 5 years and then discarded. When employee leaves the SEC, his/her conduct files are stored for 2 years by the Office of Records and then destroyed; the computer listing of his/her securities transactions is destroyed upon his/her separation from the SEC. The Rule 6 file, established when a former employee returns to practice before the SEC, is retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Public Reference Room at 450 5th Street, NW., Washington, D.C., or by mail addressed to the Securities and Exchange Commission, Public Reference Section, Washington, D.C. 20549.

* * * * *

RECORD SOURCE CATEGORIES:

Records in category (a) are obtained from the supervisor/manager(s) initiating action, employee concerned and his/her designated representative; and other individuals making complaints; records in category (b) are obtained from employee concerned. Employee concerned submits information re: Rules 2-6 and 9-10. Both alleged creditor and employee concerned submit information in Rule 7 (employee debts) file. Information in category (c) is gathered, where practicable, from the individual as to whom the information pertains and other individuals including former employers and associates, friends, co-workers, relatives, neighbors. Information may also be received from Federal, State or local law enforcement authorities or other governmental agencies.

1. In "Categories of records" remove paragraphs (c) through (e) and add new paragraph (c).

2. In "Routine uses of records" remove paragraphs (3) and (5), redesignate paragraph (4) as paragraph (3) and paragraphs (6) through (1) as paragraphs (4) through (8).

3. Revise paragraph titled "Retrievability".

4. In "System manager(s) and address" remove "500 North Capitol Street" and add "450 5th Street, NW."

5. In "Notification procedures" remove "1100 L Street" and add "450 5th Street". As amended, SEC-50 reads as follows:

SEC-50

SYSTEM NAME:

Office of Personnel Position Classification Files—SEC.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains the following categories of records: (a) Official position descriptions; (b) classification and audit reports; and (c) super-grade history file.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS OF USERS AND THE PURPOSES OF SUCH USE.

These records and the information contained in these records may be used as follows:

1. Official position descriptions indicate the duties to be performed by employees, in particular grade or pay positions and are utilized in connection with position management and control and for organizational job alignment purposes.

2. Classification and audit reports are used to indicate to employees, supervisors, and administrative assistants how title, grade, and series for a particular job was determined.

3. Super-grade history file contains information about the establishment and staffing of positions in grades GS-16, 17, and 18. They are used for historical reference.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

* * * * *

RETRIEVABILITY:

Position descriptions are retrieved by number or title; other data is retrieved by name.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Public Reference Room at 450 5th Street, NW., Washington, D.C. or by mail addressed to the Securities and Exchange Commission, Public Reference Section, Washington, D.C. 20549.

* * * * *

Dated: May 2, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-12918 Filed 5-12-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0318]

Glover Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On November 26, 1982, a notice was published in the **Federal Register** (Vol. 47, No. 228), stating that Glover Capital Corporation, 655 Deep Valley Drive, Suite 320, Rolling Hills Estates, California 90274 had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given 15 days to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 09/09-0318 to Glover Capital Corporation on March 29, 1983, to operate as a small business investment company, pursuant to the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12965 Filed 5-12-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5454]

Roedal Associates, Ltd.; Issuance of Small Business Investment Company License

On December 22, 1982, a Notice was published in the **Federal Register**, (47 FR 57185) stating that an application had been filed by Roedal Associates, Ltd., 77-51 141st Street, Flushing, New York 11367, with the Small Business Administration (SBA), pursuant to the Regulations governing small business investment companies (13 CFR Part 107. 102 (1983)) for a license as a Section 301(d) small business investment company.

Interested parties were given until the close of business January 6, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that pursant to Section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-5454 to operate as a Section 301(d) company.

(Catalog of Federal Domestic Assistance, Program number 59.011 Small Business Investment Companies)

Dated: May 3, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12963 Filed 5-12-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0321]

Sunbelt Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) by:

Applicant: Sunbelt Capital Corporation.

Address: 14255 North 76th Place, Scottsdale, Arizona 85260.

Proposed Private Capital: $510,000.

Area of Operations: State of Arizona.

The officers, directors and stockholder of the applicant are a follows:

Bruce L. Vinci, 6332 East Maverick, Paradise Valley, Arizona 85253, President, Director, 100%

Brian Burch, 4415 East Kelton Lane, Phoenix, Arizona 85032, Vice President, Secretary and Treasurer, Director

Paul F. Muscenti, 6011 North Second Street, Phoenix, Arizona 85021, Director

Joseph P. Martori, 2609 Beekman Place East, Phoenix, Arizona 85016, Director

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successful operations of the new company 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, N.W., Washington D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Scottsdale, Arizona.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12967 Filed 5-12-83; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0265]

Sunwestern Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On December 20, 1982, a notice was published in the Federal Register (Vol. 47, No. 224), stating that Sunwestern Capital Corporation, Suite 816, South Tower, 2720 Stemmons Freeway, Dallas, Texas 75207 had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given 15 days to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 06/06-0265 to Sunwestern Capital Corporation on March 7, 1983, to operate as a small business investment company, pursuant to the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 3, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12968 Filed 5-12-83; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2083]

Utah; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the counties of Utah, Carbon and Emery, Utah, constitute a disaster area because of damage resulting from severe storms, landslides, and flooding beginning on or about April 12, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 29, 1983, and for economic injury until the close of business on January 29, 1983, at the address listed below: U.S. Small Business Administration, 125 South State Street, Room 2237, Salt Lake City, Utah 84138-1195, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are:

	Percent
Homeowners with credit available elsewhere	11.500
Homeowners without credit available elsewhere	5.750
Businesses with credit available elsewhere	10.500
Businesses without credit available elsewhere	8.000
Business (EIDL) without credit available elsewhere	8.000
Other (non-profit organization including charitable and religious organizations	11.375

It should be noted that assistance for agriculture enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: May 3, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-12962 Filed 5-12-83; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-0322]

Wesco Capital, Ltd.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*) by:

Applicant: Wesco Capital, Ltd.

Address: 3471 Via Lido, Suite 204, Newport Beach, California 92663.

Proposed Private Capital: $530,000.

Area of Operations: State of California.

The General Partners of the Applicant are as follows:

Peter J. Madigan, 938 Via Lido Soud, Newport Beach, California 92663, General Partner

Lido Financial, Inc. Corporate General Partner

Peter J. Madigan, 938 Via Lido Soud, Newport Beach, California 92663, President, Vice President and Director

T. James Herrmann, 601 E. Promontary Drive, Newport Beach, California 92660, Director,

Freda D. Wilt, 1027 East Angeleno, Burbank, California 91502, Secretary and Treasurer and Director,

Mr. Peter J. Madigan and Lido Financial, Inc., the General Partners, will be the only persons, corporations, partnerships trusts or other entities that will own directly or indirectly 10 or more percent of the Applicant's Private Capital.

Matters involved in SBA's consideration of the application include the general business reputation and character of proposed managers, and the probability of successful operations of the new company 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 Newport Beach, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 9, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-12966 Filed 5-12-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TREASURY

Public Information Collection Requirements Submitted to OMB for Review

On May 9, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury

Department Clearance Officer, Room 309, 1625 "I" Street, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0115.

Form Number: 1099 Misc.

Title: Statement for Recipients of Miscellaneous Income.

OMB Number: 1545–0715.

Form Number: 1099–B.

Title: Statement for Recipients of Proceeds from Broker or Barter Exchange Transactions.

OMB Number: 1545–0108.

Form Number: 1096.

Title: Annual Summary and Transmittal of U.S. Information Returns.

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,

Acting Departmental Reports Management Officer.

[FR Doc. 83-12902 Filed 5-12-83; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This 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 Pub. L. 96–511 applies.

ADDRESSES: Requests for further information, including copies of the proposed form and supporting documents may be obtained from Patricia Viers, agency clearance Officer (004A2), Veterans Administration, 810 Vermount Avenue, NW, Washington DC, 20420 (202) 389–2146. Comments and questions about the items on this list should be directed ot the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Veterans Administration, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: May 4, 1983.

By direction of the Administrator:

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extended Form

(1) Department of Medicine and Surgery.
(2) Blood Donor Registration Form.
(3) VA Form 10–2420.
(4) On occasion.
(5) Prospective blood doners.
(6) 36,000 responses annually.)
(7) 5 minutes.
(8) Not applicable under 3504(H).

[FR Doc. 83-12875 Filed 5-12-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 94
Friday, May 13, 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
Consumer Product Safety Commission	1
Federal Deposit Insurance Corporation	2
Federal Mine Safety and Health Review Commission	3
Federal Reserve System	4
National Science Board	5
Occupational Safety and Health Review Commission	6
Uniformed Services University of the Health Sciences	7

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Monday, May 16, 1983, 10:00 a.m.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:
Compliance Status Report.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

The staff will brief the Commission on the status of various compliance matters.

(For a recorded message containing the latest agenda information: call 301-492-5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 30307, 301-492-6800.

[S-688-83 Filed 5-11-83; 9:51 am]

BILLING CODE 6355-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, May 9, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Coporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of First Amercian Bank for Savings, Boston, Massachusetts, an insured mutual savings bank, for consent to acquire the assets of and assume the liability to pay deposits made in Workingmen's Co-Operative Bank, Boston, Massachusetts, a non-federally-insured institution, and to establish the eight existing offices of Workingmen's Co-Operative Bank as branches of First American Bank for Savings.

Application of Heritage Bank, Anaheim, California, for consent to convert into a non-FDIC-insured institution.

Request of West Olympia Bank, Los Angeles, California, for reconsideration of a previous denial of an application for consent to establish a branch to be located at 901 South Western Avenue, Los Angeles, California.

Request of Fideliety Bank & Trust Company (In Organization), Salem, New Hampshire, for modification of conditions imposed in granting Federal deposit insurance.

Recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Memorandum and resolution re: Proposed revision of the delegations of authority relating to personnel matters.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of one meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: May 9, 1983.

Federal Deposit Insurance Corporation.

Noyle L. Robinson,

Executive Secretary.

[S-689-83 Filed 5-11-83; 12:34 pm]

BILLING CODE 6714-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 11, 1983.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:
In addition to the previously announced meeting, the Commission will also consider and act upon the following:

2. Jay Montoya v. Valley Camp of Utah, Inc., Docket No. WEST 82-41-D; Petition for Discretionary Review. (Issues include whether the judge erred in dismissing the miner's discrimination complaint.)

It was determined by a unanimous vote of Commission that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5632.

[S-691-83 Filed 5-11-83; 2:30 pm]

BILLING CODE 6735-01-M

4

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10:00 a.m., Wednesday, May 18, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: May 10, 1983.

James McAfee,

Associate Secretary of the Board.

[S-686-83 Filed 5-10-83; 4:28 pm]

BILLING CODE 6210-01-M

5

NATIONAL SCIENCE BOARD

DATE/TIME:

May 18, 1983 3:00; p.m. Open Session
May 19, 1983 1:00; p.m. Open Session
May 19, 1983 3:15; p.m. Closed Session
May 19, 1983 4:00; p.m. Open Session

PLACE: National Science Foundation, 1800 G Street, N.W. Washington, D.C.

STATUS: Changes to previously published announcement.

An item has been added to the Open Session scheduled for Thursday, May 19, from 1:00 p.m. to approximately 2:30 p.m. The item will be: Supercomputers in Research Activities.

Matters to be considered at the Open Session on Thursaday, May 19, beginning at 4:00 p.m. remain as previously announced.

CONTACT PERSON FOR MORE INFORMATION: Ms. Margaret L. Windus, 202/357–9582.

[S-690-83 Filed 5-11-83; 1:53 pm]

BILLING CODE 7555-01-M89

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 21234 May 11, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. on June 2, 1983.

CHANGES IN THE MEETING: This meeting has been rescheduled for June 9, 1983, at 10 a.m.

Date: May 11, 1983.

[S-692-83 Filed 5-11-83; 3:38 p.m.]

BILLING CODE 7600-01-M

7

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

TIME AND DATE: 10:00 a.m., May 21, 1983.

PLACE: Uniformed Services University of the Health Sciences, Room D3–001, 4301 Jones Bridge Road, Bethesda, Maryland 20814.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10:00: Meeting—Board of Regents
(1) Approval of Minutes, 14 March 1983; (2) Faculty Appointments; (3) Report—Admissions; (4) Report—Associate Dean for Operations—Budget; (5) Report—President, USUHS—(a) Awards, (b) Graduate Education, (c) Benefits Program Update, (d) Change in General Procedures and Delegations—Committee Structure, (e) Defense Officer Personnel Management Act, (f) Foundation for the Advancement of Military Medicine, (g) Certification to Receive Degrees
New Business

SCHEDULED MEETING: July 25, 1983.

CONTACT PERSON FOR MORE INFORMATION: Frank Reynolds, Executive Secretary of the Board, 202/695–1052.

Dated: May 10, 1983

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[S-687-83 Filed 5-11-83; 9:00 am]

BILLING CODE 3810-01-M

federal register

Friday
May 13, 1983

Part II

Environmental Protection Agency

Premanufacture Notification; Premanufacture Notice Requirements and Review Procedures; Final Rule and Notice Form

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 720

[OPTS-50002G; TSH-FRL 2998-5]

Premanufacture Notification; Premanufacture Notice Requirements and Review Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and notice form.

SUMMARY: This rule establishes premanufacture notice requirements and review procedures under section 5 of the Toxic Substances Control Act ("TSCA" or "the Act"). Section 5 of TSCA requires persons to notify EPA at least 90 days before manufacturing or importing a new chemical substance for commercial purposes. On January 10, 1979, EPA proposed a rule and forms to implement the section 5 notice requirements; the rule and forms were reproposed in part on October 16, 1979, and supplemented by a processor reporting proposal on August 15, 1980 and a clarification of importer reporting requirements on September 23, 1980. In this notice, EPA is issuing a final rule and notice form. The notice requirements and procedures established in this rule will replace the Interim Policy under which EPA has been conducting the new chemical notice review program since it began on July 1, 1979.

DATE: This rule is effective July 12, 1983.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll-free: (800-424-9065), in Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

OMB Control Number 2070-0012.

This preamble discusses EPA's approach to implementing TSCA section 5 notice requirements, the provisions of this rule, and the contents of the notice form. EPA has also prepared several documents in support of this rule, including a Regulatory Impact Analysis, EPA's Response to Comments on Premanufacture Notice Requirements and Review Procedures for New Chemical Substances, and an Instructions Manual for Premanufacture Notification of New Chemical Substances ("Instructions Manual"). These documents are available from the Industry Assistance Office, Office of Toxic Substances (OTS), at the address above.

Following is an index to the remainder of this preamble.

I. Introduction
A. Statutory Framework
B. Background
II. General Approach to Notice Review
A. Notice Review Process
1. Prenotice Communication
2. Process Start-up
3. Initial Review
4. Detailed Review
5. Regulatory Response
6. Process Closeout and Entry on the Inventory
B. Test-Marketing Exemption Applications
C. Regulatory Actions
III. Provisions of the Rule
A. Applicability
1. Who Must Report
a. U.S. Manufacturers
b. Importers
c. Processors
d. Agents and Joint Submitters
2. What Chemical Substances Must be Reported
3. Exempt Chemical Substances
a. Small quantities solely for research and development
b. Test-Marketing Exemptions
c. Nonisolated Intermediates
d. Byproducts
B. Information Submissions
1. Scope of Information Requirements
a. Known to or Reasonably Ascertainable by
b. Information From Other Persons
c. Test Data and Other Data
d. New Information or Data
2. Section-by-Section Review of the Notice Form
a. Submitter Identification
b. Chemical Identity
c. Production and Use Information
d. Hazard Information
e. Transportation and Detection Methods
f. Human Exposure and Environmental Release Information
g. Sites Controlled by Others
h. Consumer and Commercial User Exposure
i. List of Attachments
j. Optional Information
k. Federal Register Notice
l. Confidentiality Claims
C. Notice and Review Procedures
1. Submission and Processing of Notices
a. Acknowledgement of Receipt
b. Consolidated Notices
c. Incomplete Submissions
d. Extension of Review Period
e. Suspension of Review Period
f. Closeout and Commencement of Manufacture
2. Supplemental Reporting
3. Actions Under Sections 5(e) and 5(f)
4. Recordkeeping
5. Compliance and Inspections
D. Confidentiality
1. Assertion of Confidentiality Claims
2. Generic Information
3. Substantiation of Claims
4. Health and Safety Studies
5. Specific Chemical Identity
IV. Related Rulemakings and Other Actions
A. Section 5(h)(4) Exemptions
B. New Chemical Follow-up Rules
C. Testing Guidelines
V. Related Documents
A. Response to Comments
B. Instructions Manual
VI. Regulatory Impact Analysis
VII. Applicability of Paperwork Reduction Act and Regulatory Flexibility Act
VIII. Public Record

I. Introduction

A. Statutory Framework

Under section 5(a) of TSCA, 15 U.S.C. section 2604(a), persons must notify EPA at least 90 days before manufacturing or importing a new chemical substance for commercial purposes. A new chemical substance, as defined in section 3(2) of the Act, is any chemical substance that is not included on the list, or "Inventory," of existing chemical substances, compiled by EPA under TSCA section 8(b). EPA first published the TSCA Chemical Substance Inventory on June 1, 1979, and amended it in July 1980 and May 1982, with Cumulative Supplements. The Inventory is also regularly updated by the addition of new chemical substances which have undergone section 5 review and have entered commercial production.

Section 5(d)(1) of the Act specifies information that submitters must provide in section 5(a) notices: (1) test data in their possession or control; (2) descriptions of health and environmental effects data that they know or can reasonably ascertain; and (3) known or reasonably ascertainable information on chemical identity; proposed categories of use; proposed volume of production; byproducts resulting from manufacture, processing, use, or disposal; workplace exposure; and manner or method of disposal. Section 5(b) of the Act imposes additional data requirements for chemical substances subject to testing rules under section 4 and for chemicals that EPA, by rule under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Once EPA receives a section 5 notice, EPA has 90 days to review it, unless for good cause EPA extends the review period under section 5(c) for up to an additional 90 days. During the review period, EPA may act under section 5(e) or 5(f) to regulate the production or use of the new chemical substance. Section 5(e) authorizes EPA to prohibit or limit the manufacture (including import), processing, distribution in commerce, use, or disposal of a new chemical

substance until information sufficient to evaluate its health and environmental effects is provided. EPA can take this action if it determines that the available information is insufficient for a reasoned evaluation and either (1) the substance may present an unreasonable risk of injury to health or the environment, or (2) the substance will be produced in substantial quantities and there may be significant or substantial human exposure to the substance or substantial release to the environment. Under section 5(f), EPA may regulate a new chemical substance if it finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the substance will present an unreasonable risk of injury to health or the environment.

If EPA has not prohibited manufacture or import of the chemical substance during the review period, these activities may begin as soon as the review period expires, subject to restrictions or testing requirements imposed during the review period. When manufacture or import begins and the notice submitter provides a notice of commencement, EPA adds the substance to the inventory. Thereafter, any person may manufacture or import the substance without submitting a section 5 notice to EPA (unless EPA has issued a significant new use rule on the chemical under section 5(a)(2)).

Certain chemicals are exempt from the section 5 notice requirements. They include categories of substances excluded from the TSCA definition of chemical substance: tobacco and tobacco products; nuclear materials; firearms and ammunition; and substances used solely as pesticides, foods, food additives, drugs, or cosmetics. In addition, section 5(h) authorizes exemptions from section 5 notice requirements for new chemical substances produced for test marketing or research and development, and for substances which exist temporarily as a result of a chemical reaction in the manufacture or processing of another chemical substance to which there is no human or environmental exposure. Also, under section 5(h)(4) EPA may, upon application and by rule, exempt the manufacturer or importer of any new chemical substance from all or part of the section 5 requirements if the Agency determines that the manufacture, processing, distribution in commerce, use, and disposal of the substance will not present an unreasonable risk of injury to health or the environment.

Section 5(d)(2) of the Act requires EPA to publish certain information on section 5 notices in the **Federal Register**, including at the least: (1) information on the identity and uses of the new substance, (2) a description of test data submitted under section 5(b), and (3) the results of the tests. In addition, at the beginning of every month, EPA must publish a list of: (1) new chemical substances undergoing section 5 review and (2) new chemical substances for which the notice review periods have expired since the previous monthly **Federal Register** notice.

Under section 14 of the Act, EPA is prohibited from disclosing confidential business information submitted under TSCA, including section 5, except in certain circumstances. Specifically, EPA may disclose confidential business information if it determines that disclosure is necessary to protect human health or the environment against an unreasonable risk of injury to health or the environment, and, to the extent necessary, if the information is relevant in any proceeding under the Act. Also, EPA is not prohibited from disclosing health and safety studies (including underlying data) on chemical substances for which a section 5 notice was received. However, the Act does not authorize EPA to reveal any such data that would disclose confidential processes or portions of a mixture.

B. Background

Section 5 notice requirements went into effect on July 1, 1979, 30 days after the publication of the Initial Inventory. On that date, persons who intended to manufacture new chemical substances, or import them in bulk, became subject to section 5 notice requirements. On July 30, 1980, EPA published a Cumulative Supplement to the Initial Inventory, which included chemical substances reported by processors and users and substances imported as part of mixtures or articles. This supplement, together with the Initial Inventory, make up the Revised Inventory. Thirty days after publication of the Revised Inventory, on August 30, 1980, section 5 notice requirements went into effect for persons who imported new chemical substances as part of a mixture. Under the Interim Policy and this final section 5 notice rule, importers of new chemical substances as part of an article are not subject to the section 5 notification requirements.

Since section 5 notice requirements went into effect, EPA has operated the notice review program under an Interim Policy. In the preamble to the January 10, 1979, proposed section 5 notice rule, EPA announced its Interim Policy for handling notices submitted before the publication of the Inventory. EPA modified this policy in an Interim Policy Statement published in the **Federal Register** of May 15, 1979 (44 FR 28564). This statement extended the Interim Policy's coverage to all notices filed before the effective date of the final section 5 rule and notice form.

EPA issued a Revised Interim Policy Statement in the **Federal Register** of November 7, 1980 (45 FR 74378). This statement clarified the May 15 statement and discussed in more detail the type of information EPA expected to receive in notices, EPA's interim procedures for handling confidential information, and procedures for submitting and reviewing test-marketing exemption applications. The operation of the review program under the Interim Policy is discussed later in this preamble.

EPA proposed a rule to implement section 5 notice requirements in the **Federal Register** of January 10, 1979 (44 FR 2242). This proposal included a description of the applicability of section 5 requirements, the general procedures for submitting notices, information requirements in the notices, and EPA's procedures for processing information in notices, including confidential business information. EPA also proposed notice forms for manufacturers, importers, foreign manufacturers and suppliers, and processors and customers.

In response to public comment on the January 10 proposal, EPA reproposed certain parts of the rule and forms in the **Federal Register** of October 16, 1979 (44 FR 59764). In particular, the reproposal shortened the notice form, reducing the information required; it revised procedures for asserting and substantiating claims of confidentiality; and it revised the proposed supplemental reporting requirement under section 8(a) of TSCA. In addition, EPA proposed in the **Federal Register** of August 15, 1980 (45 FR 54642) that persons notify EPA before they processed for TSCA commercial purposes substances that were manufactured or imported for purposes exempt from TSCA reporting. In the **Federal Register** of September 23, 1980, EPA proposed a clarification of reporting responsibilities of importers in the January proposal (45 FR 63806). Finally, EPA issued a statement in the **Federal Register** of July 2, 1982 (47 FR 28969) stating that, under the Interim Policy, submitters were no longer required to substantiate confidentiality claims at the time a notice is submitted.

With this notice, EPA is now promulgating final section 5 notice requirements and review procedures. This rule modifies the earlier proposals

in light of EPA's experience under the Interim Policy and public comments on the rule. The rule will become effective 30 days after publication of this notice. Until then, EPA will continue to operate the notice review program under the Interim and Revised Interim Policy Statements.

II. General Approach to Notice Review

In conducting its review of a new chemical substance, EPA assesses the risks associated with all phases of the life cycle of the substance, including its manufacture, import, processing, distribution in commerce, use, and disposal. The review is based on information provided by the submitter in the notice and on information EPA may obtain elsewhere, for example, in the literature searches on new substances and their structural analogues that EPA conducts as part of its new chemical review. However, it is ultimately the notice submitter's responsibility to provide enough information for an adequate risk assessment.

In conducting its review, EPA considers a number of different factors, including the potential toxicity of the substance which is determined from test data submitted in the notice or obtained elsewhere, data on structural analogues, and structure-activity analyses. EPA also reviews the potential for humans and the environment to be exposed to the substance during uses proposed by the notice submitter. Also, because EPA must assess the "reasonableness" of any risk, it considers such nonrisk factors as the possible economic benefits of the substance and the availability of substitutes—or whether a substance is intended as a substitute for a more toxic substance.

Because the Act explicitly requires EPA to assess risks associated with the entire life cycle of new chemicals, EPA evaluates both the new chemical substance and related substances, such as impurities, byproducts, degradation products, unintended reaction products, and other chemical substances associated with the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance, even if these related substances are on the Inventory.

On the basis of its assessment, EPA may take action during the review period under section 5(e) to regulate the substance while EPA obtains more data, or under section 5(f) to regulate manufacturing, processing, distribution in commerce, use, or disposal, if EPA determines that the substance will present an unreasonable risk. EPA may also issue a follow-up reporting requirement under section 5(a)(2) or 8(a) or regulate the chemical under section 5(b)(4) (risk list). EPA, however, can regulate a substance only if it takes positive action, either by order or by rule. Without such action during the review period, a substance can enter commercial production unregulated under TSCA. As a result, section 5 of the Act does not establish a registration program, and EPA has not in any sense "approved" substances that have passed through review without regulation.

From commencement of the notice review program on July 1, 1979, to March 31, 1983, EPA received 2,201 valid premanufacture notices. Of the total number, the review period had expired on 1,878 and 777 had entered commercial production. In addition, EPA reviewed 196 test-marketing exemption applications under section 5(h)(1) of the Act and granted 173 such exemptions. During this period, EPA issued seven section 5(e) orders regulating the production of 18 new chemical substances pending the development of additional data, and entered into voluntary control agreements with the submitters of 49 notices. In addition, submitters withdrew nine section 5 notices in the face of likely regulation.

Under the Interim Policy, EPA has gained experience in reviewing notices, which it has used in developing the final section 5 notice rule, and it has established review procedures that will continue when this rule is effective. The following sections outline our general review procedures for notices on new chemicals.

A. Notice Review Process

The notice review process established by EPA has six major phases: prenotice communication, process start-up, initial review, detailed review, regulatory response, and process closeout. All new chemicals are not subject to each phase.

1. *Prenotice Communication.* The EPA Office of Toxic Substances, which is responsible for the section 5 notice review program, employs a Prenotice Communications Coordinator to assist persons preparing a notice or considering the submission of a notice. The Prenotice Communications Coordinator provides guidance on a wide variety of topics, and refers persons to the appropriate EPA staff members for guidance on other questions. Topics for prenotice inquiries include the scope of TSCA and this rule, the contents of the TSCA Chemical Substance Inventory, the notice form, section 5 exemptions, premanufacture testing, confidentiality and generic name development, and notice review procedures.

The Prenotice Communications Coordinator can be reached by telephone at 202–382–3745 or by writing to the Prenotice Communications Coordinator, Chemical Control Division (TS–794), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

2. *Process Start-up.* Process start-up begins when EPA receives a notice. The OTS Document Control Officer assigns a premanufacture notice number to the notice and acknowledges the receipt of the notice to the submitter. The acknowledgment includes the date when the OTS Document Control Office received the notice. The 90-day review period begins on the date of receipt.

During process start-up, OTS staff review the notice to determine whether the substance and proposed uses are subject to section 5 notice requirements and whether all required information has been submitted. In addition, the Chemical Substance Inventory is searched to ensure that a section 5 notice is required, and the **Federal Register** notice required under section 5(d)(2) is prepared. This notice includes the identity of the new chemical substance; the premanufacture notice number; the name of the submitter; information on production, exposure, and use; and test results. Information claimed as confidential is omitted from the notice or masked by generic descriptions. At the same time, the OTS Reading Room establishes a public file containing a nonconfidential version of the notice.

A Notice Manager is assigned to each notice. The Notice Manager coordinates the review and serves as the EPA contact on all matters concerning the notice. Persons wishing to contact the managers of particular notices can obtain their names and telephone numbers from the Prenotice Communications Coordinator.

3. *Initial Review.* During the initial review period, EPA identifies chemical substances which require more detailed review and which are candidates for possible regulatory action. During this phase, EPA conducts a preliminary analysis of the chemical identity, physical and chemical properties, proposed uses, potential toxicity, environmental effects, human exposure, environmental release, and economic benefits. EPA uses the information contained in the notice, in certain cases searches the scientific literature for data on the substance and related substances, and, when necessary, seeks additional information from the submitter. Initial review ends when the staff reviews available risk data and

nonrisk information and decides whether more detailed review is necessary, possibly in support of an action under section 5(e) or 5(f), or under other sections of the Act.

4. *Detailed Review.* During detailed review, the Agency assesses the concerns it identified during initial review. EPA also examines the benefits to society of the new chemical substance and the availability of substitutes. After assessing the risks and certain nonrisk information, EPA analyzes possible regulatory or other control measures. If necessary, EPA extends the notice review period under section 5(c).

5. *Regulatory Response.* After completion of its detailed review, EPA may decide to regulate the substance during the review period. It may issue an order under section 5(e) if EPA finds that the substance may present an unreasonable risk of injury to health or the environment, or that it may be produced in substantial quantities, pending the development of additional data. EPA may control the substance under section 5(f) if it finds that the substance will present an unreasonable risk. EPA may also identify the substance as a candidate for regulation under section 5(a)(2), 5(b)(4), or 8.

6. *Process Closeout and Entry on the Inventory.* If EPA does not take action to regulate a substance during the review period, the submitter may manufacture or import the new chemical substance without restriction, as soon as the notice review period expires. The submitter must notify EPA by letter when manufacture or import begins. This letter must be sent to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, 401 M Street, SW., Washington, D.C. 20460. This notice of commencement must contain: the specific identity of the chemical substance, its premanufacture notice number, and the date when manufacture or import begins. When EPA receives this letter, the substance is added to the Inventory.

B. Test-Marketing Exemption Applications

Under section 5(h)(1) of the Act, persons may apply for an exemption from section 5(a) or 5(b) reporting requirements to manufacture or import a new chemical substance for test-marketing purposes. EPA may grant an exemption if the applicant shows to EPA's satisfaction that the test-marketing activities will not present any unreasonable risk of injury to health or the environment. Therefore, EPA must make an affirmative finding that the test marketing will not present any unreasonable risk, and manufacture or import cannot begin until EPA grants the exemption. This standard differs from the finding EPA must make to take regulatory action on a new chemical under section 5(e); to act under section 5(e), EPA must conclude only that there may be an unreasonable risk. Under section 5(h)(6), EPA has only 45 days to approve or deny an exemption application. This limits the extent to which EPA can gather information beyond that contained in the test-marketing application.

To ensure an adequate review, test-marketing exemption applicants should include in their applications, at a minimum: (1) all existing data regarding health and environmental effects of the substance, including physical/chemical properties or, in the absence of such data, a discussion of toxicity based on structure-activity relationships and relevant data on chemical analogues; (2) the maximum amount to be manufactured or imported for test marketing; (3) the maximum number of persons who may be provided the substance during test maketing; (4) the maximum number of persons who may be exposed to the substance as a result of test marketing; (5) information on estimated duration and routes of exposure; and (6) a description of the test-marketing activity, including the length of time that will be required and how the activity may be distinguished from full-scale commercial production and from research and development. These items are set out in § 720.38(b) of the final rule.

C. Regulatory Actions

By March 31, 1983, EPA had issued seven orders under section 5(e) to control a total of 18 new chemical substances. The first three orders would have prohibited production of the new substances pending the development of further information. However, in each of the three cases, the manufacturer or importer withdrew its notice from review, rather than allow the order to go into effect. EPA also issued four consent 5(e) orders. These consent orders allow manufacture of the new chemical substance under specific restrictions pending the development of additional information. In addition, nine section 5 notices have been withdrawn by submitters in the face of likely regulation under section 5(e) or 5(f), but before orders were actually issued.

EPA has also reached voluntary agreements with a number of notice submitters rather than taking formal regulatory action. By March 31, 1983, the submitters of 19 notices had agreed to conduct testing in response to EPA concerns. Measures to control exposure, including labeling, Material Safety Data Sheets, and worker protection devices, where agreed to by the submitters of 30 notices, and the review periods for an additional 43 notices were suspended in response to EPA's concerns, to allow the submitters time to develop additional information voluntarily.

III. Provisions of the Rule

This unit discusses the provisions of the rule and specifically points out where these provisions differ from the January 1979, October 1979, and August 1980 proposals. In a separate document, Response to Comments on the Premanufacture Notice Requirements and Review Procedures, EPA discusses in more detail its response to comments on the earlier proposals. The Response to Comments is available in the OTS Public Reading Room.

A. Applicability

1. *Who Must Report.* Section 720.22 of the rule specifies who is subject to the section 5 notice requirements. These provisions closely follow those proposed in January 1979, which were based on the reporting requirements for the Initial Inventory. A detailed discussion of who must report follows.

a. *U.S. manufacturers.* Persons who intend to produce or manufacture a new chemical substance in the United States for a commercial purpose must submit a notice. Only manufacturers that are incorporated, licensed, or doing business in the United States may submit a notice. Persons who extract a new chemical substance from a previously existing substance, or a complex combination of substances, are manufacturers of that new chemical substance.

EPA has revised the definition of "manufacturer" in the final rule to include certain persons who contract with a manufacturer to make a chemical substance (sometimes known as "toll manufacture"). Under the definition in the final rule, a person who contracts with a manufacturer is also a manufacturer if the substance is manufactured or produced exclusively for that person, and that person specifies the identity of the substance and controls the total amount produced and the basic technology for the plant process. In this situation, the person who contracts with the actual manufacturer must submit the notice. This provision does not apply to the person who simply orders a specific chemical or a chemical with certain properties from a manufacturer. Instead, this provision only applies to the

situation where the person not only specifies the chemical identity, but spells out the basic process for making the chemical (althought the actual manufacturer may make adjustments in the specified process that are necessary to adapt the process to the manufacturer's own equipment.)

The rule further restricts this provision to persons who have an exclusive relationship with the manufacturer (i.e., the manufacturer does not sell the chemical to anyone else). As a result, the person placing the order also determines the total amount to be manufactured. Therefore, if more than one person orders the new chemical, neither of them has specified the total amount to be manufactured and neither is responsible for submitting the notice; instead, the person who actually manufactures the chemical must submit the notice.

EPA has added this provision to deal with the situation in which one person decides to manufacture a specified amount of a certain chemical using a certain process, but contracts with a manufacturer to actually make the chemical. In this case, EPA believes the person contracting with the manufacturer is the most knowledgeable party and should be responsible for submitting the notice. EPA recognizes, however, that the actual manufacturer will often have extensive information that would be useful to EPA in its review of the new chemical. Therefore, EPA strongly encourages joint submissions (see § 720.40(e)) in this situation. Since both persons involved in the transaction are manufacturers, both are liable for the manufacture of the new chemical if a notice has not been submitted, or the review period has not expired.

EPA did not adopt the proposed requirement that manufacturers of new chemicals solely for export submit notices under section 5(a) of the Act. ("Manufacture solely for export" is defined in § 720.3(s) of the rule.) Instead, EPA will soon propose that manufacturers of chemicals solely for export submit notices to EPA under section 8(a) prior to manufacture. EPA eliminated the requirement that manufacturers of new chemical substances solely for export submit a section 5 notice in response to comments that questioned EPA's legal authority to require such reporting. These comments will be addressed more fully in the preamble to the proposed section 8(a) reporting rule for export-only chemicals.

The definition of "manufacture solely for export" places certain restrictions on domestic activity. The manufacturer of an export-only chemical may process it only at sites under the control of the manufacturer. Distribution in commerce is limited to the activities necessary to export the chemical. Also, the manufacturer of an export-only chemical may not use the chemical for any purpose, except in small quantities solely for research and development.

b. *Importers.* Under § 720.22(b) of this rule, persons who intend to import a new chemical substance for a commercial purpose are subject to section 5 notice requirements. This includes chemicals imported in bulk or as part of a mixture. Because it would be enormously difficult for an importer to determine the identity and Inventory status of each chemical substance in imported articles (e.g., automobiles), the rule does not require persons to submit notices on new substances imported as part of articles. However, new chemicals imported in containers used for transportation or for other purposes are imported in bulk, not as part of an article, and are subject to the notice requirements.

EPA has eliminated the separate importer notice forms; importers must now complete the general notice form. In their notices, however, importers are required to provide information only on exposure which occurs within the United States.

In the January 1979 proposal and in § 720.3(1) of this rule, EPA defines importer to include the person primarily liable for the payment of duties, the consignee, the importer of record, the actual owner, and any transferee. This definition, which is adopted from the definition of the U.S. Customs Service of the Treasury Department, is consistent with other definitions of importer issued under the Act.

Several commenters on the January 1979 proposal suggested that EPA's definition of importer did not adequately indicate which party in an import transaction was responsible for submitting a section 5 notice. In response to these comments, EPA clarified importer reporting responsibilities under section 5 in the **Federal Register** of September 23, 1980 (45 FR 63806). This clarification has been incorporated into the final rule in § 720.3(z) and § 720.22(b).

Under § 720.22(b), the "principal importer" in any transaction leading to the import of a new chemical substance must submit a section 5 notice. The principal importer is the first importer who selects the new chemical substance and determines the total amount to be imported. The principal importer must know that the substance will be imported, and only a person incorporated, licensed, or doing business in the United States may submit the notice. Occasionally, no one person may fit this definition exactly. In this case, the Prenotice Communications Coordinator should be contacted to determine the appropriate person to submit the notice. Otherwise, the incorrect party may submit the notice, and the notice review period will not begin to run until EPA determines who should have submitted the notice and that person actually submits it. Early consultation with the Prenotice Communication Coordinator will avoid this delay. If import of a new chemical substance occurs before the principal importer submits a notice and the review period expires, all importers involved in the transaction are liable.

The following paragraphs further explain the definition of principal imported.

i. *Selecting the chemical substance to be importer.* The principal importer selects the new chemical substance for import. Selecting the substance to be imported includes selecting it by a trade name or generic name as well as by its specific chemical identity. Therefore, the principal importer need not know the specific chemical identity of the imported substance. If the specific chemical identity of the new chemical substance is known only to the foreign manufacturer or supplier, and the manufacturer or supplier does not wish to reveal the identity to the U.S. importer, it can report the identity directly to EPA. (See § 720.40(e) of the rule.) In this way, foreign companies can protect confidential business information. In any case, however, EPA must know the identity of the substance before the review period can begin.

Importers, like manufacturers, are responsible for determining whether their substances are on the Inventory and therefore whether they are new chemical substances subject to section 5 notice requirements. A principal importer that does not know the identity of a chemical substance it intends to import may have its foreign manufacturer or supplier, or some other person, report the chemical identity to EPA using the *bona fide* procedures described in § 720.25 of the rule. The principal importer would provide the evidence of a *bona fide* intent to import the chemical. EPA will then search the Inventory for the substance. If a notice is required, EPA will inform the importer. As a result, confidential chemical identity will be protected, and importers need not file unnecessary notices.

ii. *Knowing that the substance will be imported.* A principal importer must know that the new chemical substance will be imported into the United States, rather than manufactured domestically. If a person orders a new chemical substance directly from a foreign firm, EPA will consider that person to know that he or she is importing the substance. If a person orders a chemical from a U.S. firm and does not know and has no reason to know that the U.S. firm will fill the order by importing a new chemical, the person would not be subject to notification requirements or liable under section 15 for failure to submit a notice. In that case, the U.S. firm filling the order would be required to report.

iii. *Specifying the total amount to be imported.* The principal importer specifies the total amount of the chemical substance to be imported. If orders are collected from several customers, the person who collects the orders is the person who specifies the total amount to be imported and is subject to the notice requirements of this rule. Individual customers of the principal importer do not specify the total amount, even though one might have a disproportionately large order.

iv. *Incorporated, licensed, or doing business in the United States.* A principal importer must be incorporated, licensed, or doing business under the laws of the United States.

c. *Processors.* In August 1980, EPA proposed that persons be required to submit a section 5 notice to EPA before they processed for TSCA commercial purposes substances previously exempt from reporting. Specifically, this applied to byproducts; tobacco and tobacco products; nuclear materials; substances used solely as pesticides, firearms, ammunition, foods, food additives, drugs, and cosmetics; substances manufactured before January 1, 1975, and not processed and reported for the Inventory after that date; research and development (R and D) chemicals; and substances granted test-marketing exemptions.

EPA proposed processor notification requirements to close a gap in section 5 rules. EPA recognized that not many chemicals would be subject to notification requirements under this portion of the rule; however, EPA saw a need to review the risks associated with the processing and use of previously exempt substances for TSCA purposes before these activities occurred.

Persons who commented on the proposal argued that the requirement was unnecessary for R and D and test-marketed substances. They argued that manufacturers of test-marketed substances know how persons who buy the substances are using them because this information is necessary to make sure they are in compliance with the terms of the particular exemption. Also, manufacturers of R and D chemicals often know how their customers are using these chemicals. Therefore, EPA has eliminated the processor notification requirement for R and D and test-marketed substances. Of course, if a company that manufactures or imports a chemical for R and D or test-marketing purposes learns that its customer is using the chemical substance for nonexempt commercial purposes, manufacture or import of the chemical substance for sale to that customer for that purpose must cease until a section 5 notice is submitted and the review period expires.

EPA now also believes processor notification is inappropriate for nuclear materials, tobacco, and tobacco products because these substances are exempt from TSCA, regardless of how they are used. In addition, EPA believes that notification by processors of pesticides for nonexempt commercial uses is unnecessary because the uses of registered pesticides are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Of course, if a person intends to manufacture a pesticide for nonpesticide uses, these uses would not be subject to FIFRA. However, in this case, the manufacturer would be required by the statute to notify EPA under section 5(a)(1)(A) if the substance were not on the Inventory.

EPA also believes that notification for the processing of food and food additives for nonexempt purposes is unnecessary. These substances will already have been approved for human ingestion by the Food and Drug Administration (FDA). FDA also has jurisdiction over cosmetics and devices, as defined by the Federal Food, Drug, and Cosmetic Act. Therefore, EPA believes that notification by processors of food, food additives, and cosmetics is unnecessary, especially since persons would still be required under section 5(a)(1)(A) to notify EPA before they manufactured these substances for nonexempt uses.

Finally, EPA believes that processor notification requirements are unnecessary for the nonexempt processing of byproducts which have no separate commercial purpose. As is true of R and D and test-marketed substances, the manufacturer of a byproduct is expected to know of any nonexempt uses planned by its customer. In such cases, the byproduct would then be manufactured for a commercial purpose and the manufacturer would be required to submit a notice. Notification requirements are also unnecessary for nonexempt processing of substances which have not been manufactured since January 1975, since such processing rarely occurs.

Based on public comments and its reevaluation of the proposal, EPA now believes that processor notice requirements are unnecessary. Therefore, EPA has not included these requirements in the final rule.

d. *Agents and joint submitters.* Under § 720.40(e) of the rule, persons required to submit a section 5(a) notice may designate an agent to submit the notice for them. Both the person originally subject to the notice requirements and the agent must sign the certification on the form. Therefore, both persons are responsible for false or misleading statements in the notice. The person originally subject to the notice requirements remains responsible for the submission to EPA of all required information known to or reasonably ascertainable by him or her and all test data in the person's possession or control.

Persons may also submit joint section 5(a) notices to EPA. For example, a principal importer may ask other parties in the U.S., such as customers, to complete certain sections of the form if they have relevant information. All persons submitting the notice must sign the certification on the form. They must also assert all confidentiality claims according to the procedures of this rule. However, the person responsible for the notice under section 5(a) is not absolved of statutory notice requirements by arranging a joint submission. This person is required to complete all mandatory sections of the form, to the extent that he or she knows or can reasonably ascertain the required information, even if another person also submits a certain section. If a joint notice is submitted, the notice review period will not begin until EPA has received all required parts of the notice. Therefore, the person subject to the notice requirements should indicate to EPA who else will be submitting parts of the notice and identify those parts. EPA will acknowledge receipt of the notice when it has received submissions from all of the joint submitters.

2. *What chemical substances must be reported.* Section 5(a)(1)(A) of the Act requires persons to notify EPA before manufacturing or importing any new chemical substance, except for substances exempt under section 5(h). New chemical substances are chemical substances not included in the TSCA

Chemical Substance Inventory compiled and updated under section 8(b).

Under section 3(2) of TSCA and § 720.3(e) of the rule, chemical substances are defined as any organic or inorganic substance of particular molecular identity, including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any element or uncombined radical. However, the following substances are excluded from the TSCA definition of chemical substance: mixtures; tobacco and tobacco products; nuclear materials; firearms and ammunition; and substances used solely as pesticides, foods, food additives, drugs, and cosmetics.

Manufacturers and importers are responsible for determining whether a substance is a new chemical substance under TSCA and therefore whether they are subject to section 5 notice requirements. The published Inventory will enable persons to determine whether many specific chemical substances have been entered on the list and therefore are not new. However, in difficult cases, EPA will assist persons in ascertaining whether specific substances are on the Inventory.

If a chemical substance is listed on the public Inventory under a generic name to mask its confidential identity, persons will not be able to determine if a specific substance falling into that category is a new chemical substance. Therefore, under § 720.25(b) of the rule, EPA has established procedures for informing persons whether a substance they intend to manufacture or import is a substance on the confidential Inventory, or whether it is a new substance subject to the section 5 notification requirements. Under these procedures, persons requesting this information from EPA first must demonstrate a *bona fide* intent to manufacture or import the substance by submitting the items listed in § 720.25(b)(2). These items have not changed from the proposed rule, except that the person need not have a sample of the substance available. EPA has found that samples are unnecessary to establish a person's intent to manufacture or import the chemical or to determine whether the chemical substance is on the Inventory. If an importer cannot provide certain requested items related to chemical identity because its foreign manufacturer or supplier claims them confidential, the importer can request the foreign manufacturer or supplier to send them directly to EPA.

EPA will respond to these inquiries within 30 days of receipt of a complete request. If the Agency determines that a substance is not on the Inventory, it will notify the person submitting the *bona fide* inquiry that a section 5 notice must be submitted before the substance is manufactured or imported. If EPA determines that the substance is on the Inventory, it will inform the person that a notice is not required. At the same time, EPA will inform the person who originally submitted the confidential substance for the Inventory that another person has demonstrated a *bona fide* intent to manufacture or import the substance and has been notified that the substance is on the confidential Inventory.

3. *Exempt chemical substances.* Section 5(h) of the Act exempts, or authorizes EPA to exempt, certain chemical substances from section 5 notice requirements. In §§ 720.36 and 720.38 of this rule, EPA clarifies several of these exemptions. The sections have not been substantively changed from the corresponding sections of the January 1979 proposal. The most important of the exemptions are discussed below.

a. *Small quantities solely for research and development.* Chemical substances manufactured or imported only in small quantities solely for research and development (R and D) are exempted from section 5 notice requirements if the submitter complies with § 720.36 of this rule.

Like the Inventory reporting rules, this rule defines "small quantities solely for research and development" as quantities that are not greater than reasonably necessary for scientific experimentation, research, or analysis (including activities associated with product development). As the Inventory rule and support documents indicate, research and development activities include tests of physical, chemical, production and performance characteristics. The chemical must be used by, or directly under the supervision of, a technically qualified person. The manufacturer or importer must evaluate information on the chemical and inform all persons engaged in experimentation, research, or analysis on the new chemical substance of any risk to health.

The section 5 notice rule deletes a note included in the Inventory definition. The note provided that, for purposes of the Inventory, any substance manufactured, imported, or processed in quantities of less than 1,000 pounds a year would be presumed to be manufactured solely in small quantities for R and D, unless the submitter could certify that the substance was used for purposes unrelated to R and D.

This note was intended to provide guidance for manufacturers in evaluating low volume chemicals to determine whether they were eligible for the Inventory. If the note were included in the section 5 notice rule, however, it might be misconstrued to mean that section 5 notices are not required for any substance produced in quantities of less than 1,000 pounds a year, or that section 5 notices must be submitted for all substances produced in quantities greater than 1,000 pounds a year. This deletion does not change the R and D exemption of the Inventory reporting rule, but it eliminates a possible source of misunderstanding about how substances qualify for such exemptions. In the future, the Agency may clarify the R and D exemption by establishing a more precise definition of "small quantities" for specific substances or groups of substances.

The final rule makes clear the manufacturer's responsibility under section 5(h)(3) to ensure that certain persons are notified of any risk to health that the manufacturer believes may be associated with R and D activities on a substance. This notification must go to all persons engaged in experimentation, research, or analysis on the substance, including manufacture, processing, use, transport, storage, or disposal of the substance for research and development purposes. The technically qualified individual supervising the R and D activities must ensure that the notice to these persons is adequate. The rule does not prescribe methods of notification. Rather, it identifies certain acceptable procedures, and leaves it to the individual manufacturers or importers to ensure that they adequately inform all the persons who must be notified.

Section § 720.36(d) states that, upon request, manufacturers and importers must make available to EPA any information evaluated by the manufacturer or importer in determining the need for notification. This provision differs from § 720.38(d) of the proposed rule which would have required the manufacturer or importer to make this information available to any person exposed to the R and D substance, as well as EPA. EPA has dropped this requirement because it reduces the burden on manufacturers or importers since making this information available to persons exposed to the R and D substance often would require preparation of nonconfidential summaries, and possible disclosure of sensitive information such as medical records. This change will not endanger the health of exposed persons since they will be notified of any risk by the

manufacturer or importer. In addition, EPA will have access to this information, so it can ensure that the notification of exposed persons is adequate.

The R and D provisions apply to all substances manufactured or imported after the effective date of the final rule, including substances manufactured or imported earlier under the R and D exemption. Therefore, persons that have been manufacturing or importing a chemical under a R and D exemption before the effective date of the final rule cannot continue to manufacture, import, process, distribute in commerce, use, or dispose of this chemical under the exemption until they have complied with all the requirements described in § 720.36.

b. *Test-marketing exemptions.* Section 5(h)(1) of TSCA and § 720.38 of this rule authorizes EPA, upon application, to grant exemptions from any requirements of section 5(a) or 5(b) of the Act for test-marketing purposes. To grant such an exemption, the Agency must find that the test marketing will not present any unreasonable risk of injury to health or the environment. Section 5(h)(6) and § 720.38(d) provide that EPA must either approve or deny the application within 45 days of its receipt and must publish a notice of its decision in the **Federal Register**. If EPA grants an exemption, it may impose restrictions on the test-marketing activities. The manufacturer or importer must submit a section 5 notice for activities beyond those permitted under the exemption.

In Unit II.B. of this preamble, EPA provides guidance to persons submitting test-marketing exemption applications and describes the information these applications should include.

c. *Nonisolated intermediates.* Under § 720.30(g)(8) of the rule, "any nonisolated intermediate" is not subject to the notice requirements. Intermediates are defined in § 720.3(n) as substances that are consumed in whole or in part in chemical reactions used for the intentional manufacture of other substances or mixtures, or that are intentionally present for the purpose of altering the rate of such reactions. Under § 720.3(w), a nonisolated intermediate is an intermediate that is not intentionally removed from the equipment in which it is manufactured.

This definition modifies the definition of intermediate in the Inventory reporting rule (40 CFR Part 710). Under the Inventory rule, substances that were not intentionally removed from the equipment in which they were manufactured were not considered intermediates and were not subject to the reporting requirements of the Inventory rule. In the section 5 notice rule, EPA has defined these substances as intermediates, but has exempted them from reporting requirements as "nonisolated intermediates." The change in definition is only for the sake of clarity, and does not change the status of these substances.

EPA is exempting nonisolated intermediates for several reasons. First, such substances are often extremely difficult to identify; in developing the reporting rule for the TSCA Inventory, EPA received numerous comments on this point. Second, because exposure to such substances generally is limited, they generally pose little risk to human health and the environment. Third, in excluding nonisolated intermediates from the Inventory, the Inventory reporting rule stated that these and other excluded substances will not be subject to the section 5 notice requirements. (See § 710.4(d).)

d. *Byproducts.* This rule expands the definition of byproduct contained in the Inventory rule to include substances which are formed without a separate commerical purpose during the processing, use, and disposal of the new chemical. Section 5(d)(1)(A) of the Act authorizes EPA to require information on such substances. This expanded definition is consistent with the definition of "byproduct" proposed in January 1979. Under both the proposed rule and the final rule, substances which were not eligible for inclusion on the Inventory are not subject to the section 5 notice requirements.

B. Information Submissions

1. *Scope of information requirements.* On January 10, 1979, EPA proposed notice requirements which included a notice form requiring reporting of detailed information on production, processing, use, and exposure of a new chemical substance. The mandatory section of the form was designed to give EPA enough information to conduct a detailed review for possible regulatory action under section 5(e) or 5(f). The form included an optional section, asking for information on industrial hygiene, engineering safeguards, and certain nonrisk factors. Based on public comments on the January proposal and EPA's early experience in reviewing notices, EPA reproposed a shortened form on October 16, 1979. This proposed form was designed to require only information needed for an initial assessment of a new chemical substance. Under both proposals, if EPA determined that it needed more information from the submitter or other persons, it could ask those persons to submit it voluntarily, or it could require the information through mandatory supplemental reporting under section 8 ("letter-writing" authority) or action under section 5(e).

In revising the information requirements for the final rule, EPA has considered the comments received on the previous proposals and EPA's information needs identified in its review of over 2,200 notices under the Interim Policy. The requirements are limited to (1) information clearly specified in the statute in sections 8(a)(2) (A) through (G) except (E), and (2) other information that is essential to the initial review of the potential health and environmental risks presented by a new substance and which reasonably falls within the intent of section 5(d)(1).

This rule further reduces the information requirements from those of the October 1979 proposal. Several commenters on the October 1979 proposal stated that EPA failed to require information identified in the January 1979 proposal as necessary for review of the risks associated with new chemicals. EPA agrees that much of this information can be important in the review of a new chemical substance. However, the Agency does not believe it is reasonable to require all such information for every substance reviewed under section 5 since EPA has found that detailed information is necessary only after it identifies a specific risk concern. The information required on the final notice form is sufficient for EPA to identify substances of potential concern and to determine what additional information is needed in those cases for which more detailed review is necessary.

Under the Interim Policy, EPA has contacted submitters during the review period and requested that they supply additional information when this information was important for its review. Submitters have been generally cooperative in providing the information. In developing this rule, EPA has assumed that such cooperation will continue in the future. Failure to supply such information when it is important to the review may unnecessarily complicate the review, and may result in extension of the review period under section 5(c). If EPA does not receive the information it believes is necessary for review, it will take action under section 5(e), when appropriate, to regulate the substance pending submission of the information.

Notice submitters must provide all information requested in the form to the extent that they know or can reasonably ascertain it. Submitters are also required to provide test data in their possession

or control and descriptions of other data known to or reasonably ascertainable by them, if those data concern the environmental or health effects of the substance. These requirements are described in more detail in the following sections. In addition to required information, submitters may provide EPA with any other information they believe should be considered in its review of the substance. The notice is incomplete, and the review period will not begin, unless information in the notice form and attachments is in English, except that published scientific literature submitted with the notice need not be translated.

The Importer Form proposed in October 1979 has been incorporated into the general notice form resulting in a single form that will be used by all submitters reporting under section 5(a)(1)(A). This change will simplify notification for submitters since they will have to become familiar with only one form and there will be no confusion as to which form should be submitted. EPA recognizes that some importers may not have the same amount of information available to them as domestic manufacturers. Importers, just as domestic manufacturers, need only submit information specified on the form to the extent that they know or can reasonably ascertain it. Importer notices, however, will be held to the same standard as domestic notices in determining whether the notice is complete or whether action under section 5(e) is necessary to obtain additional information.

The units below discuss the level of detail required in completing the form, and other general issues.

a. *Known to or reasonably ascertainable by.* Section 5(d)(1)(A) of the Act requires that notices contain certain information on chemical identity, use, and exposure insofar as it is "known to the person submitting the notice or insofar as reasonably ascertainable." This rule defines known or reasonably ascertainable information as "all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know." In response to commenters who believed that the phrase "or could obtain without unreasonable burden or cost" is unclear, EPA has dropped this phrase from the definition. This is not a substantive change, however, since such information is included in "information that a reasonable person . . . might be expected to possess, control or know." Therefore under the new definition, just as it is in the proposed definition, cost and burden are factors in determining whether information is known to or reasonably ascertainable by the submitter.

Many commenters on the January and October proposals expressed difficulty in determining what information EPA considers to be "reasonably ascertainable." Specifically, they were uncertain about the effort that EPA expects them to make in obtaining certain types of information, and what would constitute an "unreasonable burden or cost." In two parts below—" Information From Other Persons" and "Test Data"—EPA discusses in more detail its interpretation of "reasonably ascertainable" in specific contexts. Also, in Unit C.1.c. below, "Incomplete Submissions," EPA briefly describes notices received under the Interim Policy that did not contain "reasonably ascertainable" information. However, EPA believes that it is not possible to define "know to or reasonably ascertainable" more explicitly.

Also, as discussed in the preamble to the October 1979 proposal, a detailed definition of "reasonably ascertainable" may result in inequitable treatment of notice submitters. What would be a reasonable effort for one company under certain circumstances might be extremely burdensome for the same company under different circumstances, or for another company in the same situation. The meaning of this phrase will depend on the specific circumstances surrounding the development of the new chemical. The nature of the substance, the projected sales volume and profit, and the size of the company are factors in determining what information can reasonably be obtained. Therefore, EPA believes that "reasonably ascertainable" can be defined only on a case-by-case basis and that notice submitters must be responsible for deciding when and how to obtain required data, and when required information is not reasonably ascertainable. Certainly, in most instances, data-gathering that is so costly as to preclude commercialization is not reasonable.

To minimize the burden on submitters, EPA has dropped the provision in the proposed rule that would have required submitters to provide a brief description of their procedures for identifying data that are known to or reasonably ascertainable by them. EPA believes this provision is unnecessary; EPA generally can judge from the notice itself whether it includes information that is known to or reasonably ascertainable by the submitter. EPA will also check this as part of its compliance inspections.

b. *Information from other persons.* In many cases, persons other than the notice submitter may have information necessary or useful for EPA's review. For example, processors and other customers may have information on exposure associated with use or release and foreign manufacturers and suppliers may have information on chemical identity, impurities, and health and safety data. Some of this information must be submitted because it is considered to be in the submitter's possession or control, for example, information that the submitter's parent company or subsidiary has if the related company was involved with R and D, test marketing, or commercial development of the new chemical. Other information may be reasonably ascertainable by the submitter, if not already known, and therefore also must be included in the notice.

EPA, however, has not adopted the requirement proposed in January 1979, that submitters contact customers and ask them to submit a Processing and Consumer Use Form. EPA also has eliminated the request in the October 1979 form that submitters report the number of customers intending to use the new chemical substance in ways not known to the submitter and to report the percentage of production volume allocated to those customers during the first three years of production. The form does, however, ask submitters to estimate how much of the substance will be manufactured or imported for each known category of use.

EPA has eliminated mandatory customer contact because information from processors and other customers often is not necessary for substances that do not undergo detailed review. EPA has found that when this information is necessary, EPA reviewers can generally obtain it either informally from the submitter or from the published literature. Submitters, however, are still encouraged to obtain use and exposure data from potential customers for inclusion in the notice. The more complete the information in a notice, the less likely it is that EPA will need to seek more information later, possibly requiring an extension of the review period under section 5(c), or regulatory action to obtain information under section 5(e).

The elimination of mandatory customer contact will reduce the burden on submitters and their customers without significantly reducing the effectiveness of EPA's review. By requiring the submitter to estimate how

much of a substance will be manufactured for known uses, EPA will be able to determine whether processing and use are likely to cause a problem, or whether more information is needed.

In the final rule, EPA has also eliminated the requirement that importers contact foreign manufacturers and suppliers, since much of the information they could provide (e.g., exposure to workers and release to the environment outside the U.S.) is not subject to EPA's review, and EPA generally does not have the authority to require foreign companies to report. More importantly, EPA believes that under the notice requirements in the final rule, the principal importer will contact its foreign manufacturer or supplier when necessary to obtain required information. For instance, if the principal importer does not know the specific identity of the new substance, it will contact the foreign manufacturer to obtain it; otherwise, the submission will be incomplete and EPA will not review it. Of course, the principal importer is encouraged to have its foreign manufacturer or supplier submit any other information useful for review to the importer or directly to EPA.

c. *Test data and other data.* Section 720.50 of the rule describes notice requirements for test data and other data related to the health and environmental effects of a new chemical substance. Under section 5(d)(1)(B) of the Act, submitters must report all test data related to health and environmental effects which is in their possession or control. Under section 5(d)(1)(C), they must provide a description of "any other" health and environmental effects data which they know of or can reasonably ascertain.

Health and environmental effects data on both the new chemical substance and related substances are necessary for an effective evaluation of risks that may be presented by a new substance. Therefore, the requirements to submit data apply to both the new chemical substance and related chemicals. Related chemicals include impurities, byproducts, degradation products, unintended reaction products, and other chemical substances related to the manufacture, processing, distribution in commerce, use, or disposal of the new substance.

To eliminate unnecessary reporting, § 720.50(c) imposes lesser requirements for data on related chemicals than are imposed for data on the new substance itself. Unlike the October 1979 proposed rule, the final rule does not limit the reduced requirements to related chemicals on the Inventory. Instead, they apply to all related chemicals, regardless of their Inventory status. The submitter is not required to provide published data on these substances because EPA can obtain the data elsewhere, regardless of whether or not they are on the Inventory. Therefore, submitters need only describe unpublished data on related chemicals.

i. *Definition of test data.* Section 720.3(gg) defines "test data." Tests, in EPA's definition, include both formal and informal tests and experiments. However, EPA no longer includes recorded observations, monitoring, or measurements as "tests"; instead, these would be "test data" if they were obtained in the course of a test or experiment. EPA believes this change more closely reflects the general understanding of these terms. Test data also include objectives, experimental methods and materials, protocols, results, and data analyses of tests and experiments, as well as raw data and other information relevant to the development and analysis of the data.

In the January 1979 proposal, the definition of "test data" included risk assessments. The final rule eliminates this provision, since EPA no longer believes that an analysis of the risk presented by the combined effects of hazard and exposure is described by the word "test." EPA has also eliminated the word "study" from the final definition of "test data" for the same reasons. Risk assessments are more appropriately included within the term "health and safety study," which is defined in § 720.3(k). EPA has added risk assessments to the examples of health and safety studies listed in § 720.3(k)(2).

In addition to reflecting more adequately the use of the term "test data" in the Act, the new definition will reduce the burden on submitters. Since risk assessments are now "other data" under the final rule, not "test data," submitters need only describe risk assessments which are known or reasonably ascertainable. Under the proposal, submitters were required to provide copies of all risk assessments which were in their possession or control.

The new definition of "test data," and the reduced reporting requirements which result, will not significantly affect EPA's ability to review the risk presented by new substances. If a risk assessment described by the submitter is needed for review, EPA will ask the submitter to provide it voluntarily. If the submitter does not provide it, EPA may extend the review period or take action to obtain it under section 5(e) of the Act.

ii. *Notice requirements for test data.* Section 720.50(a)(2) of the rule requires submitters to provide full reports on test data in their possession or control that are relevant to the health and environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance. These include data on the new chemical substance in pure form, technical grade, and formulated form. The rule requires a full report to be submitted for data on health effects, ecological effects, environmental fate characteristics, monitoring data, and physical and chemical properties related to health and environmental effects.

A full report must include experimental methods and materials, results, discussion and data analyses, conclusions, references, and the name and address of the laboratory that developed the data. EPA has dropped the requirement that the submitter provide data in a specified "full report format"; any format is acceptable if it includes the items listed. If the test data have been published in the open scientific literature, § 720.50(a)(3)(ii) authorizes submitters to provide only a standard literature citation. This provision reduces the requirements of the January 1979 proposal, which allowed submitters to cite articles containing test data only if the periodical in which the articles appeared was listed in Appendix I of the proposed form. Any other test data in the submitter's possession or control may be submitted in summary form. However, the submitter must provide a full report upon request by EPA.

Sections 720.50 (a)(4)(i) and (b)(4) of the rule exempt incomplete reports (e.g., from ongoing studies) from the full report requirements. However, submitters must describe the nature and objective of any incomplete study, report, or test; name and address of the laboratory developing the data; progress to date; types of data collected; significant preliminary results; and anticipated completion date. In addition, if the study or report yields significant preliminary or final results before the end of the notice review period, and if the results were not submitted with the notice, the submitter must provide the relevant study, report, or test results to the OTS Document Control Officer within 10 days of receipt; but in no event later than 5 days before the end of the notice review period. If the information becomes available during the last 5 days of the review period, the submitter must immediately inform its EPA contact for that notice by telephone. (See "New Information" below.)

iii. *Possession or control.* In the final rule, EPA has retained the definition of

"possession or control" proposed on January 10, 1979. Several commenters on the January proposal suggested that this definition would impose an undue burden on notice submitters, while others believed that EPA's definition did not go far enough. EPA, however, believes that its proposed definition is appropriate. Under this definition, the Agency is likely to obtain all relevant data without imposing an unreasonable burden. In particular, by limiting the definition to affiliated companies associated with the development of the new chemical substance, EPA has focused the information requirement on the companies most likely to have relevant data and to profit from the new substance. Comments on "possession or control" are addressed more specifically in EPA's Response to Comments, which is available in the Public Reading Room.

iv. *Other data known to or reasonably ascertainable by the submitter.* Section 5(d)(1)(C) requires submitters to describe "any other data," including data from health and safety studies, on health and environmental effects that they know or can reasonably ascertain. In § 720.50(b) of the rule, EPA interprets "any other data" to be (1) test data not in the submitter's possession or control but known to or reasonably ascertainable by the submitter, and (2) any data, other than test data, that the submitter possesses, controls, knows, or can reasonably ascertain. For example, if the submitter knows of toxicity or environmental fate data in the possession or control of another person, the submitter is required under section 5(d)(1)(C) and § 720.50(b) to describe those data to EPA. If the data have been published in the open literature, the submitter need only provide a standard citation. If the data have not been published, or the study is incomplete, the submitter need only describe the data and provide a summary of the results (if available), or provide the names and addresses of persons who have the data.

The final rule requires less information to describe data from incomplete studies than was required by the January 1979 proposal. EPA recognizes that information such as a study's nature and purpose, progress to date, and significantly preliminary results on another persons's ongoing study will seldom be available to the submitter. Also, as a result of the revised definition of "test data," discussed in Unit B.I.c.i. above, risk assessments are "other data" under the final rule, and must be described to EPA as required by § 720.50(b).

Section 720.50(b)(1)(ii) clarifies EPA's interpretation of "known to or reasonably ascertainable" as it applies to data submitted under section 5(b)(1)(C). In this context, known to or reasonably ascertainable includes data known to employees or other agents associated with research and development, test marketing, or commercial marketing of a new chemical substance. These data include data learned by employees as a result of discussions, symposia, and scientific articles.

v. *Data that need not be submitted.* Efficacy data and monitoring data on exposure of human or ecological populations outside the United States need not be submitted. In addition, persons are not required to resubmit any data previously submitted to EPA, as long as they were not claimed confidential. Submitters should identify the data previously submitted, the date it was submitted, and the EPA office which received it. However, it is sometimes difficult or time-consuming for the Office of Toxic Substances to obtain such information from other EPA offices in time to complete its review. Therefore, EPA encourages submitters to include all relevant information with the notice.

Relevant data previously submitted to another Federal agency must be included with the section 5 notice. This represents a change from the proposed rules which would not have required notices to include information already submitted to other agencies. EPA made this change because experience under the Interim Policy indicates that it is difficult to obtain information from other agencies in time to analyze and use it during the 90-day review period. EPA does not believe this change will be burdensome to submitters, since relatively few data described or submitted as part of section 5 notices have been previously submitted to other Federal agencies.

d. *New information or data.* During the notice review period, submitters may obtain additional information that may be relevant to EPA's review. Section 720.40(f) of the rule requires submitters to provide EPA with this information if it materially adds to, changes, or makes significantly more complete the information contained in the original notice. Examples of information that must be submitted under this provision include: preliminary or final results of health and environmental effects tests not previously known to the submitter, or not complete at the time of notice submission; new uses not described in the notice; significant increases in estimated production volume; new information significantly adding to information on chemical identity (e.g., significant changes in impurity levels, new information characterizing complex reaction products or polymers); and similar information.

The proposed rule would have required this information to be submitted to EPA "immediately." Commenters asked for more specific guidance on how long they would have to submit new information. The final rule now specifies that the information must be submitted within 10 days of receipt, but no later then 5 days before the end of the review period. If the information becomes available during the last 5 days of the review period, the submitter must telephone its EPA contact for the notice "immediately." EPA interprets this to mean as soon as possible, generally within 24 hours.

2. *Section-by-Section Review of the Notice Form.* The following paragraphs describe the major differences between the form proposed on October 16, 1979, and the final form issued with this rule.

a. *Submitter identification.* This section remains generally the same as in the October form. However, submitters are now asked to provide prenotice communication, *bona fide* request, and test-marketing exemption numbers to help coordinate the Agency's review. The parent company no longer must be identifed because the Agency believes that it can be obtain this information from the submitter during the review period in the few instances it is needed.

The form also eliminates the requirement that submitters state the intended date of commencement of manufacture or import and submit evidence of intent to manufacture if the intended date is more than 3 years after the date of the notice. EPA agrees with commenters that the submitter's certification on the form is sufficient evidence of intent to manufacture or import. However, EPA generally encourages manufacturers and importers to submit notices as close as is feasible to 180 days before manufacture or import is expected to begin, since early notices are more likely to have more complete information.

b. *Chemical identity.* For the most part, the requirements for information on the new substance's identity remain the same as in the October 1979 proposal. However, manufacturers and importers of new polymers must provide slightly different information than that specified in October. Instead of providing the range of composition of

each monomer in the polymer, manufacturers need only estimate the typical composition of the monomers and other reactants, e.g., catalysts and initiators. This information is necessary to evaluate fully the composition of the polymer. Submitters also must provide a representative structural diagram. The Agency has found that the majority of submitters have been able to develop such diagrams. To define further the composition of the new polymer, submitters must provide an estimate of the percent of the polymer composition below 500 and 1,000 molecular weight and describe how the estimates were made. The Agency believes that such information is essential to characterize fully the unique identity of the new polymer and its associated risks.

The rule requires that manufacturers provide at least one generic name for the substance, when chemical identity has been claimed confidential. EPA agrees with commenters that the requirement to provide three names, contained in the October proposal, is unnecessary, since the three names generally mask the identity of the substance to a similar degree. EPA encourages submitters to consult with EPA to develop a useful generic name before submitting the notice. If EPA determines that the generic name provided with the notice is inadequate, submitters will be required to develop a new name when the identity is added to the Inventory upon commencement of manufacture.

In general, the specific chemical identity of a substance is a critical element of the notice. If a submission does not adequately provide this information, EPA will determine that it is incomplete. If the submitter does not know the identity of a new chemical substance—for example, because it imports the substance under a trademark or makes it from unknown reactants—the submitter may authorize another person to report the specific identity or information that allows EPA to determine the identity. The submission, however, will be considered incomplete and the review period will not begin until EPA receives this information. For a discussion of incomplete submissions, see Unit III.C.1.e. below.

c. *Production and use information.* This rule requires reasonable estimates of the maximum production volume during the first year of production and the maximum 12-month production volume during the first 3 years of production. EPA believes that these projections provide sufficient information to perform its exposure assessment and economic analysis. The proposed rule would have required submitters to report both maximum and minimum projections for each of the first 3 years of manufacture. Since EPA's review of notices under the Interim Policy has typically focused on the first year production volume and anticipated maximum volume, more detailed requirements are not justified.

The final rule requires information on the intended categories of use of the new substance in a level of detail similar to that contained in the January proposal. However, it does not require that the submitter consult the standard use classification system developed by EPA for providing its use description. EPA believes that the general concepts of "function" and "application" provide an appropriate method of categorizing uses. A description of use in terms of the substance's chemical function and the general application of that function will provide EPA with sufficient information to identify the populations exposed to the new substance and the nature of that exposure. The submitter also must provide the estimated percent of production volume devoted to each category of use.

Many commenters stated that EPA does not have the authority to require information beyond the broadest category of use (e.g., surfactant, photographic chemical) or that use information, at the level of detail required, is not typically known by the manufacturer. EPA disagrees. The category of use description required under these rules is consistent with the general intent under section 5(d)(1) to provide EPA with the information necessary for review. Adequate information on the use of a substance is critical in the evaluation of the potential risks associated with human exposure to and environmental release of the new substance in that use. EPA has found that the information required in this section is the minimum necessary to conduct a review of such risks. In addition, EPA has found that such information is available to the great majority of notice submitters because substances are typically manufactured for a particular use.

Under section 5(d)(2) of the Act, EPA must issue the uses or intended uses of a new substance for publication in the **Federal Register**. EPA will publish the use as reported in the notice unless it is claimed confidential. Consistent with the Act's requirements and the October proposal, this rule requires manufacturers who claim use to be confidential to provide a nonconfidential (generic) use description which EPA can issue for publication in the **Federal Register**.

d. *Hazard information.* This rule retains the requirement to submit a copy or reasonable facsimile of any hazard information which will be provided to workers or customers, e.g., a Material Safety Data Sheet. Several commenters stated that hazard information is not required under section 8(a)(2). EPA believes that such information falls clearly within the requirements of section 5(d)(1)(C) of the Act since it provides data on the potential exposure and health effects of the new substance. Such information has been an important factor in EPA's evaluation of new substances under the Interim Policy.

e. *Transportation and detection methods.* EPA has eliminated proposed questions on transport and detection methods. Again, experience indicates that data in response to these questions is not especially useful in notice review.

f. *Human exposure and environmental release information.* EPA has retained the requirement that submitters describe the manufacture and processing operations involving the new chemical substance at sites they control. Commenters on the October proposal stated that providing this information would be unduly burdensome and might jeopardize the confidentiality of process information. However, in its review of notices under the Interim Policy, EPA has found the process description necessary to make qualitative estimates of potential workplace exposure, to estimate the amounts of the new substance and byproducts released, and to evaluate estimates provided in other parts of the form. EPA has also found that process descriptions based on known or reasonably ascertainable information may be developed by submitters in less time than was originally anticipated, and that OTS procedures adequately protect any confidential business information contained in the notice.

In response to these comments, however, the Agency has reduced the amount of information it will require in the process description from the requirement proposed in October. EPA does not require that a mass balance of materials entering and leaving major unit operations and chemical conversions be provided, nor must submitters report the methods of transfer of materials and whether the operations are open or closed to the workplace. Based on its experience under the Interim Policy, EPA has found that identification of major unit operations and chemical conversions, identity and mass of materials entering

the process, and points of release of the new substance is sufficient for its initial review and is information known to or reasonably ascertainable by submitters.

The sections of the form on occupational exposure to and environmental release of the new substance are largely unchanged from the October form. Instead of requiring the specific routes by which workers will be exposed, submitters need only identify the activities of workers. This more generic approach will still provide EPA with a more accurate indication of exposure potential. Submitters also are not required to provide estimates of the concentration of the new substance in the workplace because EPA can make such estimates from the process description to the extent necessary for its initial review. Submitters are now required to identify the type of control technology used to control environmental release since control equipment is frequently used and since manufacturers typically have identified the equipment that will be used by the time the notice is submitted. The final rule does not require estimates of the duration of release for each point of release. EPA will instead use reasonable estimates based on the duration of the process in its release analysis.

g. *Sites controlled by others.* The section on industrial sites controlled by others has been modified to require general information on the activities of customers who process and use the new chemical substance. Submitters must provide a narrative description of processing and activities focusing on those aspects which relate to the potential for human exposure and environmental release of the new chemical substance to the extent that they know or can ascertain this information.

The October proposal would have required submitters to provide the same quantitative estimates for sites controlled by others as for the sites which they controlled themselves. However, manufacturers typically do not have such detailed quantitative information on activities not under their control. Furthermore, the specific circumstances of customers' operations may vary, and all customers may not yet be known, so that it may be difficult to make quantitative estimates. The narrative description required in the form will provide sufficient information for EPA to evaluate potential worker exposure and environmental release at customers' sites for EPA's initial review, and allow identification of additional information needs where the Agency has identified a specific concern. In this case, EPA may contact the submitter or possible customers to obtain additional information.

h. *Consumer and commercial user exposure.* EPA has eliminated this section from the final form. Thus, manufacturer estimates of exposure that would result from commercial and consumer use of the new chemical substances or final products containing the new substance are not required. EPA intends to use the information provided in the "use" section of the form and other information, such as production volume, physical/chemical properties, and its own knowledge of typical commercial and consumer exposure scenarios, to evaluate commercial and consumer exposure. EPA's experience under the Interim Policy indicates that it can conduct such an evaluation where the submitter provides the information required in other sections of the form.

i. *List of attachments.* The list of attachments is generally the same as it was in the October form. For a discussion of test data requirements, see Unit III.B.1.c. of this preamble.

j. *Optional information.* The final form does not contain a detailed optional information section as was proposed in the January 1979 form. EPA believes such a detailed section may limit the information that might be submitted and, by identifying specific questions, may make optional information seem mandatory. The Instructions Manual describes generally those items in which additional information would be most helpful in EPA's review. For example, submitters may wish to provide information on relative risk, process chemistry, efficacy, additional exposure and environmental release information, industrial hygiene, engineering safeguards, use restrictions, and economic and other benefits of the new substance. Information in these areas may eliminate the need for extensive communication between EPA and the submitter during the review period and may reduce the possibility of an extension of the notice review period under section 5(c) or regulation under section 5(e) or 5(f). Although submitters are encouraged to submit optional information, they are in no way required to do so.

k. **Federal Register** *notice.* EPA has eliminated the section of the October form which requested information for the section 5(d)(2) **Federal Register** notice. Sections for generic descriptions of confidential chemical identity and category of use have been moved to other parts of the form. In compiling the section 5(d)(2) notice, the Agency will assemble the necessary information from the various parts of the notice. For a further discussion of generic descriptions, see Unit III.D. of this preamble.

l. *Confidentiality claims.* Submitters may assert claims of confidentiality for any information on the notice form and any attachments to the form, although they should note that under section 14(b), claims for information in health and safety studies will be denied unless disclosure would reveal process information, proportions of a mixture, or information unnecessary to interpret the study. (See Unit III.D.4) Instructions for making claims are given on the form. If chemical identity or use is claimed confidential, the submitter must provide a generic chemical name or generic use that is as specific as possible.

EPA no longer requires substantiation of confidentiality claims when the notice is submitted. However, any submitter that claims information confidential must supply two copies of the notice: One complete copy, and one "sanitized" copy with all confidential information deleted. EPA will put the sanitized copy in the public record. The notice is incomplete, and the review period does not begin, until EPA has received both the complete notice and the sanitized notice. EPA explains its confidentiality policy in more detail in Unit III.D. of this preamble.

C. Notice and Review Procedures

1. *Submission and Processing of Notices.*

a. *Acknowledgement of receipt.* Under § 720.65(a), EPA will acknowledge receipt of each notice by letter to the submitter. The 90-day notice review period begins on the date of receipt indicated on the letter of acknowledgement.

b. *Consolidated notices.* In the course of reviewing section 5 notices under the Interim Policy, groups of notices were often submitted for substances which were similar in structure and use. These notices contained a large amount of duplicative information, such as exposure, release, or use data. In response to requests for relief from submitters, EPA has developed procedures for submission of a "consolidated" notice. Persons who intend to manufacture or import two or more structurally related new chemical substances may contact the Prenotice Communications Coordinator to obtain approval to submit a single "consolidated" section 5 notice for the related substances. The submitter must identify each new chemical substance individually; a consolidated notice cannot be submitted for an open-ended

category of chemicals. A consolidated section 5 notice is suitable for chemical substances with the same or similar uses and for which there are similar test data or other information. Manufacturers may not submit a consolidated notice on a series of intermediates and a final product in a given process because these chemicals do not sufficiently share common test data or other information.

EPA will not accept a consolidated notice unless the submitter has contacted the Prenotice Communications Coordinator to determine whether the group of chemicals are sufficiently similar that they are suitable for review in a consolidated notice. EPA encourages submitters to submit consolidated notices when appropriate; such notices will reduce the burden on the submitter of preparing multiple section 5 notices sharing common information. Consolidated notices also will improve the efficiency and consistency of EPA's review by allowing the staff to review structurally related chemicals, and the data and other information that are common to them, at the same time.

c. *Incomplete submissions.* Under § 720.65(c) of this rule, EPA may determine that a submission is incomplete, and therefore does not constitute a notice under section 5 of the Act. For example, failure to provide chemical identity or otherwise to supply information required in the notice form, if that information is known to or reasonably ascertainable by the submitter, will result in a submission that does not constitute a notice. A submission is incomplete if all information (except information published in the scientific literature) is not in English or test data and other data are not complete. A submission is also incomplete if the submitter claims information confidential and does not submit a second copy of the notice from which all confidential information has been deleted. The review period will not begin until the submission is complete.

If a submission is incomplete, EPA may first request the missing information from the submitter by telephone. If the submitter does not provide it quickly, EPA will inform the submitter in writing within 30 days of receiving the submission that it is incomplete. However, if EPA obtains additional information during the notice review period, from the submitter or elsewhere, that indicates the original submission was incomplete, EPA may declare the notice incomplete within 30 days of receiving the new information.

Under § 720.65(c) (4) and (5), submitters may file objections to an EPA finding that a submission is incomplete with the Director of the Office of Toxic Substances ("the Director"). The Director, or his or her delegate, will determine whether the original submission was complete or incomplete, or will modify the requirements for completing the submission. If the Director affirms that the original submission was incomplete, the notice period will not begin to run until EPA receives the missing information. If the Director finds that the original submission was complete, the 90-day review period will resume on the date that EPA notifies the submitter that the notice is complete. Therefore, if EPA informed the submitter that the notice was incomplete on the 15th day, the day after EPA finds the notice was complete would be the 16th day. However, if EPA can complete its review by the date 90 days from the date of the original submission, the Director may inform the submitter that the review period began when EPA received the original notice and has run without interruption. EPA recognizes that resuming the review period on the date EPA notified the submitter that the submission was incomplete may conceivably delay the start of manufacture or importation in some cases; however, EPA has an overriding responsibility to conduct an adequate review which ensures against a potential risk to human health or the environment. EPA will avoid delaying the starting date whenever possible.

If EPA identifies a minor problem in the submission, such as failure to date it or a typographical error that renders an entry ambiguous, it may, under § 720.65(b), ask the submitter to correct the notice. The submitter is under no obligation to make the correction, but failure to do so may cause EPA to extend the review period under section 5(c) of the Act. Of course, if the submitter corrects the minor problem, EPA may still extend the period under section 5(c) if good cause otherwise exists.

The final rule modifies the procedures for incomplete submissions proposed in January 1979. Under the proposed procedures, submitters had no formal appeal procedures if EPA determined that a submission did not meet the standards for review, and the review period for submissions with minor errors could be stopped until the errors were corrected. EPA has changed these requirements in response to comments and because of its experience under the Interim Policy.

EPA, however, disagrees with commenters who argued that EPA has no authority to determine that a submission is incomplete, and that EPA's only remedy is section 5(e). The Act explicitly requires the submitter to provide certain information in a section 5(a) notice that is known to or reasonably ascertainable by the submitter. A submission that fails to meet the minimum statutory requirements, therefore, is not a complete notice under the Act, and EPA is justified in refusing to review it. Section 5(e) is not an appropriate remedy for this situation. The purpose of section 5(e) is to allow EPA to regulate new chemical substances "pending the development of information" necessary for a reasoned evaluation of health and environmental effects. Its purpose is not to gather information that the submitter already knows or can reasonably ascertain and that is required by the Act to be submitted in the initial notice.

Under the Interim Policy, EPA has received several submissions that, it believed, did not include required information that was known or reasonably ascertainable by the submitter and which therefore did not meet the statutory requirements. For example, one submission did not include the molecular structure of the new chemical substance. EPA scientists determined that representative molecular structures for the substance were in fact known to or reasonably ascertainable by the submitter, because a knowledgeable chemist would be able to derive the structure from process information. Therefore, the notice review period did not begin until this information was provided to EPA.

In another case, the submitter described the category of use of a new chemical substance only as "photographic chemical" without specifying its end use in terms of its function and application (e.g., reducing agent in developer solution). The term "photographic chemical" was inadequate for EPA's assessment of potential human exposure and environmental release. In a third type of problem, submitters often have described the chemistry of the manufacturing operation without indicating the order and type (e.g., distillation, mixing) of the manufacturing steps. For example, manufacturers of coatings for manufactured parts have sometimes failed to provide information on coating operations at sites they do not control. In such cases, if EPA staff cannot quickly obtain the information from the submitter in response to a telephone request, EPA will declare the notice incomplete and the review period will not begin until EPA receives the information.

d. *Extension of review period.* Section 5(c) of the Act provides that EPA may extend the 90-day review period for up to an additional 90 days for good cause. Section 720.75(c) of this rule provides that EPA will notify the submitter if EPA extends the period and gives examples of circumstances that EPA believes could constitute good cause for extension. EPA will also issue for publication a Federal Register notice when it extends a review period under section 5(c). The notice will describe the extension and give the reasons for it.

e. *Suspension of review period.* Section 720.75(b) of this rule provides that a notice submitter may voluntarily suspend the running of the review period at any time, but only if the Director, or his or her delegate, agrees. If the Director does not agree, EPA will notify the submitter and the review period will continue to run. The suspension must be for a specified period of time. If the notice submitter makes the request orally, the Director may grant a suspension for 15 days. EPA will send the submitter a written confirmation of the suspension if it is granted orally. The Director will extend the suspension if the OTS Document Control Officer receives a written confirmation of the request within 15 days of the approved oral request. In this case, the running of the review period is suspended as of the date of the confirmed oral request. The notice submitter also may request a suspension in writing. In this case, the suspension begins the date the Document Control Officer receives the request, if EPA approves the request.

Under the Interim Policy, EPA has found suspension of the review period may be beneficial when questions concerning a new chemical substance that arise during the notice review period can be adequately addressed by the notice submitter. Suspension of the review period is often helpful in these cases because a submitter may not be able to respond to EPA's concerns within the review period, even if EPA extends the period to 180 days under section 5(c). For example, in one instance the Agency needed more detailed use and exposure information which the submitter was able to obtain from potential customers. In other cases, the notice review period was suspended to allow time for voluntary health effects testing, and for chemical analysis to determine the levels of certain impurities. Voluntary suspensions benefit both EPA and notice submitters because they save EPA resources and often eliminate the need for regulatory action.

f. *Closeout and commencement of manufacture.* Under § 720.75(d), EPA will notify submitters when the notice review period has ended, if EPA has not taken action under section 5(e) or 5(f) of the Act. EPA will inform submitters that they can begin manufacture or import for commercial purposes. This action does not constitute EPA approval or certification of the substance and does not preclude later regulatory action by EPA. Submitters may begin to manufacture or import a new chemical substance after the close of the review period, even if they have not been notified by EPA that the review period has ended. In the final rule, EPA has dropped the notice of continuing review proposed in January 1979, since the closeout notification can serve the same purpose, i.e., informing the submitter of any concerns EPA may have about the new chemical substance, and any regulatory actions being considered. Also, there is no obligation that EPA inform a submitter that it is contemplating regulation of the new chemical substance.

Section 720.102 requires that submitters notify EPA when they begin to manufacture or import the new chemical substance, so EPA may add the substance to the Inventory. The submitter must provide chemical identity, premanufacture notice number, and the date that manufacture or import for commercial purposes begins. EPA proposed this requirement in January 1979 and believes that most notice submitters to date have notified EPA when they began manufacture or import. However, any persons who already have begun to manufacture or import a chemical substance after undergoing notice review, but who have not yet submitted a notice of commencement or manufacture, must submit the notice by the effective date of this rule to allow EPA to update the Inventory.

2. *Supplemental Reporting.* In January 1979, EPA proposed supplemental reporting ("letter-writing") authority which would have enabled EPA to obtain additional written information on a new chemical substance or related chemicals during the notice review period. EPA also proposed an analogous provision for requesting health and safety studies. EPA based its authority to obtain certain information known to or reasonably ascertainable by the submitter and others on section 8 of the Act. Even after the scope of reporting was narrowed in the October 1979 reproposal, many commenters objected to the supplemental reporting provisions, arguing that EPA does not have authority to require such reporting.

Since the reporting requirements in the final rules are reduced from those in the proposed rules, the ability of EPA to obtain additional information during the review period is especially important. While EPA still believes it has the authority under section 8 to obtain additional information from the submitter and others who may have information about the new chemical substance during the notice review period, EPA has not adopted supplemental reporting authority because it has proved unnecessary to an effective section 5 notice review program. EPA also has eliminated the provision for requesting health and safety studies on the new chemical substances or related chemicals. EPA has found that telephone calls to submitters are generally adequate to obtain additional information during the notice review period. In the occasional case where a submitter is unwilling to provide the information, EPA has the option of taking action under section 5(e) (regulation of a new chemical substance pending development of new information) or section 11 (subpoena authority). Although these actions are more resource-intensive and time-consuming than a supplemental reporting request, such formal actions will rarely be necessary. However, EPA is prepared to act under these authorities when submitters do not provide the necessary information.

3. *Actions Under Sections 5(e) and 5(f).* In the final rule, EPA has deleted §§ 720.36 and 720.37 of the January 1979 proposal, which described EPA's procedures for taking action under sections 5(e) and 5(f). It is not necessary to include these provisions in the rule, because many of the procedures are already set out in the statute, and because submitters will be notified of the remaining procedures when EPA takes action against a specific substance. In dropping these sections, EPA has deleted the provision that would allow it to notify persons other than the notice submitter, who would be affected by the order, of the basis of a proposed section 5(e) or 5(f) action. Many commenters objected to this provision, arguing that only the notice submitter could be subject to a section 5(e) or 5(f) order. EPA will notify only those persons subject to a section 5(e) or 5(f) order, and it will allow only those persons to file objections to the order. Of course, any person who uses a new chemical substance that the person knows or has reason to know was manufactured, imported, processed, or distributed in commerce in violation of a

section 5(e) or 5(f) order is in violation of section 15 of TSCA.

EPA has also eliminated § 720.37(b)(6) of the January 1979 proposal, which provided that EPA would consider subsequent notice submissions for substances subject to a section 5(f) order to be applications for modification or revocation of the order, rather than section 5 notices. This section was eliminated because EPA recognizes that a subsequent submission for a chemical substance subject to a section 5(f) order might describe different conditions of exposure which might not present an unreasonable risk. Therefore, EPA will consider these submissions to be section 5 notices, and they will undergo review.

4. *Recordkeeping.* The final rule retains the provision in the proposed rule that requires notice submitters to retain documentation of information in the notice. This would include the sources of information provided in the notice, e.g., production volume estimates in marketing plans. Submitters also must keep records of production volume for the first three years of production and the date of commencement of manufacture or import, and documentation of this information. In addition, submitters must keep copies of "other data," which they were required to describe in § 720.50(b), if they are in the submitter's possession or control. This information must be retained for 5 years from the date of commencement of manufacture.

EPA has dropped the provision that the submitter retain health and safety data referenced in the notice for 30 years. EPA believes this provision is unnecessary because the submitter must include these data, or a standard literature citation to these data, with its notice. Therefore, EPA will already have the data in its own files.

Persons who manufacture or import a chemical substance under the terms of an R and D exemption must retain documentation of compliance with the exemption requirements, including copies of the information they used to determine the need to make any notification of risk to health or to persons exposed to the chemicals. This information must be retained for 5 years from the final date of manufacture or import under the exemption.

Persons who are granted a test-marketing exemption application must retain documentation of information submitted in the notice. They also must document compliance with any restrictions EPA imposes when it grants the exemption. This information must be retained for five years from the final date of manufacture or import under the exemption.

5. *Compliance and Inspections.* It is unlawful for any person to fail or refuse to comply with any provision of section 5 or any rule promulgated under section 5. Manufacture or processing of new chemical substances without complying with section 5 and this rule is a violation of section 15. When more than one manufacturer or importer is involved in a transaction, each one is liable for manufacture or import of a new chemical substance if a notice has not been submitted or the review period has not expired, even though only one person involved in each transaction (e.g., the principal importer) may submit the notice.

Section 15 of TSCA makes it unlawful for any person to: (i) Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of this rule.

(ii) Fail or refuse to establish and maintain records or to permit access to or copying of records as required by the Act or a rule promulgated under the Act.

(iii) Fail or refuse to permit entry or inspection as required by section 11.

Violators may be subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of this rule could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of the rule and the seizure of chemical substances manufactured or processed in violation of the rule.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 apply to "any person" who violates various provisions of TSCA. Thus, in actions under section 16, EPA may, at its discretion, proceed against individuals, such as corporate officials, as well as the companies themselves. In particular, this includes individuals who report false information or who cause it to be reported.

EPA will also direct its resources to detecting violations of other aspects of the section 5 notice rule, particularly the terms of exemptions for research and development and for test marketing.

EPA will conduct inspections under section 11 of TSCA to assess compliance with the requirements of section 5 and this final rule. Inspectors will compare the information in the submitter's notice with the actual conditions of manufacture or import to verify that the information was correct, estimates were reasonable, and any exposure controls described in the notice are in place.

D. Confidentiality

The Act recognizes the importance to industry of maintaining the confidentiality of certain business information; section 14 allows a submitter to claim confidentiality for any information submitted to EPA under the Act. However, the Act also makes clear that the public interest in chemical regulation must also be considered, and in certain cases, outweighs the protection of confidential business information. Thus, section 14 also provides that health and safety studies may be revealed and that any confidential information may be revealed if necessary to protect health or the environment from an unreasonable risk of injury.

Certain provisions of section 5 also highlight EPA's responsibility to provide meaningful information to the public concerning new chemical substances. Section 5(d)(1) states explicitly that a section 5 notice must be made available for "examination by interested persons," subject to the confidentiality provisions of section 14. Further, section 5(d)(2) requires EPA to issue for publication a **Federal Register** notice upon receipt of each section 5 notice, that identifies the chemical substance, lists the intended uses, and describes test data, also subject to the confidentiality provisions of section 14. More generally, the Act includes a variety of provisions under which citizens can petition EPA to take particular actions on section 5 notices. These provisions indicate that Congress intended informed citizen involvement in review of new chemical substances, although EPA is to be the primary decisionmaker. Public participation cannot be effective unless meaningful information is made available to interested persons.

In addition to these responsibilities which are related directly to the Act, EPA has general responsibilities under the Freedom of Information Act (FOIA). Under the FOIA, persons may request disclosure of any information submitted in a notice. When such a request is made, EPA, in accordance with the

procedures of 40 CFR Part 2, Subpart B, must review information which is claimed confidential to determine whether it is entitled to confidential treatment. If EPA determines that the information is confidential and therefore does not disclose it, the FOIA requester may bring an action in Federal court to review EPA's decision.

The confidentiality provisions in the final rule take into account various requirements under the Act, including the need: (1) to provide nonconfidential information to the public, (2) to give EPA information it needs to respond to FOIA requests, (3) to allow persons to assert claims of confidentiality with the minimum burden, and (4) to reduce uncertainty about the criteria EPA will use in making its confidentiality determinations. In determining the final confidentiality provisions, EPA also considered its experience with section 5 notices under the Interim Policy as well as comments received on the January 1979 and October 1979 proposals. EPA believes these provisions represent a balance between the industry's need for confidentiality of business information and the public interest in having access to information about new chemicals.

1. *Assertion of Confidentiality Claims.* A person may assert a claim of confidentiality for any information submitted to EPA. Submitters must assert the claim when they submit the confidential information. If the information to be claimed confidential is contained on the notice form, submitters must assert their claims by marking the box on the form adjacent to the item. To assert a claim for information in an attachment to the form, submitters must clearly mark all confidential items in the attachment.

Any submitter that claims information confidential must provide two copies of its submission: a complete copy of the notice including all confidential information and a "sanitizied" copy in which all confidential information has been deleted. EPA will assume that the submitter has prepared a sanitized copy that accurately deletes any information claimed confidential. EPA will place the submitter's sanitized copy in the public file. If the submitter does not provide a sanitized copy, the submission is incomplete and the notice period will not begin. EPA believes this provision is in the best interest of the submitter, the public, and EPA.

Alternatively, if the submitter does not provide the sanitized copy with the notice, EPA could consider the submission complete and allow the submitter to provide the sanitized version early in the notice review period. However, this would deprive the public of access to the notice information for a significant portion of the review period. EPA could also prepare the sanitized copy itself. However, this would require substantial EPA resources and there is a chance that EPA inadvertently would not delete all of the information claimed confidential. In addition, EPA believes it is more efficient for the submitter, which is more familiar than EPA with the nature, extent, and rationale for the claims, to prepare the sanitized copy. EPA also considered the alternative of putting the entire notice, including information claimed confidential, in the public file if the submitter did not provide a sanitized version. However, EPA believes this would be unnecessarily harsh. Therefore, EPA believes that treating the notice as incomplete until it receives the sanitized version is the most equitable policy.

2. *Generic Information.* A submitter that claims chemical identity or use confidential must provide generic information for release to the public. By requiring generic chemical names and uses, EPA can meet its obligation to provide the public with important information on the risks of new substances without revealing confidential business information. EPA requires that the generic information be provided on the notice form so it can include this information in the section 5(d)(2) **Federal Register** notice. If EPA had to request the generic information after it received the notice, or develop the generic information itself, EPA could not meet the requirement that the **Federal Register** notice be published 5 days after EPA receives the notice form.

Unlike the proposed rule, the final rule does not state that the generic chemical name must disclose "toxicologically significant information to the maximum extent possible"; instead, the generic name should reveal the substance's chemcial identity to the maximum extent possible. EPA has found that, prior to a substantive review of the hazard potential of a new substance, it is often difficult to identify toxicologically significant portions of the molecule. Therefore, at the beginning of the notice review period, it is more useful to require instead that the chemical identity be revealed as fully as possible. The generic use should also be as specific as possible. EPA encourages submitters to contact the EPA Prenotice Communications Coordinator to discuss appropriate generic names and uses before actually submitting the notice.

The proposed rule would have required that submitters provide three generic chemical names with the section 5 notice; however, the final rule requires only one. EPA's experience in the section 5 program has shown that three names are not necessary since, generally, all three names provided are similar in specificity. EPA will publish the generic name given in the notice in the section 5(d)(2) **Federal Register** notice. However, when the manufacturer or importer submits a notice of commencement of manufacture using the same generic name, EPA may determine that the generic name is more generic than necessary to protect confidential chemical identity. EPA will then propose a more specific name. If that name is unacceptable, the submitter must explain why EPA's name would disclose confidential business information and propose an alternative. EPA will publish the submitter's alternative name if it is acceptable. Otherwise, EPA will put the generic name it devised on the public Inventory, 30 days after giving notice to the submitter.

EPA has not adopted the proposed requirement that submitters provide generic information on physical/chemical properties (in terms of ranges) and submitter's identity (in terms of geographic location, annual sales, and type of company) if they are claimed confidential. EPA made this change in response to commenters who stated that it is difficult to develop generic descriptions of physical/chemical properties and submitter's identity which provide useful information without disclosing confidential business information. Also, unlike chemical identity and category of use, EPA is not required to issue any information concerning physical/chemical properties or the submitter's identity for publication in the **Federal Register**. Therefore, generic information on these categories is not necessary.

3. *Substantiation of Claims.* The final rule does not require substantiation of any confidentiality claims when a section 5 notice is submitted. However, a confidentiality claim for chemical identity must be substantiated when the notice of commencement of manufacture is submitted.

This approach reflects a substantial modification of the confidentiality procedures proposed in January 1979 and October 1979. The January proposal would have required submitters to substantiate confidentiality claims at the time of submission only for chemical identity and health and safety data, while the October proposal would have required substantiation of all confidentiality claims at the time of submission (though it allowed assertion and substantiation by category.) EPA

believed that this "up-front" substantiation would be necessary to allow EPA to respond to FOIA requests in a timely manner.

Under the Interim Policy, submitters were encouraged to substantiate all confidentiality claims when the notice was submitted; if they did not substantiate their claims, EPA sent a letter requesting substantiation. EPA changed this policy in a notice published in the **Federal Register** of July 3, 1982 (47 FR 28969). In that notice, EPA explained that because EPA had not received large numbers of FOIA requests, "up-front" substantiation of claims was not necessary to make timely responses to FOIA requests. Also, the substantiation requirement had not reduced the number of confidentiality claims as expected. The final rule adopts the same policy. EPA will request substantiation for information submitted in section 5 notices only when it receives an FOIA request for the information claimed confidential, or when EPA has its own reasons for making a final confidentiality determination, for example, when EPA is contemplating regulatory action. By not requiring "up-front" substantiation of all claims, submitters will not have to incur the burden of substantiation unnecessarily.

The final rule requires submitters to substantiate claims of confidentiality for chemical identity at the time a notice of commencement of manufacture or import is submitted, and provides that EPA may disclose a chemical identity claimed as confidential but not accompanied by adequate substantiation. As EPA stated in the Interim Policy of May 15, 1979, all information submitted to EPA under the section 5 notice program before the effective date of the final rule will become subject to the confidentiality policies of this rule (45 FR 28567). The Interim Policy does not require submitters to substantiate claims of confidentiality when the notice of commencement is submitted, although EPA encourages them to do so. As a result, EPA has received notices of commencement in which chemical identity was claimed confidential without any accompanying substantiation. Under the final rule, these chemical identities could be disclosed when it goes into effect.

In the May 1979 Interim Policy EPA stated that it would give submitters "ample opportunity to update or modify confidentiality claims prior to becoming subject to any new requirements." EPA believes that 45 days after the effective date of this rule is an ample period for submitters with unsubstantiated claims of confidentiality of chemical identity in notices of commencement of manufacture or import to substantiate those claims. EPA will notify each affected person by letter. If EPA has not received substantiation for the claim within 45 days after the effective date of this rule, it may place the specific chemical identity on the public Inventory consistent with EPA's general procedures for handling confidential information in 40 CFR Part 2.

4. *Health and Safety Studies.* Section 14(a) of TSCA prohibits EPA from disclosing confidential business information reported under the Act except in certain specific circumstances. Section 14(b), however, states that EPA is not prohibited from disclosing health and safety studies of substances for which section 5 notification is required, unless disclosure reveals confidential processes or portions of a mixture. Therefore, EPA cannot refuse to disclose such information in response to an FOIA request, and EPA will deny any claim of confidentiality for the protocol, data, analysis, and results in a health and safety study if the submitter does not establish that disclosure would reveal the following confidential information: (1) process information, (2) portions of a mixture, or (3) information unrelated to the effects of the substance on human health and the environment.

In some submissions, chemical identity may be claimed confidential and attachments to the notice form may contain health and safety studies on the new chemical. EPA will disclose the specific chemical identity that is the subject of those studies if disclosure of chemical identity: (1) is necessary to interpret the health and safety study, and (2) would not reveal confidential process or mixture information. Disclosure of chemical identity is discussed in more detail below.

5. *Specific Chemical Identity.* A major issue in this rulemaking has been the confidentiality of the specific chemical identity that is the subject of a section 5 notice. This issue is of particular concern when health and safety studies are submitted for the substance. Under section 14(b) of TSCA, EPA may not withhold from the public data from health and safety studies unless the data would disclose confidential manufacturing or processing processes or the proportions of specific chemical substances in a mixture. The disclosure requirement applies to data in the study and data underlying the study.

As EPA stated in the January 1979 proposal, the Agency considers the specific chemical identity always to be part of a health and safety study even when it does not appear in the study. Consequently, the chemical identity would be subject to the disclosure requirements of section 14(b). However, in many cases the chemical identity is one of the most commercially sensitive pieces of information in the section 5 notice. Because of the substantial concern expressed by industry about the harm of disclosing confidential chemical identities, EPA explored ways of limiting the commercial harm of such disclosure while still meeting the requirements of section 14(b) of TSCA and providing the public with adequate information about health and safety studies.

In January 1979, EPA proposed that confidential chemical identities would not be released prior to commencement of manufacture or import, even when health and safety studies had been submitted in the notice. After commencement of manufacture, chemical identity would be disclosed if health and safety studies had been submitted and the identity was not exempt under section 14(b) by virtue of revealing a confidential process or confidential proportions of substances in a mixture. Because of the sensitivity of this issue, under its Interim Policy, EPA has honored claims of confidentiality for specific chemical identity, even when health and safety studies have been submitted, reserving a final decision on the issue for this final rule.

This issue generated a great deal of comment. Industry has expressed its concerns about disclosure of confidential chemical identities at any time, while public interest groups and others are concerned that health and safety studies would be meaningless without knowledge of the specific chemical identity involved. In an attempt to meet both these concerns, EPA has chosen an approach that balances the need for confidentiality, the need to understand health and safety studies, and the provisions of TSCA.

Under § 720.85 of the rule, in the absence of any health and safety studies, chemical identity will be held confidential as long as it meets the general tests for confidentiality in 40 CFR Part 2. This is true both before and after commencement of manufacture or import. Under § 720.90(c) of the rule, if any health and safety studies have been submitted for the chemical substance in question, the specific chemical identity will be held confidential only if disclosure would reveal confidential manufacturing or processing processes or the confidential proportions of

substances in a mixture, or if the specific chemical identity is not necessary to interpret any of the studies.

This solution will result in disclosure of a confidential chemical identity only when it is necessary to interpret a health and safety study, unless disclosure would reveal confidential process or mixture information that is protected under section 14(b). This meets concerns expressed by both industry and public interest groups. Industry was concerned that a rule mandating disclosure even when disclosure would not serve any public interest would unnecessarily penalize companies conducting health and safety studies. One the other hand, public interest groups were concerned that disclosure of health and safety studies without the identity of the substance involved would be meaningless if knowledge of the specific identity were necessary to understand the study. Under this approach, companies will be able to present arguments that disclosure of the specific chemical identity is not necessary to interpret a study and, at the same time, members of the public requesting access to studies will be able to argue why disclosure of the specific identity is necessary.

This solution to the issue of confidential chemical identities also has an impact on development of generic chemical names. Companies that claim specific chemical identity confidential in their notices who wish to argue that knowledge of the specific identity is not necessary to interpret their health and safety studies are encouraged to choose generic names which are sufficiently specific to interpret their health and safety studies. Sufficiently specific generic names will tend to support arguments that disclosure of the specific chemical identity is not necessary to understand the study.

IV. Related Rulemaking and Other Actions

A. Section 5(h)(4) Exemptions

Under section 5(h)(4), EPA may, upon application and by rule, exempt manufacturers or importers from all or part of the requirements of section 5 if it determines that the manufacture, import, processing, distribution in commerce, use, or disposal of a new chemical substance will not present an unreasonable risk of injury to health or the environment. Based on its experience in the section 5 review program to date, EPA has promulgated one section 5(h)(4) exemption rule and proposed two others.

EPA promulgated an exemption for new chemicals used in certain instant photographic and peel-apart film articles, published in the **Federal Register** of June 4, 1982 (47 FR 24308). Persons may manufacture these chemicals without undergoing the full 90-day section 5 review, as long as the manufacturer uses certain exposure controls.

EPA also proposed rules to exempt certain site-limited intermediates, low volume chemicals, and polymers, which were published in the **Federal Register** of August 4, 1982 (47 FR 33896). The proposed exemption for site-limited intermediates and chemicals manufactured at 10,000 kg or less per year would exempt these chemicals if they do not have certain adverse health or environmental effects and the manufacturer or importer submits a short notice to EPA 14 days before manufacture begins. A qualified expert would assess the new chemical (unless it was manufactured at 1,000 kg or less per year) to ensure that it met the exemption criteria. The polymer exemption would allow manufacture or import of certain new polymers as long as EPA is notified when manufacture begins. Other new polymers would undergo an abbreviated 14-day section 5 notice review.

EPA is reviewing the comments on these proposed exemptions and intends to issue final exemption rules in mid-1983. If the provisions of the final rules are similar to the provisions in the proposed rules, EPA expects that approximately 60 percent of all new chemicals will qualify for one or more of these exemptions.

B. New Chemical Follow-Up Rules

EPA will promulgate follow-up reporting rules on certain new chemical substances under section 5(a)(2) and 8(a) of TSCA. Such rules will allow EPA to obtain information on selected new chemical substances after they have entered commercial production, and to reassess certain new chemical substances before they are produced for new uses that may significantly increase their risk to human health or the environment.

EPA has proposed significant new use rules (SNURs) and section 8(a) rules for chemical substances in the **Federal Register** and will continue to do so. A SNUR requires persons to notify EPA 90 days before they manufacture, import, or process the substances subject to the rules for a significant new use, as defined by the rule. The same reporting requirements, review procedures, and authorities that apply to notices for new substances apply to SNUR notices. However, if after receipt of a SNUR notice, EPA does not act to regulate the chemical, it must state its reasons in the **Federal Register.** Section 8(a) rules require limited reporting of information; these rules will be used primarily to monitor changes in exposures to chemicals of concern.

Follow-up is an important complement to the section 5 notice review program, which is necessarily limited by the nature of notices on new substances and the section 5 review process. Notices describe the specific uses for which the submitter intends to manufacture or import a new chemical substance and the exposures associated with the intended methods of manufacture, processing, uses, and disposal. EPA will generally base its review and any regulation under section 5(e) or 5(f) on these uses and exposures. In some cases, a substance may raise concern, but the exposure predicted from the information in the notice may not present a significant risk. In these cases, EPA might not take action against the substance during the review period. However, once such a substance has completed section 5 review and has entered commerce, anyone may manufacture, import, or process it for any use without EPA review, even a use likely to result in high levels of exposure that would significantly increase risk. In such a case, EPA might require reporting under a SNUR or section 8(a) rule to ensure review and the opportunity to control these risks before they occur.

C. Testing Guidelines

EPA issued premanufacture testing guidelines which were published in the **Federal Register** of January 27, 1981 (46 FR 8985). In these guidelines, EPA recommends that notice submitters use the Organization for Economic Cooperation and Development (OECD) Minimum Premarket Data set as a starting point in setting up a testing program for new chemicals. EPA is not requiring these data, and a submission that does not contain them would be complete if it otherwise meets the requirements of the Act. Instead, EPA intends that submitters use the testing guidelines flexibly, tailoring their evaluations of new chemicals to the specific new chemicals in question. EPA also encourages submitters to follow any Good Laboratory Practices issued under TSCA.

V. Related Documents

A. Response to Comments

During this rulemaking, EPA has solicited public comment on several proposals and other public documents. These include the January 10, 1979,

proposed rule (44 FR 2242); the October 16, 1979, proposed rule (44 FR 59764); the methodology for the Economic Impact Analysis (44 FR 39450); the proposed processor reporting requirement (45 FR 54642); the clarification of the importer definition (45 FR 63806); the draft Regulatory Analysis and the proposed Economic Impact Analysis (45 FR 74945); and the notice on substantiation of confidentiality claims (47 FR 28969). EPA received numerous comments from individual companies, trade associations, labor unions, public interest organizations, and other groups and individuals. These comments were carefully considered in developing the final rule.

EPA has prepared a detailed Response to Comments on the Premanufacture Notice Requirements and Review Procedures for New Chemical Substances. In this document, EPA has summarized the major comments that it received on the documents listed above and gives its response to each. The Response to Comments is available in the Public Reading Room.

B. Instructions Manual

EPA is also distributing an Instructions Manual for Premanufacture Notification of New Chemical Substances. All persons subject to section 5 notice requirements, or who believe that these requirements may apply to them, should obtain a copy of this manual from the OTS Industry Assistance Office. In the manual, EPA describes: (1) EPA's statutory authority under section 5 of the Act; (2) section 5 reporting requirements; (3) EPA notice review procedures; (4) procedures for asserting and substantiating confidentiality claims; and (5) instructions for completing the notice form.

VI. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a rule is "major" and therefore subject to the Regulatory Impact Analysis requirement. EPA considers this rule to be major. Although the rule will not have an annual effect on the economy of $100 million or more, the costs of complying with the rule will result in an increase in costs for chemical manufacturers and photographic companies, and there may be some effects on innovation. Also, EPA will incur certain costs to conduct the notice review program. EPA based its classification of this rule as "major" on various studies conducted on the cost of compliance with section 5 notice requirements and the effect of these requirements on new chemical innovation. EPA has prepared a Regulatory Impact Analysis to accompany this rule which summarizes these studies.

EPA included brief regulatory analyses of the January 1979 and October 1979 proposed rules in the preambles to those rules. In November 1980, EPA issued an extensive draft Regulatory Analysis. The Regulatory Impact Analysis that accompanies this rule compares the notice form proposed by EPA in October 1979, a form proposed by the Chemical Manufacturers Association (CMA) in 1979, an in-house draft form comparable to the form required in this rule, and the final form. The Regulatory Impact Analysis concludes that the primary economic effect of the final form is that industry's cost is between $5 million and $12 million annually to complete the notices. These costs are similar to the costs of the CMA form and considerably less than the costs of EPA's October 1979 form.

The Analysis also concludes that while the October 1979 form makes it easier for EPA to identify problem chemicals and take action, the probability of EPA identifying these problem chemical is not significantly lower with the other forms. Thus the incremental benefits of the lengthier October 1979 form are small.

The third major finding of the Regulatory Impact Analysis concerns the distributional effect of the existing notice review program. Based on data from several industry-commissioned surveys and on data in confidential section 5 notice files, it appears that there has been no significant reduction in the number of new chemical innovations since 1979 among the largest companies, but limited data suggest that there probably has been a decline in innovation activity by smaller companies, which tend to produce low volume chemicals. To help reduce this effect on small companies, EPA employs consultants to assist them in preparing notices, at no expense to the submitters.

The fourth major finding of the Analysis is that promulgation of the proposed section 5(h)(4) exemptions to the section 5 notification program would reduce the annual cost to industry of complying with section 5 notification requirements by 19 to 30 percent, to between $4.2 and $9.1 million annually. In addition, the proposed exemptions will significantly reduce the burden of the new chemical review requirements on small firms. If EPA promulgates the provisions in the proposed exemption rules, there will be cost savings of 11 to 35 percent of total notification costs for firms with sales less than $100 million annually.

These findings on cost to submitters were reached by calculating the cost of filing the notice form, the cost of delay (the present value of profits delayed because of the notice review process), the cost of maintaining confidentiality, and the cost of implementing voluntary controls on the manufacturing, processing or marketing of a particular new substance when requested by EPA. The benefit findings were based on EPA's analysis of each case in which it took action on a new chemical substance, to determine what types of information were critical to the decision to seek controls and whether that information would be required on all four forms. If the information would not have been in the submission and if EPA would not have identified the problem through telephone contact or other means, the potential for adverse health effects occasioned by not identifying the problem were determined. The Regulatory Impact Analysis is available for review in the Public Document Room.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

VII. Applicability of Paperwork Reduction Act and Regulatory Flexibility Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information provisions in this rule must be submitted for approval to the Office of Management and Budget (OMB). The Agency previously submitted information collection requirements to OMB under the Premanufacture Notification (PMN) Interim Policy which were assigned OMB control number 2000-0054. The information collection requirements in this final rule were approved by OMB and assigned OMB control number 2070-0012.

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has assessed the impact of this rule on small businesses. In various analyses of the chemical industry, small business has been defined in numerous ways, particularly in terms of annual sales levels. To account for different interpretations of the term "small business" within the chemical industry, the Agency analyzed the effect of this rule using two annual sales levels to define small, $30 million and $100 million.

EPA estimates that firms with sales less than $30 million per year will

absorb about 7 percent of total industry-related costs to comply with this rule, or about $0.36 to $0.91 million annually. Firms with sales less than $100 million per year will incur about 13 percent of total industry costs, or about $0.67 to $1.69 million annually. The proposed exemptions will substantially reduce the reporting burden for small companies, however. Taken together, the proposed exemption rules would reduce total program costs for firms with sales less than $30 million and $100 million per year by 11 to 33 percent and 11 to 35 percent, respectively.

VIII. Public Record

EPA has established a public record for this rulemaking (docket number OTS-50002), which is available for inspection in Rm. E-107, 401 M St. SW., Washington, D.C. 20460 from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. This record includes all the information considered by EPA in developing this rule except for confidential business information which has been segregated. While part of the record, such information is not available to the public.

The list below describes the information in the record. This list, in accordance with section 19(a)(13) of the Act, identifies the complete rulemaking record:

1. USEPA-OTS. Premanufacture Notification Requirements and Review Procedures. Notice of Proposed Rulemaking.

2. USEPA-OTS. Premanufacture Notification Requirements and Review Procedures: Support Document.

3. USEPA-OTS. Impact of TSCA Premanufacturing Review Requirements (EPA 230/2-12/76-005).

4. Seven working drafts of proposed 40 CFR Part 720 dated from June 20, 1978 to December 3, 1978; three working drafts of the preamble to proposed 40 CFR Part 720 dated from October 28, 1978, to December 3, 1978; eight working drafts of the proposed Premanufacture Notice Form dated from July 30, 1978, to December 3, 1978; two working drafts of the Premanufacture Notice Form for Importers dated from October 5, 1978, to December 3, 1978; three working drafts of the Premanufacture Notice Form for Foreign Manufacturers/Suppliers dated from October 5, 1978, to December 3, 1978; and one draft of the Processing and Consumer Use Form dated December 3, 1978.

5. USEPA-OTS. Reproposal of Premanufacture Notice Forms and Provisions of Rules; Notice of Proposed Rulemaking.

6. USEPA-OTS. Impact of TSCA Proposed Premanufacturing Notification Requirements; contract No. 68-014717.

7. Working drafts of the proposed Premanufacture Notice Forms dated June 28, 1979, July 13, 1979, and August 7, 1979.

8. EPA Documents distributed at the meetings of the Administrator's Toxic Substances Advisory Committee (ATSAC), August 14, 1979, and September 25, 1979.

9. EPA materials on the planned reproposal of the Premanufacture Notice Forms distributed at the Embassy Officials Briefing, September 11, 1979.

10. USEPA-OTS. Premanufacture Notification and Review: Economic Impact.

11. USEPA-OTS. Proposed Processor Reporting Requirements. Notice of Proposed Rulemaking.

12. USEPA-OTS. Cost Estimations of Alternative Processor Notification Requirements; contract no. 68-01-5878.

13. USEPA-OTS. Premanufacture Notification and Review Procedures: Clarification of Importer Reporting Responsibilities.

14. USEPA-OTS. Draft Regulatory Analysis. Premanufacture Notification and Review Procedures.

15. USEPA-OTS. Proposed Economic Impact Analysis of Proposed Section 5 Notice Requirements; contract no. 68-01-5878.

16. USEPA-OTS. Regulatory Impact Analysis of Section 5 Notice Requirements; contract no. 68-01-5878.

17. USEPA-OTS. Response to Comments on New Chemical Notice Requirements & Review Procedures.

18. All factual information and raw data of any sort considered during the rulemaking.

19. EPA correspondence to persons outside EPA concerning this rule.

20 Correspondence (including comments on the proposed rule) received from persons outside EPA before the close of the comment periods, and correspondence received after the close of the comment periods if considered.

21. EPA memoranda summarizing meetings and telephone conversations with outside persons relevant to the development of this rulemaking.

The docket of the record detailing its specific contents is available in the OTS Reading Room.

List of Subjects in 40 CFR Part 720

Chemicals, Environmental protection, Premanufacture notification, Hazardous materials, Recordkeeping and reporting requirements.

Dated: April 26, 1983.

Lee L. Verstandig,

Acting Administrator.

Therefore, 40 CFR Chapter I is amended by adding Part 720 to read as follows:

PART 720—PREMANUFACTURE NOTIFICATION

Subpart A—General Provisions

Sec.

720.1 Scope.
720.3 Definitions.

Subpart B—Applicability

720.22 Persons who must report.
720.25 Determining whether a chemical substance is on the Inventory.
720.30 Chemicals not subject to notification requirements.
720.36 Exemptions for research and development.
720.38 Exemptions for test marketing.

Subpart C—Notice Form

720.40 General.
720.45 Information that must be included in the notice form.
720.50 Submission of test data and other data concerning the health and environmental effects of a substance.
720.57 Imports.

Subpart D—Disposition of Notices

720.60 General.
720.62 Notice that notification is not required.
720.65 Acknowledgement of receipt of a notice; errors in the notice; incomplete submissions; false and misleading statements.
720.70 Notice in the **Federal Register.**
720.75 Notice review period.
720.78 Recordkeeping.

Subpart E—Confidentiality and Public Access to Information

720.80 General provisions.
720.85 Chemical identity.
720.87 Categories or proposed categories of uses of a new chemical substance.
720.90 Data from health and safety studies.
720.95 Public file.

Subpart F—Commencement of Manufacture or Import

720.102 Notice of commencement of manufacture or import.

Subpart G—Compliance and Inspections

720.120 Compliance.
720.122 Inspections.
Appendix A—Premanufacture Notice for New Chemical Substances

Authority: Toxic Substances Control Act, 15 U.S.C. 2604, 2607, 2613.

Subpart A—General Provisions

§ 720.1 Scope.

This Part establishes procedures for the reporting of new chemical substances by manufacturers and

importers under section 5 of the Toxic Substances Control Act, 15 U.S.C. 2604. The rule defines the persons and chemical substances subject to the reporting requirements, prescribes the contents of section 5 notices, and establishes procedures for submitting notices. The rule also establishes EPA policy regarding claims of confidentiality for, and public disclosure of, various categories of information submitted in connection with section 5 notices (OMB Control No. 2070–0012).

§ 720.3 Definitions.

(a)(1) For the purposes of this Part, the terms "cosmetic," "device," "drug," "food," and "food additive" have the meanings contained in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 *et seq.*, and the regulations issued under it. In addition, the term "food" includes poultry and poultry products, as defined in the Poultry Products Inspection Act, 21 U.S.C. 453 *et seq.;* meats and meat food products, as defined in the Federal Meat Inspection Act, 21 U.S.C. 60 *et seq.;* and eggs and egg products, as defined in the Egg Products Inspection Act, 21 U.S.C. 1033 *et seq.*

(2) The term "pesticide" has the meaning contained in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.* and the regulations issued under it.

(3) The terms "byproduct material," "source material," and "special nuclear material" have the meanings contained in the Atomic Energy Act of 1954, 42 U.S.C 2014 *et seq.* and the regulations issued under it.

(b) "Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

(c) "Article" means a manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article and that may occur as described in § 720.36(g)(5), except that fluids and particles are not considered articles regardless of shape or design.

(d) "Byproduct" means a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance or mixture.

(e) "Chemical substance" means any organic or inorganic substance of a particular molecular identity, including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any chemical element or uncombined radical, except that "chemical substance" does not include:

(1) Any mixture.

(2) Any pesticide when manufactured, processed, or distributed in commerce for use as a pesticide.

(3) Tobacco or any tobacco product.

(4) Any source material, special nuclear material, or byproduct material.

(5) Any pistol, firearm, revolver, shells, or cartridges.

(6) Any food, food additive, drug, cosmetic, or device, when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

(f) "Commerce" means trade, traffic, transportation, or other commerce (1) between a place in a State and any place outside of such State, or (2) which affects trade, traffic, transportation, or commerce between a place in a State and any place outside of such State.

(g) "Customs territory of the United States" means the 50 States, Puerto Rico, and the District of Columbia.

(h) "Director" means the Director of the EPA Office of Toxic Substances.

(i) "Distribute in commerce" means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold after introduction into commerce.

(j) "EPA" means the U.S. Environmental Protection Agency.

(k) "Health and safety study" or "study" means any study of any effect of a chemical substance or mixture on health or the environment or on both, including underlying data and epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological, or other studies of a chemical substance or mixture, and any test performed under the Act. Chemical identity is always part of a health and safety study.

(1) Not only is information which arises as a result of a formal, disciplined study included, but other information relating to the effects of a chemical substance or mixture on health or the environment is also included. Any data that bear on the effects of a chemical substance on health or the environment would be included.

(2) Examples include:

(i) Long- and short-term tests of mutagenicity, carcinogenicity, or teratogenicity; data on behavioral disorders; dermatoxicity; pharmacological effects; mammalian absorption, distribution, metabolism, and excretion; cumulative, additive, and synergistic effects; acute, subchronic, and chronic effects; and structure/activity analyses.

(ii) Tests for ecological or other environmental effects on invertebrates, fish, or other animals, and plants, including: acute toxicity tests, chronic toxicity tests, critical life stage tests, behavioral tests, algal growth tests, seed germination tests, plant growth or damage tests, microbial function tests, bioconcentration or bioaccumulation tests, and model ecosystem (microcosm) studies.

(iii) Assessments of human and environmental exposure, including workplace exposure, and impacts of a particular chemical substance or mixture on the environment, including surveys, tests, and studies of: biological, photochemical, and chemical degradation; air, water, and soil transport; biomagnification and bioconcentration; and chemical and physical properties, e.g., boiling point, vapor pressure, evaporation rates from soil and water, octanol/water partition coefficient, and water solubility.

(iv) Monitoring data, when they have been aggregated and analyzed to measure the exposure of humans or the environment to a chemical substance or mixture.

(v) Any assessments of risk to health and the environment resulting from the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance.

(l) "Importer" means any person who imports a chemical substance, including a chemical substance as part of a mixture or article, into the customs territory of the United States. "Importer" includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his or her behalf. The term also includes, as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20; or

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR 144. (See "principal importer.")

(m) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(n) "Intermediate" means any chemical substance that is ensumed, in whole or in part, in chemical reactions used for the intentional manufacture of another chemical substance(s) or mixture(s), or that is intentionally present for the purpose of altering the rates of such chemical reactions.

(o) "Inventory" means the list of chemical substances manufactured or processed in the United States that EPA compiled and keeps current under section 8(b) of the Act.

(p) "Known to or reasonably ascertainable by" means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.

(q) "Manufacture" means to produce or manufacture in the United States or import into the customs territory of the United States.

(r) "Manufacture or import for commercial purposes" means:

(1) To import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer or importer, and includes, among other things, "manufacture" of any amount of a chemical substance or mixture:

(i) For commercial distribution, including for test marketing.

(ii) For use by the manufacturer, including use for product research and development or as an intermediate.

(2) The term also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts that are separated from that other substance or mixture and impurities that remain in that substance or mixture. Byproducts and impurities without separate commercial value are nonetheless produced for the purpose of obtaining a commercial advantage, since they are part of the manufacture of a chemical substance for commercial purposes.

(s) "Manufacture solely for export" means: to manufacture for a commercial purpose solely for export from the United States under the following restrictions on domestic activity:

(1) Processing is limited solely to sites under the control of the manufacturer.

(2) Distribution in commerce is limited to purposes of export.

(3) The manufacturer may not use the substance except in small quantities solely for research and development.

(t) "Manufacturer" means a person who imports, produces, or manufactures a chemical substance. A person who extracts a component chemical substance from a previously existing chemical substance or a complex combination of substances is a manufacturer of that component chemical substance. A person who contracts with a manufacturer to manufacture or produce a chemical substance is also a manufacturer if (1) the manufacturer manufactures or produces the substance exclusively for that person, and (2) that person specifies the identity of the substance and controls the total amount produced and the basic technology for the plant process.

(u) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except "mixture" does include (1) any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined, and if all of the chemical substances comprising the combination are not new chemical substances, and (2) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water, so long as the nonhydrated form is itself not a new chemical substance.

(v) "New chemical substance" means any chemical substance which is not included on the Inventory.

(w) "Nonisolated intermediate" means any intermediate that is not intentionally removed from the equipment in which it is manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the chemical substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture.

(x) "Person" means any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency or instrumentality of the Federal Government.

(y) "Possession or control" means in possession or control of the submitter, or of any subsidiary, partnership in which the submitter is a general partner, parent company, or any company or partnership which the parent company owns or controls, if the subsidiary, parent company, or other company or partnership is associated with the submitter in the research, development, test marketing, or commercial marketing of the chemical substance in question. (A parent company owns or controls another company if the parent owns or controls 50 percent or more of the other company's voting stock. A parent company owns or controls any partnership in which it is a general partner.) Information is included within this definition if it is:

(1) In the submitter's own files including files maintained by employees in the course of their employment.

(2) In commercially available data bases to which the submitter has purchased access.

(3) Maintained in the files in the course of employment by other agents of the submitter who are associated with research, development, test marketing, or commercial marketing of the chemical substance in question.

(z) "Principal importer" means the first importer who, knowing that a new chemical substance will be imported rather than manufactured domestically, specifies the identity of the chemical substance and the total amount to be imported. Only persons who are incorporated, licensed, or doing business in the United States may be principal importers.

(aa) "Process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or (2) as part of a mixture or article containing the chemical substance or mixture.

(bb) "Processor" means any person who processes a chemical substance or mixture.

(cc) "Small quantities solely for research and development" (or "small quantities solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including such research or analysis for the development of a product") means quantities of a chemical substance manufactured, imported, or processed or proposed to be manufactured, imported, or processed solely for research and development that are not greater than reasonably necessary for such purposes.

(dd) "State" means any State of the United States and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

(ee) "Technically qualified individual" means a person or persons (1) who, because of education, training, or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substance which is used under his or her supervision, (2) who is responsible for

enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research to minimize such risks, and (3) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting a research and development activity.

(ff) "Test data" means data from a formal or informal test or experiment, including information concerning the objectives, experimental methods and materials, protocols, results, data analyses, recorded observations, monitoring data, measurements, and conclusions from a test or experiment.

(gg) "Test marketing" means the distribution in commerce of no more than a predetermined amount of a chemical substance, mixture, or article containing that chemical substance or mixture, by a manufacturer or processor, to no more than a defined number of potential customers to explore market capability in a competitive situation during a predetermined testing period prior to the broader distribution of that chemical substance, mixture, or article in commerce.

(hh) "United States," when used in the geographic sense, means all of the States.

Subpart B—Applicability

§ 720.22 Persons who must report.

(a) (1) Any person who intends to manufacture a new chemical substance in the United States for commercial purposes must submit a notice unless the substance is excluded under § 720.30.

(2) If a person contracts with a manufacturer to manufacture or produce a new chemical substance, and (i) the manufacturer manufactures or produces the substance exclusively for that person, and (ii) that person specifies the identity of the substance, and controls the total amount produced and the basic technology for the plant process, that person must submit the notice. If it is unclear who must report, EPA should be contacted to determine who must submit the notice.

(3) Only manufacturers that are incorporated, licensed, or doing business in the United States may submit a notice.

(b)(1) Any person who intends to import a new chemical substance into the United States for commercial purposes must submit a notice, unless the substance is excluded under § 720.30 or unless the substance is imported as part of an article.

(2) When several persons are involved in an import transaction, the notice must be submitted by the principal importer. If no one person fits the principal importer definition in a particular transaction, the importer should contact EPA to determine who must submit the notice for that transaction.

§ 720.25 Determining whether a chemical substance is on the Inventory.

(a) A new chemical substance is a chemical that is not on the Inventory.

(b)(1) A chemical substance is listed on the Inventory by specific chemical name if its identity is not confidential. If its identity is confidential, it is listed by specific name in the confidential portion of the Inventory. The confidential chemical substance is also listed on the public Inventory by a generic name which masks the specific identity. A person who intends to manufacture or import a chemical substance not listed on the Inventory by specific chemical name may ask EPA whether the substance is included on the confidential Inventory. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture or import the chemical substance for commercial purposes.

(2) To establish a *bona fide* intent to manufacture or import a chemical substance, the person who proposes to manufacture or import the substance must submit to EPA:

(i) The specific chemical identity of the substance that the person intends to manufacture or import.

(ii) A signed statement that the person intends to manufacture or import that chemical substance for commercial purposes.

(iii) A description of the research and development activities conducted to date, and the purpose for which the person will manufacture or import the chemical substance.

(iv) An elemental analysis.

(v) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum (for most other substances), or an infrared spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the substance.

(3) If an importer cannot provide all the information required by paragraph (b)(2) of this section because it is claimed confidential business information by its foreign manufacturer or supplier, the foreign manufacturer or supplier may supply the information directly to EPA.

(4) EPA will review the information submitted by the proposed manufacturer or importer under this paragraph to determine whether it has a *bona fide* intent to manufacture or import the chemical substance. If necessary, EPA will compare this information either to the information requested for the confidential chemical substance under § 710.7(e)(2)(v) of this Chapter or the information requested under § 720.85(b)(3)(iii).

(5) If the proposed manufacturer or importer has shown a *bona fide* intent to manufacture or import the substance, and provide sufficient unambiguous chemical identity information so EPA can make a conclusive determination of the chemical substance's Inventory status, EPA will search the confidential Inventory and inform the proposed manufacturer or importer whether the chemical substance is on the confidential Inventory.

(6) If the chemical substance is found on the confidential Inventory, EPA will notify the person(s) who originally reported the chemical substance that another person has demonstrated a *bona fide* intent to manufacture or import the substance and therefore was told that the chemical substance is on the Inventory.

(7) A disclosure of a confidential chemical identity to a person with a *bona fide* intent to manufacture or import the particular chemical substance will not be considered a public disclosure of confidential business information under section 14 of the Act.

(8) EPA will answer an inquiry on whether a particular chemical substance is on the confidential Inventory within 30 days after receipt of a complete submission under paragraph (b)(2) of this section (OMB Control No. 2070–0012).

§ 720.30 Chemicals not subject to notification requirements.

The following substances are not subject to the notification requirements of this Part:

(a) Any substance which is not a "chemical substance" as defined in § 720.3(e).

(b) Any mixture as defined in § 720.3(u).[1]

(c) Any new chemical substance which will be manufactured or imported in small quantities solely for research and development under § 720.36.

(d) Any new chemical substance which will be manufactured or imported

[1] A new chemical substance that is manufactured or imported as part of a mixture is subject to the requirements of this Part. This exclusion applies only to a mixture as a whole and not to any chemical substances which are part of the mixture.

solely for test-marketing purposes under an exemption granted under § 720.38.

(e) Any new chemical substance manufactured solely for export.

(f) Any new chemical substance which is manufactured or imported under the terms of a rule promulgated under section 5(h)(4) of the Act.

(g) Any byproduct if its only commercial purpose is for use by public or private organizations that (1) burn it as a fuel, (2) dispose of it as a waste, including in a landfill or for enriching soil, or (3) extract component chemical substances from it for commercial purposes. (This exclusion only applies to the byproduct; it does not apply to the component substances extracted from the byproduct.)

(h) The chemical substances described below: (Although they are manufactured for commercial purposes under the Act, they are not manufactured for distribution in commerce as chemical substances per se and have no commercial purpose separate from the substance, mixture, or article of which they are a part.)

(1) Any impurity.

(2) Any byproduct which is not used for commercial purposes.

(3) Any chemical substance which results from a chemical reaction that occurs incidental to exposure of another chemical substance, mixture, or article to environmental factors such as air, moisture, microbial organisms, or sunlight.

(4) Any chemical substance which results from a chemical reaction that occurs incidental to storage or disposal of another chemical substance, mixture, or article.

(5) Any chemical substance which results from a chemical reaction that occurs upon end use of another chemical substance, mixture, or article such as an adhesive, paint, miscellaneous cleanser or other housekeeping product, fuel additive, water softening and treatment agent, photographic film, battery, match, or safety flare, and which is not itself manufactured or imported for distribution in commerce or for use as an intermediate.

(6) Any chemical substance which results from a chemical reaction that occurs upon use of curable plastic or rubber molding compounds, inks, drying oils, metal finishing compounds, adhesives, or paints, or any other chemical substance formed during the manufacture of an article destined for the marketplace without further chemical change of the chemical substance except for those chemical changes that occur as described elsewhere in this paragraph.

(7) Any chemical substance which results from a chemical reaction that occurs when (i) a stabilizer, colorant, odorant, antioxidant, filler, solvent, carrier, surfactant, plasticizer, corrosion inhibitor, antifoamer or defoamer, dispersant, precipitation inhibitor, binder, emulsifier, deemulsifier, dewatering agent, agglomerating agent, adhesion promoter, flow modifier, pH neutralizer, sequesterant, coagulant, flocculant, fire retardant, lubricant, chelating agent, or quality control reagent functions as intented, or (ii) a chemical substance, which is intended solely to impart a specific physiochemical characteristic, functions as intended.

(8) Any nonisolated intermediate.

§ 720.36 Exemptions for research and development.

(a) This Part does not apply to a chemical substance if:

(1) The chemical substance is manufactured or imported only in small quantities solely for research and development.

(2) The manufacturer or importer (i) evaluates the chemical substance in accordance with paragraph (b) of this section, and (ii) notifies all persons engaged in experimentation, research, or analysis on the new chemical substance, including the manufacture, processing, use, transport, storage, and disposal of the substance associated with research and development activities, of any risk to health, identified under paragraph (b) of this section, which may be associated with the substance, in accordance with paragraph (c) of this section. A technically qualified individual must ensure the adequacy of the notification.

(3) The chemical substance is used by, or directly under the supervision of, a technically qualified individual.

(b)(1) The manufacturer or importer must evaluate any information or test data in its possession or control to determine whether there is reason to believe there is any risk to health associated with the chemical substance. This information must include:

(i) Any information concerning any significant adverse reaction by persons exposed to the substance which may reasonably be associated with such exposure.

(ii) Any information provided to the manufacturer or importer by a supplier or any other person concerning a health risk believed to be associated with the substance.

(2) In addition, the manufacturer or importer must determine whether the substance is subject to any rule or order proposed or promulgated under section 4, 5, or 6 of the Act; or the notice requirements of section 8(e) of the Act. In addition, the manufacturer or importer must ascertain whether EPA, under section 5(h)(3) of the Act, has determined that any risk to health may be associated with the substance.

(c) The manufacturer or importer must assure that persons are notified by means of a container labeling system, conspicuous placement of notices in areas where exposure may occur, written notification to each person, or any other method of notification which adequately informs persons of risks which the manufacturer or importer has reason to believe may be associated with the substance, as determined under paragraph (b) of this section. The adequacy of the notification is the responsibility of the manufacturer or importer. If the importer is not the manufacturer, it is the importer's responsibility to make the necessary evaluation and notification of any risks to health which may be associated with the substance. In making such evaluations, the importer must obtain that information described in paragraph (b) of this section which is reasonably ascertainable.

(d) Upon request, the manufacturer or importer must make available to EPA any information evaluated by the manufacturer or importer in determining the need for notification under paragraph (a)(2)(ii) of this section.

(e) The requirements for this exemption apply to all new chemical substances, including chemical substances manufactured or imported under such an exemption before the effective date of this rule.

§ 720.38 Exemptions for test marketing.

(a) Any person may apply for an exemption to manufacture or import a new chemical substance for test marketing. EPA may grant the exemption if the person demonstrates that the chemical substance will not present an unreasonable risk to injury to health or the environment as a result of the test marketing.

(b) Persons applying for a test-marketing exemption should provide the following information:

(1) All existing data regarding health and environmental effects of the chemical substance, including physical/chemical properties or, in the absence of such data, a discussion of toxicity based on structure-activity relationships (SAR) and relevant data on chemical analogues.

(2) The maximum quantity of the chemical substance which the applicant will manufacture or import for test marketing.

(3) The maximum number of persons who may be provided the chemical substance during test marketing.

(4) The maximum number of persons who may be exposed to the chemical substance as a result of test marketing, including information regarding duration and route of such exposures.

(5) A description of the test-marketing activity, including its length and how it can be distinguished from full-scale commercial production and research and development.

(c) In accordance with section 5(h)(6) of the Act, after EPA receives an application for exemption under this section, the Agency will file with the Office of the Federal Register a notice containing a summary of the information provided in the application, to the extent it has not been claimed confidential.

(d) No later than 45 days after EPA receives an application, the Agency will either approve or deny the application. Thereafter, EPA will publish a notice in the **Federal Register** explaining the reasons for approval or denial.

(e) In approving an application for exemption, EPA may impose any restrictions necessary to ensure that the substance will not present an unreasonable risk of injury to health and the environment as a result of test marketing (OMB Control No. 2070–0012).

Subpart C—Notice Form

§ 720.40 General.

(a) *Use of the notice form.* Each person who is required by Subpart B to submit a notice must complete, sign, and submit a notice containing the information in the form and manner set forth in EPA Form No. 7710–25 [3] under Appendix A of this part. Except as otherwise provided in Subpart C, each notice must be submitted with all referenced attachments. The information on the form and all attachments (unless the attachment appears in the open scientific literature) must be in English. All information submitted must be true and correct.

(b) *When to submit a notice.* Each person who is required to submit a notice must submit the notice at least 90 calendar days before manufacture or import of the new chemical substance for commercial purposes begins.

(c) *Where to submit a notice.* Each person who submits a notice must submit it to the address listed on the notice form.

(d) *General notice requirements.* Each person who submits a notice must provide the information described in § 720.45 and specified on the notice form, to the extent such information is known to or reasonably ascertainable by the submitter. In accordance with § 720.50, the notice must also include any test data in the submitter's possession or control and descriptions of other data which are known to or reasonably ascertainable by the submitter and which concern the health and environmental effects of the new chemical substance.

(e) *Agency or joint submissions.* (1) A manufacturer or importer may designate an agent to submit the notice. Both the manufacturer or importer and the agent must sign the certification on the form.

(2) A manufacturer or importer may authorize another person, (e.g., a foreign manufacturer or supplier, or a toll manufacturer) to report some of the information required in the notice to EPA on its behalf. If separate portions of a joint notice are not submitted together, the submitter should indicate which information will be supplied by another person and identify that person. The other person must submit the information on the appropriate part of the notice form. The manufacturer or importer and any other person supplying the information must sign the certification provided on their respective notice forms.

(3) If EPA receives a submission which does not include information required by this rule, which the submitter indicates that it has authorized another person to provide, the notice review period will not begin until EPA receives that information.

(f) *New information.* During the notice review period, if the submitter possesses, controls, or knows of new information that materially adds to, changes, or otherwise makes significantly more complete the information included in the notice, the submitter must that information to the address listed on the notice form within ten days of receiving the new information, but no later than five days before the end of the notice review period. The new submission must clearly identify the submitter and the notice to which the new information is related. If the new information becomes available during the last five days of the notice review period, the submitter must immediately inform its EPA contract for that notice by telephone.

(g) *Chemical substances subject to a section 4 test rule.*

(1) Except as provided in paragraph (g)(3) of this section, if (i) A person intends to manufacture or import a new chemical substance which is subject to the notification requirements of this Part, and (ii) The chemical substance is subject to a test rule promulgated under section 4 of the Act before the notice is submitted, section 5(b)(1) of the Act requires the person to submit the test data required by the testing rule with the notice. The person must submit the data in the form and manner specified in the test rule and in accordance with § 720.50. If the person does not submit the test data, the submission is incomplete and EPA will follow the procedures in § 720.65.

(2) If EPA has granted the submitter an exemption under section 4(c) of the Act from the requirement to conduct tests and submit data, the submitter may not submit a notice until EPA receives the test data.

(3) If EPA has granted the submitter an exemption under section 4(c) of the Act and if another person previously has submitted the test data to EPA, the exempted person may either submit the test data or provide the following information as part of the notice:

(i) The name, title, and address of the person who submitted the test data to EPA.

(ii) The date the test data were submitted to EPA.

(iii) A citation for the test rule.

(iv) A description of the exemption and a reference identifying it.

(h) *Chemical substances subject to a section 5(b)(4) rule.* (1) If a person (i) intends to manufacture or import a new chemical substance which is subject to the notification requirements of this part and which is subject to a rule issued under section 5 (b)(4) of the Act; and (ii) is not required by a rule issued under section 4 of the Act to submit test data for the substance before the submission of a notice, the person must submit to EPA data described in paragraph (h)(2) of this section at the time the notice is submitted.

(2) Data submitted under paragraph (h)(1) of this section must be data which the person submitting the notice believes show that the manufacture, processing, distribution in commerce, use and disposal of the substance, or any combination of such activities, will not present an unreasonable risk of injury to health or the environment (OMB Control No. 2070–0012).

§ 720.45 Information that must be included in the notice form.

Each person who submits a notice must include the information specified in the notice form to the extent it is known to or reasonably ascertainable by the submitter. However, no person is required to include information which relates solely to exposure of human or

[3] Copies may be obtained from: Industry Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW. Washington, D.C. 20460.

ecological populations outside of the United States. The notice form requires the following information relating to the manufacture, processing, distribution in commerce, use, and disposal of the new chemical substance:

(a)(1) For substances whose composition can be represented by a definite structural diagram (class 1 substances), the notice must provide the chemical name (preferably Chemical Abstracts Service (CAS) or International Union of Pure and Applied Chemistry (IUPAC) nomenclature), the molecular formula, CAS Registry Number (if available), and a structural diagram.

(2) For chemical substances that cannot be fully represented by a structural diagram (class 2 substances), the notice must provide the chemical name, the CAS Registry Number (if available), and molecular formula. The notice must identify the immediate precursors and reactants by name and CAS Registry Number (if the number is available). The notice must include a partial or incomplete structural diagram if possible. Chemical names for such substances should be developed according to the guidelines in the TSCA Chemical Substance Inventory, Initial Inventory, Volume 1.

(3) For polymers, the notice must identify monomers and other reactants used in the manufacture of the polymer by chemical name and CAS Registry Number (if available). The notice must indicate the typical percent of each monomer and other reactant in the polymer (by weight percent of total polymer); the maximum residual of each monomer present in the polymer; and a partial or incomplete structural diagram, if possible. The notice must provide estimates of the minimum number-average molecular weight of the polymer and the amount of low weight species below 500 and below 1,000 molecular weight and describe how the estimates were obtained.

(b) The impurities anticipated to be present in the substance by name, CAS Registry number, and weight percent of the total substance.

(c) Known synonyms or trade names of the new chemical substance.

(d) A description of the byproducts resulting from the manufacture, processing, use, and disposal of the new chemical substance.

(e) The estimated maximum amount to be manufactured or imported during the first year of production and the estimated maximum amount to be manufactured or imported during any 12-month period during the first three years of production.

(f) A description of intended categories of use by function and application, the estimated percent of production volume devoted to each category of use, and the percent of the new substance in the formulation for each commercial or consumer use.

(g) For sites controlled by the submitter:

(1) The identity of sites where the new substance will be manufactured, processed, or used.

(2) A process description of each manufacture, processing, and use operation which includes a diagram of the major unit operations and chemical conversions, the identity and entry point of all feedstocks, and the points of release of the new chemical substance.

(3) Worker exposure information, including worker activities, physical form of the new substance to which workers may be exposed, the number of workers, and the duration of activities.

(4) Information on release of the new substance to the environment, including the quantity and media of release and type of control technology used.

(h) For sites not controlled by the submitter, a description of each type of processing and use operation involving the new chemical substance, including identification of the estimated number of processing or use sites, situations in which worker exposure to and/or environmental release of the new chemical substance will occur, the number of workers exposed and the duration of exposure, and controls which limit worker exposure and environmental release.

§ 720.50 Submission of test data and other data concerning the health and environmental effects of a substance.

(a) *Test data on the new chemical substance in the possession or control of the submitter.* (1) Except as provided in paragraph (d) of this section, each notice must contain all test data in the submitter's possession or control which are related to the effects on health or the environment of any manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance or any mixture or article containing the new chemical substance, or any combination of such activities. This includes test data concerning the new chemical substance in a pure, technical grade, or formulated form.

(2) A full report or standard literature citation must be submitted for the following types of test data:

(i) Health effects data.

(ii) Ecological effects data.

(iii) Physical and chemical properties data.

(iv) Environmental fate characteristics.

(v) Monitoring data and other test data related to human exposure to or environmental release of the chemical substance.

(3)(i) If the data do no appear in the open scientific literature, the submitter must provide a full report. A full report includes the experimental methods and materials, results, discussion and data analysis, conclusions, references, and the name and address of the laboratory that developed the data.

(ii) If the data appear in the open scientific literature, the submitter need only provide a standard literature citation. A standard literature citation includes author, title, periodical name, date of publication, volume, and page numbers.

(4) (i) If a study, report, or test is incomplete when a person submits a notice, the submitter must identify the nature and purpose of the study; name and address of the laboratory developing the data; progress to date; types of data collected; significant preliminary results; and anticipated completion date.

(ii) If a test or experiment is completed before the notice review period ends, the person must submit the study, report, or test to the address listed on the notice form, as specified in paragraph (a)(3)(i) of this section, within ten days of receiving it, but no later than five days before the end of the review period. If the test or experiment is completed during the last five days of the review period, the submitter must immediately inform its EPA contact for that notice by telephone.

(5) For test data in the submitter's possession or control which are not listed in paragraph (a)(2) of this section, a person is not required to submit a complete report. The person must submit a summary of the data. If EPA so requests, the person must submit a full report within ten days of the request, but no later than five days before the end of the review period.

(6) All test data described by paragraph (a) are subject to these requirements, regardless of their age, quality, or results.

(b) *Other data concerning the health and environmental effects of the new chemical substance that are known to or reasonably ascertainable by the submitter.* (1) Except as provided in paragraph (d) of this section, any person who submits a notice must describe the following data, including any data from a health and safety study, if the data are related to the effects on health or the environment of any manufacture, processing, distribution in commerce, use, or disposal of the new chemical

substance, of any mixture or article containing the new chemical substance, or of any combination of such activities:

(i) Any data, other than test data, in the submitter's possession or control.

(ii) Any data, including test data, which are not in the submitter's possession or control, but which are known to or reasonably ascertainable by the submitter. For the purposes of this section, data are known to or reasonably ascertainable by the submitter if the data are known to any of its employees or other agents who are associated with the research and development, test marketing, or commercial marketing of the substance.

(2) Data that must be described include data concerning the new chemical substance in a pure, technical grade, or formulated form.

(3) The description of data reported under this paragraph must include:

(i) If the data appear in the open scientific literature, a standard literature citation, which includes the author, title, periodical name, date of publication, volume, and pages.

(ii) If the data are not contained in the open scientific literature, a description of the type of data and summary of the results, if available, and the names and addresses of persons the submitter believes may have possession or control of the data.

(4) All data described by this paragraph are subject to these requirements, regardless of their age, quality, or results; and regardless of whether they are complete at the time the notice is submitted.

(c) *Data concerning related chemicals.* A person must submit test data or descriptions of other data concerning impurities, byproducts, degradation products, unintended reaction products, or other chemical substances or mixtures related to the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance only if the data have not been published in the open scientific literature. The submitter may either submit these data with the notice or describe them in accordance with § 720.50(b)(3)(ii), rather than providing a full report.

(d) *Data that need not be submitted—*(1) *Data previously submitted to EPA.* (i) A person need not submit any data previously submitted to EPA with no claims of confidentiality if the notice includes the office or person to whom the data were submitted, the date of submission, and, if appropriate, a standard literature citation as specified in paragraph (a)(3)(ii) of this section.

(ii) For data previously submitted to EPA with a claim of confidentiality, the person must resubmit the data with the notice and any claim of confidentiality, under § 720.80.

(2) *Efficacy data.* This Part does not require submission of any data related solely to product efficacy. This does not exempt a person from submitting any of the data specified in paragraph (a), (b), or (c) of this section.

(3) *Non-U.S. exposure data.* This Part does not require submission of any data which relates only to exposure of humans or the environment outside the United States. This does not exclude nonexposure data such as data on health effects (including epidemiological studies), ecological effects, physical and chemical properties, or environmental fate characteristics.

§ 720.57 Imports.

(a) Except as otherwise provided in this section, the provisions of this Subpart C apply to each person who submits a notice for a new chemcial substance which he or she intends to import for a commercial purpose. In addition, each importer must comply with this section.

(b) EPA will hold the principal importer, or the importer that EPA determines must submit the notice when there is no principal importer under § 720.22(b) (2), liable for complying with this Part, for completing the notice form and for the completeness and truthfulness of all information which it submits.

Subpart D—Disposition of Notices

§ 720.60 General.

This subpart establishes procedures that EPA will follow in reviewing notices.

§ 720.62 Notice that notification is not required.

When EPA receives a notice, EPA will review it to determine whether the chemical substance is subject to the requirements of this Part. If EPA determines that the chemical substance is not subject to these requirements, EPA will notify the submitter that section 5 of the Act does not prevent the manufacture or import of the substance and that the submission is not a notice under this Part (OMB Control No. 2070-0012).

§ 720.65 Acknowledgment of receipt of a notice; errors in the notice; incomplete submissions; false and misleading statements.

(a) *Notification to submitter.* EPA will acknowledge receipt of each notice by sending the submitter a letter that identifies the premanufacture notice number assigned to the new chemical substance and the date on which the review period begins. The review period will begin on the date the notice is received by the Office of Toxic Substances Document Control Officer. The acknowledgment does not constitute a finding by EPA that the notice, as submitted, is in compliance with this Part.

(b) *Errors in the notice.* (1) Within 30 days of receipt of the notice, EPA may request that the submitter remedy errors in the notice. The following are examples of such errors:

(i) Failure to date the notice form.

(ii) Typographical errors that cause data to be misleading or answers to any questions to be unclear.

(iii) Contradictory information.

(iv) Ambiguous statements or information.

(2) In the request to correct the notice, EPA will explain the action which the submitter must take to correct the notice.

(3) If the submitter fails to correct the notice within 15 days of receipt of the request, EPA may extend the notice period under section (5)(c) of the Act, in accordance with § 720.75(c).

(c) *Incomplete submissions.* (1) A submission is not complete, and the notification period does not begin, if:

(i) The wrong person submits the notice form.

(ii) The submitter does not sign the notice form.

(iii) Some or all of the information in the notice or the attachments are not in English, except for published scientific literature.

(iv) The submitter does not use the notice form.

(v) The submitter does not provide information that is required by section 5(d)(1) (B) and (C) of the Act and § 720.50.

(vi) The submitter does not provide information required on the notice form and by § 720.45 or indicate that it is not known to or reasonably ascertainable by the submitter.

(vii) The submitter does not submit a second copy of the submission with all confidential information deleted for the public file, as required by § 720.80(b)(2).

(viii) The submitter does not include any information required by section 5(b)(1) of the Act and pursuant to a rule promulgated under section 4 of the Act, as required by § 720.40(g).

(ix) The submitter does not submit data which the submitter believes show that the chemical substance will not present an unreasonable risk of injury to health or the environment, if EPA has listed the chemical substance under

section 5(b)(4) of the Act, as required in § 720.40(h).

(2)(i) If EPA receives an incomplete submission, the Director, or his or her delegate, will notify the submitter within 30 days of receipt that the submission is incomplete and that the notice review period will not begin until EPA receives a complete notice.

(ii) If EPA obtains additional information during the notice review period that indicates the original submission was incomplete, the Director, or his or her delegate, may declare the submission incomplete within 30 days after EPA obtains the additional information and so notify the submitter.

(3) The notification that a submission is incomplete under paragraph (c)(2) (i) or (ii) of this section will include:

(i) A statement of the basis of EPA's determination that the submission is incomplete.

(ii) The requirements for correcting the incomplete submission.

(iii) Information on procedures under paragraph (c)(4) of this section for filing objections to the determination or requesting modification of the requirements for completing the submission.

(4) Within ten days after receipt of notification by EPA that a submission is incomplete, the submitter may file written objections requesting that EPA accept the submission as a complete notice or modify the requirements necessary to complete the submission.

(5)(i) EPA will consider the objections filed by the submitter. The Director, or his or her delegate, will determine whether the submission was complete or incomplete, or whether to modify the requirements for completing the submission. EPA will notify the submitter in writing of EPA's response within ten days of receiving the objections.

(ii) If the Director, or his or her delegate, determines, in response to the objection, that the submission was complete, the notice review period will be deemed suspended on the date EPA declared the notice incomplete, and will resume on the date that the notice is declared complete. The submitter need not correct the notice as EPA originally requested. If EPA can complete its review within 90 days from the date of the original submission, the Director, or his or her delegate, may inform the submitter that the running of the review period will resume on the date EPA originally declared it incomplete.

(iii) If the Director, or his or her delegate, modifies the requirements for completing the submission or concurs with EPA's original determination, the notice review period will begin when EPA receives a complete notice.

(d) *Materially false or misleading statements.* If EPA discovers at any time that person submitted materially false or misleading statements in the notice, EPA may find that the notice was incomplete from the date it was submitted, and take any other appropriate action.

§ 720.70 Notice in the Federal Register.

(a) *Filing of* **Federal Register** *notice.* In accordance with section 5(d)(2) of the Act, after EPA receives a notice, EPA will file with the Office of the Federal Register a notice including the information specified in paragraph (b) of this section.

(b) *Contents of notice.* (1) In the public interest, the specific chemical identity listed in the notice will be published in the **Federal Register** unless the submitter has claimed chemical identity confidential. If the submitter claims confidentiality, a generic name will be published in accordance with § 720.85(a)(3).

(2) The categories of use of the new chemical substance will be published as reported in the notice unless this information is claimed confidential. If confidentiality is claimed, the generic information which is submitted under § 720.87(b) will be published.

(3) A list of data submitted in accordance with § 720.50(a) will be published. In addition, for test data submitted in accordance with § 720.40(g), a summary of the data will be published.

(4) The submitter's identity will be published, unless the submitter has claimed it confidential.

§ 720.75 Notice review period.

(a) *Length of notice review period.* The notice review period specified in section 5(a) of the Act runs for 90 days from the date the Document Control Officer for the Office of Toxic Substances receives a complete notice, or the date EPA determines the notice is complete under § 720.65(c), unless the Agency extends the period under section 5(c) of TSCA and paragraph (c) of this section.

(b) *Suspension of the running of the notice review period.* (1) A submitter may voluntarily suspend the running of the notice review period if the Director or his or her delegate agrees. If the Director does not agree, the review period will continue to run, and EPA will notify the submitter. A submitter may request a suspension at any time during the notice review period. The suspension must be for a specified period of time.

(2) A request for suspension may be made in writing to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, 401 M Street SW., Washington, D.C. 20460. The suspension also may be made orally, including by telephone, to the submitter's EPA contact for that notice. EPA will send the submitter a written confirmation that the suspension has been granted (OMB Control No. 2070–0012).

(i) An oral request may be granted for 15 days only. To obtain a longer suspension, the Document Control Officer for the Office of Toxic Substances must receive written confirmation of the oral request. The notice review period is suspended as of the date of the oral request.

(ii) If the submitter has not made a previous oral request, the running of the notice review period is suspended as of the date of receipt of the written request by the Document Control Officer for the Office of Toxic Substances.

(c) *Extension of notice review period.* (1) At any time during the notice review period, EPA may determine that good cause exists to extend the notice review period specified in paragraph (a) of this section.

(2) If EPA makes such a determination, EPA will:

(i) Notify the submitter that EPA is extending the notice review period for a specified length of time, and state the reasons for the extension.

(ii) Issue a notice for publication in the **Federal Register** which states that EPA is extending the notice review period and gives the reasons for the extension.

(3) The initial extension may be for a period of up to 90 days. If the initial extension is for less than 90 days, EPA may make additional extensions. However, the total period of extensions may not exceed 90 days for any notice.

(4) The following are examples of situations in which EPA may find that good cause exists for extending the notice review period:

(i) EPA has reviewed the notice and determined that there is a significant possibility that the chemical substance will be regulated under section 5(e) or section 5(f) of the Act, but EPA is unable to initiate regulatory action within the initial 90-day period.

(ii) EPA has reviewed the submission and is seeking additional information.

(iii) EPA has received significant additional information during the notice review period.

(iv) The submitter has failed to correct a notice after receiving EPA's request under § 720.65(b).

(d) *Notice of expiration of notice review period.* EPA will notify the submitter that the notice review period has expired or that EPA has completed its review of the notice. Expiration of the review period does not constitute EPA approval or certification of the new chemical substance, and does not mean that EPA may not take regulatory action against the substance in the future. After expiration of the statutory notice review period, in the absence of regulatory action by EPA under section 5(e), 5(f), or 6(a) of the Act, the submitter may manufacture or import the chemical substance even if the submitter has not received notice of expiration.

(e) *Withdrawal of a notice by the submitter.* (1) A submitter may withdraw a notice during the notice review period. A statement of withdrawal must be made in writing to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, 401 M St. SW., Washington, D.C. 20460. The withdrawal is effective upon receipt of the statement by the Document Control Officer (OMB Control No. 2070–0012).

(2) If a manufacturer or importer which withdrew a notice later resubmits a notice for the same chemical substance, a new notice review period begins.

§ 270.78 Recordkeeping

(a) Any person who submits a notice under this Part must retain documentation of information in the notice, including (1) other data, as defined in § 720.50(b), in the submitter's possession or control; and (2) records of production volume for the first three years of production or import, the date of commencement of manufacture or import, and documentation of this information. This information must be retained for five years from the date of commencement of manufacture of import.

(b) Persons who manufacture or import a chemical substance under the terms of a research and development exemption must retain documentation of compliance with the exemption, including copies of the information they used to determine the need to make any notification of risk to health under § 720.36 for five years from the final date of manufacture or import under the exemption.

(c) Any person who obtains a test-marketing exemption under this Part must retain documentation of information in the application and documentation of compliance with any restrictions imposed by EPA when it granted the application. This information must be retained for five years from the final date of manufacture or import under the exemption (OMB Control No. 2070–0012).

Subpart E—Confidentiality and Public Access to Information

§ 720.80 General provisions.

(a) A person may assert a claim of confidentiality for any information which he or she submits to EPA under this Part.

(b) Any claim of confidentiality must accompany the information when it is submitted to EPA.

(1)(i) For information submitted on the notice form, the claim(s) must be asserted on the form in the manner prescribed on the notice form.

(ii) When a person submits information in an attachment, the claim(s) must be asserted in the attachment as described on the notice form.

(2) The person must submit two copies of each notice form and any attachments if any information is claimed confidential.

(i) One copy of the form and attachments must be complete. In that copy, the submitter must mark the information which is claimed confidential in the manner prescribed on the notice form.

(ii) The second copy must be complete except that all information claimed as confidential in the first copy must be deleted. EPA will place the second copy in the public file.

(iii) If the submitter does not provide the second copy, the submission is incomplete and the notice review period does not begin to run until EPA receives the second copy, in accordance with § 720.65(c)(vi).

(c) EPA will disclose information that is subject to a claim of confidentiality asserted under this section only to the extent permitted by the Act, this Subpart, and Part 2 of this Title.

(d) If a notice submitter does not assert a claim of confidentiality for information at the time it is submitted to EPA, EPA may make the information public and place it in the public file without further notice to the submitter (OMB Control No. 2070–0012).

§ 720.85 Chemical identity.

(a) *Claims applicable to the period prior to commencement of manufacture or import.* (1)(i) A person who submits information to EPA under this Part may assert a claim of confidentiality for the chemical identity of the new chemical substance. This claim will apply only to the period prior to the commencement of manufacture or import for commercial purposes. A submitter may assert this claim only if the submitter believes that public disclosure prior to commencement of manufacture or import of the fact that anyone intends to manufacture or import the specific chemical substance for commercial purposes would reveal confidential business information.

(ii) If the notice includes a health and safety study concerning the new chemical substance and if the claim for confidentiality with respect to the chemical identity is denied in accordance with § 720.90(c), EPA will deny a claim asserted under this paragraph.

(2) Any person who asserts a claim of confidentiality for chemical identity under this paragraph must provide one of the following items at the time the notice is submitted:

(i) The generic name which was accepted by EPA in the prenotice consultation conducted under paragraph (a)(3) of this section.

(ii) One generic name that is only as generic as necessary to protect the confidential chemical identity of the particular chemical substance. The name should reveal the specific chemical identity to the maximum extent possible. The generic name will be subject to EPA review and approval at the time a notice of commencement is submitted.

(3)(i) Any person who intends to assert a claim of confidentiality for the chemical identity of a new chemical substance may seek a determination by EPA of an appropriate generic name for the substance before submitting a notice. For this purpose, the person should submit to EPA:

(A) The chemical identity of the substance.

(B) A proposed generic name(s) which in only as generic as necessary to protect the confidential chemical identity of the new chemical substance. The name(s) should reveal the chemical identity of the substance to the maximum extent possible.

(ii) Within 30 days, EPA will inform the submitter either that one of the proposed generic names is adequate or that none is adequate and further consultation is necessary.

(4) If a submitter claims chemical identity to be confidential under this paragraph, and if the submitter complies with paragraph (a)(2) of this section, EPA will issue for publication in the **Federal Register** notice described in § 720.70 the generic name proposed by the submitter or one agreed upon by EPA and the submitter.

(b) *Claims applicable to the period after commencement of manufacture or*

import. (1) Any claim of confidentiality under paragraph (a) of this section is applicable only until the substance is manufactured or imported for commercial purposes and becomes eligible for inclusion on the Inventory. To maintain the confidential status of the chemical identity when the substance is added to the Inventory, a submitter must reassert the confidentiality claim and substantiate the claim in the notice of commencement of manufacture required uner § 720.102. A submitter may not claim the chemical indentity confidential for the period after commencement of manufacture or import unless the submitter claimed the chemical identity confidential for the period prior to commencement of manufacture or import under paragraph (a) of this section.

(2)(i) A person who believes that public disclosure of the fact that anyone manfactures or imports the new chemical substance for commercial purposes would reveal confidential business information may assert a claim of confidentiality under this paragraph.

(ii) If the notice includes a health and safety study concerning the new chemical substance, and if the claim for confidentiality with respect to the chemical identity is denied in accordance with § 720.90(c), EPA will deny a claim asserted under this paragraph.

(3) Any person who asserts a confidentiality claim for chemical identity must:

(i) Comply with the requirements of paragraph (a)(3) of this section regarding submission of a generic name.

(ii) Agree that EPA may disclose to a person with a *bona fide* intent to manufacture or import the chemical substance the fact that the particular chemical substance is included on the confidential Inventory for purposes of notification under section 5(a)(1)(A) of the Act.

(iii) Have available for the particular chemical substance, and agree to furnish to EPA upon request:

(A) An elemental analysis.

(B) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum (for most other substances), or an infrared spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the chemical substance.

(iv) Provide a detailed written substantiation of the claim, by answering the following questions:

(A) What harmful effects to your competitive position, if any, do you think would result if EPA publishes on the Inventory the identity of the chemical substance? How could a competitor use such information given the fact that the identity of the substance otherwise would appear on the Inventory of chemical substances with no link between the substance and your company or industry? How substantial would the harmful effects of disclosure be? What is the casual relationship between the disclosure and the harmful effects?

(B) For what period of time should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

(C) Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore disclosed through the patent, why should it be treated as confidential for purposes of the Inventory?

(D) Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know it is being manufactured on imported for a commercial purpose by anyone?

(E) Is the fact that someone is manufacturing or importing this chemical substance for commercial purposes available to the public, e.g., in technical journals or other publications; in libraries; or in State, local, or Federal agency public files?

(F) What measures have you taken to prevent undesired disclosure of the fact that you are manufacturing or importing this substance for a commercial purpose?

(G) To what extent has the fact that you are manufacturing or importing this chemical substance for a commercial purpose been disclosed to others? What precautions have you taken in regard to these disclosures? Has this information been disclosed to the public or to competitors?

(H) In what form does this particular chemical substance leave the site of manufacture, e.g., as part of a product; in an effluent or emission stream? If so, what measures have you taken to guard against discovery of its identity?

(I) If the chemical substance leaves the site of manufacture in a product that is available to either the public or your competitors, can they identify the substance by analyzing the product?

(J) For what purpose do you manufacture or import the substance?

(K) Has EPA, another Federal agency, or any Federal court made any pertinent confidentiality determinations regarding this chemical substance? If so, copies of such determinations must be included in the substantiation.

(L) If the notice includes a health and safety study concerning the new chemical substance, the submitter must also answer the questions in § 720.90 (b) (2).

(4) If the submitter does not meet the requirements of this paragraph, EPA will deny the claim of confidentiality.

(5) (i) EPA will publish a generic name on the public Inventory if:

(A) The submitter asserts a claim of confidentiality in accordance with this pargraph.

(B) No claim for confidentiality of the specific chemical identity as part of a health and safety study has been denied in accordance with Part 2 of this Title or § 720.90.

(ii) Publication of a generic name on the public Inventory does not create a category for purposes of the Inventory. Any person who has a *bona fide* intent to manufacture or import a chemical substance which is described by a generic name on the public Inventory may submit an inquiry to EPA under § 720.25 (b) to determine whether the particular chemical substance is included on the confidential Inventory.

(iii) Upon receipt of a request described in § 720.25 (b), EPA may require the submitter which originally asserted confidentiality for a chemical substance to submit to EPA the information listed in paragraph (b) (3) (iii) of this section.

(iv) Failure to submit any of the information required under paragraph (b) (3) (iii) of this section within ten days of a request by EPA under this paragraph is a waiver of the original submitter's confidentiality claim. In this event, EPA may place the specific chemical identity on the public Inventory without further notice to the original submitter.

(6) If a submitter asserts a claim of confidentiality under this paragraph, EPA will examine the generic chemical name proposed by the submitter.

(i) If EPA determines that the generic name proposed by the submitter is only as generic as necessary to protect the confidential identity of the particular chemical substance, EPA will place that generic name on the public Inventory.

(ii) If EPA determines that the generic name proposed by the submitter is more generic than necessary to protect the confidential identity, EPA will propose in writing, for review by the submitter, an alternative generic name that will reveal the chemical identity of the chemical substance to the maximum extent possible.

(iii) If the generic name proposed by EPA is acceptable to the submitter, EPA will place that generic name on the public Inventory.

(iv) If the generic name proposed by EPA is not acceptable to the submitter, the submitter must explain in detail why disclosure of that generic name would reveal confidential business information and propose another generic name which is only as generic as necessary to protect the confidential identity. If EPA does not receive a response from the submitter within 30 days after the submitter receives the proposed name, EPA will place EPA's chosen generic name on the public Inventory. If the submitter does provide the information requested, EPA will review the response. If the submitter's proposed generic name is acceptable, EPA will publish that generic name on the public Inventory. If the submitter's proposed generic name is not acceptable, EPA will notify the submitter of EPA's choice of a generic name. Thirty days after this notification, EPA will place the chosen generic name on the public Inventory.

§ 720.87 Categories or proposed categories of uses of a new chemical substance.

(a) A person who submits information to EPA under this Part on the categories or proposed categories of use of a new chemical substance may assert a claim of confidentiality for this information.

(b) A submitter that asserts such a claim must:

(1) Report the categories or proposed categories of use of the chemical substance.

(2) Provide, in nonconfidential form, a description of the uses that is only as generic as necessary to protect the confidential business information. The generic use description will be included in the **Federal Register** notice described in § 720.70.

(c) The person must submit the information required by paragraph (b) of this section in the manner specified in the notice form.

§ 720.90 Data from health and safety studies.

(a) *Information other than specific chemical identity.* Except as provided in paragraph (b) of this section, EPA will deny any claim of confidentiality with respect to information included in a health and safety study, unless the information would disclose confidential business information concerning:

(1) Processes used in the manufacture or processing of a chemical substance or mixture.

(2) In the case of a mixture, the portion of the mixture comprised by any of the chemical substances in the mixture.

(3) Informaton which is not in any way related to the effects of a substance on human health or the environment, such as the name of the submitting company, cost or other financial data, product development or marketing plans, and advertising plans, for which the person submits a claim of confidentiality in accordance with § 720.80.

(b) *Specific chemical identity.* (1) *Claims applicable to period prior to commencement of manufacture.* A claim of confidentiality for the period prior to commencement of manufacture or import for the chemical identity of a chemical substance for which a health and safety study was submitted must be asserted in conjunction with a claim asserted under § 720.85(a).

(2) *Claims applicable to period after commencement of manufacture or import for commercial purposes.* To maintain the confidential status of the chemical identity of a chemical substance for which a health and safety study was submitted after commencement of manufacture or import, the claim must be reasserted and substantiated in conjunction with a claim under § 720.85(b). In addition to the questions set forth in § 720.85(b)(3)(iv) of this Part, the submitter must answer the following questions:

(i) Would disclosure of the chemical identity disclose processes used in the manufacture or processing of a chemical substance or mixture? Describe how this would occur. In responding to the question in § 720.85(b)(3)(iv)(A), explain what harmful competitive effects would occur from disclosure of this process information.

(ii) Would disclosure of the chemical identity disclose the portion of a mixture comprised by any of the substances in the mixture? Describe how this would occur. In responding to the question in § 720.85(b)(3)(iv)(A), explain what harmful competitive effects would occur from disclosure of this information.

(iii) Do you assert that disclosure of the chemical identity is not necessary to interpret any of the health and safety studies you have submitted? If so, explain how a less specific identity would be sufficient to interpret the studies.

(c) *Denial of confidentiality claim.* EPA will deny a claim of confidentiality for chemical identity under paragraph (b) of this section, unless:

(1) The information would disclose processes used in the manufacture or processing of a chemical substance or mixture.

(2) In the case of a mixture, the information would disclose the portion of the mixture comprised by any of the substances in the mixture.

(3) The specific chemical identity is not necessary to interpret a health and safety study.

(d) *Use of generic names.* When EPA discloses a health and safety study containing a specific chemical identity, which the submitter has claimed confidential, and if the Agency has not denied the claim under paragraph (c) of this section, EPA will identify the chemical substance by the generic name selected under § 720.85. [OMB Control No. 2070-0012]

§ 720.95 Public file.

All information submitted with a notice, including any health and safety study and other supporting documentation, will become part of the public file for that notice, unless such materials are claimed confidential. In addition, EPA may add materials to the public file, subject to Subpart E of this Part. Any of the nonconfidential material described above will be available for public inspection in the Office of Toxic Substances Public Reading Room, Rm. E-107, 401 M St., SW., Washington, DC 20460, during normal business hours.

Subpart F—Commencement of Manufacture or Import

§ 720.102 Notice of commencement of manufacture or import.

(a) *Applicability.* Any person who commences to manufacture or import a new chemical substance for a commercial purpose for which that person previously submitted a section 5 notice under this Part must submit a notice of commencement of manufacture or import.

(b) *When to report.* (1) If manufacture or import for commercial purposes begins on or after the effective date of this rule, the submitter must submit the notice to EPA on the first day of such manufacture or import.

(2) If manufacture or import for commercial purposes began or will begin before the effective date of this rule, the submitter must submit the notice by the effective date of this rule.

(c) *Information to be reported.* The notice must contain the following information: specific chemical identity, premanufacture notice number, and the date when manufacture or import commences. If the person claimed chemical identity confidential in the commencement notice, and wants the identity to be listed on the confiden'ial

Inventory, the claim must be reasserted and substantiated in accordance with § 720.85(b). Otherwise, EPA will list the specific chemical identity on the public Inventory (OMB Control No. 2070–0012).

Subpart G—Compliance and Inspections

§ 720.120 Compliance.

(a) Failure to comply with any provision of this Part is a violation of section 15 of the Act (15 U.S.C 2614).

(b) A person who manufactures or imports a new chemical substance before a notice is submitted and the notice review period expires is in violation of section 15 of the Act even if that person was not requied to submit the notice under § 720.22 of this Part.

(c) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of section 5 of this rule is a violation of section 15 of the Act (15 U.S.C. 2614).

(d) Failure or refusal to establish and maintain records or to permit access to or copying of records, as required by the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(e) Failure or refusal to permit entry or inspection as required by section 11 is a violation of section 15 of the Act (15 U.S.C. 2614).

(f) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirements of any provision of this rule may be subject to penalties calculated as if they never filed their notices.

(g) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of this rule or act to seize any chemical substance manufactured or processed in violation of this rule or take other actions under the authority of section 7 of this Act (15 U.S.C. 2606) or section 17 or this Act (15 U.S.C. 2616).

§ 720.122 Inspections.

EPA will conduct inspections under section 11 of the Act to assure compliance with section 5 of the Act and this rule, to verify that information submitted to EPA under this rule is true and correct, and to audit data submitted to EPA under this rule.

BILLING CODE 6560-50-M

Appendix A—Premanufacture Notice for New Chemical Substances

O.M.B. No. 2070-0012: Approval Expires 3-3-86

EPA United States Environmental Protection Agency

PREMANUFACTURE NOTICE FOR NEW CHEMICAL SUBSTANCES

When completed send this form to:

DOCUMENT CONTROL OFFICER
OFFICE OF TOXIC SUBSTANCES, TS-793
U.S. E.P.A.
401 M STREET, SW
WASHINGTON, D.C. 20460

AGENCY USE ONLY

Date of receipt

Enter the total number of pages in the Premanufacture Notice ——→

Document control number

EPA case number

GENERAL INSTRUCTIONS

You must provide all information requested in this form to the extent that it is known to or reasonably ascertainable by you. Make reasonable estimates if you do not have actual data.

Before you complete this form, you should read the "Instructions Manual for Premanufacture Notification" (**Instructions Manual**).

Part I. GENERAL INFORMATION

You must provide the chemical identity of the new chemical substance, even if you claim the identity as confidential. You may authorize another person to submit the identity for you, but your submission will not be complete and review will not begin until EPA receives this information

Part II. HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE

You may need additional copies of part II, sections A and B if there are several manufacture, processing, or use operations that you will describe in the notice. You should reproduce these sections as needed.

Part III. LIST OF ATTACHMENTS

You should attach additional sheets if you do not have enough space on the form to answer a question fully. In part III, list these attachments, any test data or other data, and any optional information that you include in the notice.

OPTIONAL INFORMATION

You may include in the notice any information that you want EPA to consider in evaluating the new substance. The **Instructions Manual** identifies categories of optional information that you may want EPA to review.

CONFIDENTIALITY CLAIMS

You may claim any information in this notice as confidential. To assert a claim on the form, mark (X) the confidential box next to the information that you claim as confidential. To assert a claim in an attachment, circle or bracket the information you claim as confidential. If you claim information in the notice as confidential, you must provide a sanitized version of the notice, including attachments, to EPA with your submission. For additional instructions on claiming information as confidential, read the **Instructions Manual.**

Indicate below the categories of information you have claimed as confidential in the notice.

1 ☐ SUBMITTER IDENTITY
2 ☐ CHEMICAL IDENTITY
3 ☐ PRODUCTION VOLUME
4 ☐ USE INFORMATION
5 ☐ PROCESS INFORMATION
6 ☐ PORTIONS OF A MIXTURE
7 ☐ OTHER INFORMATION

TEST DATA AND OTHER DATA

You are required to submit all test data in your possession or control and to provide a description of all other data known to or reasonably ascertainable by you if these data are related to the health and environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance. Standard literature citations may be submitted for data in the open scientific literature. Complete test data, not summaries of data, must be submitted if they do not appear in the open literature. Following are examples of test data and other data. You should submit these data according to the requirements of §720.50 of the Premanufacture Notification Rule (40 CFR Part 720)

Test data

- **Environmental fate data**
  - Spectra (UV, visible, and infrared)
  - Density of liquids and solids
  - Water solubility
  - Melting point/melting range
  - Boiling point/boiling range
  - Vapor pressure
  - Partition coefficient, n-octanol/water
  - Biodegradation
  - Hydrolysis (as a function of pH)
  - Photochemical degradation
  - Adsorption/desorption to soil types
  - Dissociation constant
  - Other physical/chemical properties
- **Health effects data**
  - Mutagenicity
  - Carcinogenicity
  - Teratogenicity
  - Acute toxicity
  - Repeated dose toxicity
  - Metabolism studies
  - Sensitization
  - Irritation
- **Environmental effects data**
  - Microbial and algal toxicity
  - Terrestrial vascular plant toxicity (e.g., seed germination studies, growth inhibition)
  - Acute and chronic toxicity to animals (e.g., fish, birds, mammals, invertebrates)

Other data

- **Risk assessments**
- **Structure/activity relationships**
- **Test data not in the possession or control of the submitter**

CERTIFICATION

I certify that to the best of my knowledge and belief:

1. The company named in part I, section A, subsection 1a of this notice form intends to manufacture or import for a commercial purpose, other than in small quantities solely for research and development, the substance identified in part I, section B.

2. All information provided in this notice is complete and truthful as of the date of submission.

3. I am submitting with this notice all test data in my possession or control and a description of all other data known to or reasonably ascertainable by me as required by § 720.50 of the Premanufacture Notification Rule.

		Confidential
Signature of authorized official	Date	
Signature of agent — *(if applicable)*	Date	

Part I — GENERAL INFORMATION

Section A — SUBMITTER IDENTIFICATION

Confidential

Mark (X) the "Confidential" box next to any subsection you claim as confidential.

1a. Person submitting notice

Name of authorized official | Title

Company

Mailing address (number and street)

City, State, ZIP code

b. Agent *(if applicable)*

Name of authorized official | Title

Company

Mailing address (number and street)

City, State, ZIP code

c. *If you are submitting this notice as part of a joint submission, mark (X) this box.* → ☐

2. Technical contact

Name | Title

Company

Mailing address (number and street)

City, State, ZIP code | Telephone | Area code | Number

3. If you have had a prenotice communication (PC) concerning this notice and EPA assigned a PC Number to the notice, enter the number → | *Mark (X) if none* → ☐

4. If you have submitted a test-marketing exemption (TME) application for the chemical substance covered by this notice, enter the TME number assigned by EPA → | *Mark (X) if none* → ☐

5. If you have submitted a bona fide request for the chemical substance covered by this notice, enter the bona fide request number assigned by EPA → | *Mark (X) if none* → ☐

6. Type of Notice — *Mark (X)* 1 ☐ Manufacture 2 ☐ Import

Part I — GENERAL INFORMATION — Continued

Section B — CHEMICAL IDENTITY INFORMATION

Mark (X) the "Confidential" box next to any item you claim as confidential.

Complete either item 1 or 2 as appropriate. Complete all other items.

If another person will submit chemical identity information for you, mark (X) the box at the right. → ☐
Identify the name, company, and address of that person in a continuation sheet.

Confi-dential

1. **Class 1 or 2 chemical substances** (for definitions of class 1 and class 2 substances, see the **Instructions Manual**)

a. Class of substance — *Mark (X)* 1 ☐ Class 1 2 ☐ Class 2

b. Chemical name (preferably CAS or IUPAC nomenclature)

c. Molecular formula and CAS Registry Number (if known)

d. For a class 1 substance, provide a structural diagram. For a class 2 substance — (1) List the immediate precursor substances with their respective CAS Registry Numbers. (2) Describe the nature of the reaction or process. (3) Indicate the range of composition and the typical composition (where appropriate). (4) Provide a representative structural diagram (if possible).

☐ *Mark (X) this box if you attach a continuation sheet.*

Part I — GENERAL INFORMATION — Continued

Section B — CHEMICAL IDENTITY INFORMATION — Continued

2. Polymers (For a definition of polymer, see the **Instructions Manual**.)

Confi-dential

a. Indicate the **lowest** number-average molecular weight composition of the polymer you intend to manufacture. Indicate the **maximum** weight percent of low molecular weight species below 500 and below 1,000 absolute molecular weight of that composition. Describe the methods of measurement or the bases for your estimates.

☐ *Mark (X) this box if you attach a continuation sheet.*

b. You must make separate confidentiality claims for monomer or other reactant identity, composition information, and residual information. Mark (X) the "Confidential" box next to any item you claim as confidential.

(1) — Provide the chemical name and CAS Registry Number of each monomer or other reactant used in the manufacture of the polymer.
(2) — Indicate the **typical** weight percent of each monomer or other reactant in the polymer.
(3) — Mark (X) the identity column if you want a monomer or other reactant used at two weight percent or less to be listed as part of the polymer description on the TSCA Chemical Substance Inventory.
(4) — Indicate the **maximum** weight percent of each monomer or other reactant that may be present as a residual in the polymer as manufactured for commercial purposes.

Monomer or other reactant and CAS Registry Number (1)	Confi-dential	Typical composition (2)	Identity Mark (X) (3)	Confi-dential	Maximum residual (4)	Confi-dential
		%			%	
		%			%	
		%			%	
		%			%	
		%			%	
		%			%	
		%			%	

☐ *Mark (X) this box if you attach a continuation sheet.*

c. Provide a representative structural diagram of the polymer, if possible.

☐ *Mark (X) this box if you attach a continuation sheet.*

Part I — GENERAL INFORMATION — Continued

Section B — CHEMICAL IDENTITY INFORMATION — Continued

3. Impurities

(a) — Identify each impurity that may be reasonably anticipated to be present in the chemical substance as manufactured for commercial purposes. Provide the CAS Registry Number if available. If there are unidentified impurities, enter "unidentified."

(b) — Estimate the **maximum** weight percent of each impurity. If there are unidentified impurities, estimate their total weight percent.

Impurity and CAS Registry Number (a)	Maximum percent (b)	Confidential
	%	
	%	
	%	
	%	
	%	
	%	
	%	

☐ *Mark (X) this box if you attach a continuation sheet.*

4. Synonyms — Enter any synonyms for the new chemical substance identified in subsection 1 or 2. **Confidential**

☐ *Mark (X) this box if you attach a continuation sheet.*

5. Trade identification — List trade names for the new chemical substance identified in subsection 1 or 2.

☐ *Mark (X) this box if you attach a continuation sheet.*

6. Generic chemical name — If you claim chemical identity as confidential, enter the generic chemical name that you developed with EPA during prenotice communication. If you have not developed a generic name with EPA, provide a generic name that reveals the specific chemical identity of the new chemical substance to the maximum extent possible. Read the TSCA Chemical Substance Inventory, Initial Inventory, Volume I for guidance on developing generic names.

☐ *Mark (X) this box if you attach a continuation sheet.*

7. Byproducts — Describe any byproducts resulting from the manufacture, processing, use, or disposal of the new chemical substance at sites you control. Provide the CAS Registry Number if available.

Byproduct (1)	CAS Registry Number (2)	Confidential

☐ *Mark (X) this box if you attach a continuation sheet.*

Part I — GENERAL INFORMATION — Continued

Section C — PRODUCTION, IMPORT, AND USE INFORMATION

Mark (X) the "Confidential" box next to any item you claim as confidential.

1. Production volume — Estimate the **maximum** production volume during the first 12 months of production. Also estimate the **maximum** production volume for any consecutive 12-month period during the first three years of production.

Maximum first 12-month production (kg/yr)	Maximum 12-month production (kg/yr)	Confidential

2. Use Information

You must make separate confidentiality claims for the description of the category of use, the percent of production volume devoted to each category, the formulation of the new substance, and other use information. Mark (X) the "Confidential" box next to any item you claim as confidential.

a. (1) — Describe each intended category of use of the new chemical substance by function and application.
(2) — Estimate the percent of total production for the first three years devoted to each category of use.
(3) — Estimate the percent of the new substance as formulated in mixtures, suspensions, emulsions, solutions, or gels as manufactured for commercial purposes at sites under your control associated with each category of use.
(4) — Mark (X) whether the use is site-limited, industrial, commercial, or consumer. Mark more than one column if appropriate.

Read the **Instructions Manual** for examples.

Category of use (1)	Confidential	Production (percent) (2)	Confidential	Formulation (percent) (3)	Confidential	Mark (X) appropriate column(s) (4)				Confidential
						Site-limited	Industrial	Commercial	Consumer	
		%		%						
		%		%						
		%		%						
		%		%						

☐ *Mark (X) this box if you attach a continuation sheet.*

b. Generic use description — If you claim any category of use description in subsection 2a as confidential, enter a generic description of that category. Read the **Instructions Manual** for examples of generic use descriptions.

☐ *Mark (X) this box if you attach a continuation sheet.*

3. Hazard Information — Include in the notice a copy or reasonable facsimile of any hazard warning statement, label, material safety data sheet, or other information which will be provided to any person regarding protective equipment or practices for the safe handling, transport, use, or disposal of the new chemical substance. List in part III any hazard information you include.

☐ *Mark (X) this box if you attach hazard information.*

Part II — HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE

Section A — INDUSTRIAL SITES CONTROLLED BY THE SUBMITTER

Complete section A for each type of manufacture, processing, or use operation involving the new chemical substance at industrial sites you control.

Mark (X) the "Confidential" box next to any item you claim as confidential.

1. Operation description

Confi-dential

a. Identity — Enter the identity of the site at which the operation will occur.

Name

Site address (number and street)

City, County, State, ZIP code

If the same operation will occur at more than one site, enter the number of sites. → Identify the additional sites on a continuation sheet.

☐ *Mark (X) this box if you attach a continuation sheet.*

b. Type — *Mark (X)*

1 ☐ Manufacturing 2 ☐ Processing 3 ☐ Use

c. Amount and Duration — *Complete 1 or 2 as appropriate*

1. Batch	Maximum kg/batch	Hours/batch	Batches/year
2. Continuous	Maximum kg/day	Hours/day	Days/year

d. Process description

(1) Diagram the major unit operation steps and chemical conversions.

(2) Provide the identity, the approximate weight (by kg/day or kg/batch), and entry point of all feedstocks (including reactants, solvents, and catalysts).

(3) Identify by number the points of release to the environment of the new chemical substance.

☐ *Mark (X) this box if you attach a continuation sheet.*

Part II — HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE — Continued

Section A — INDUSTRIAL SITES CONTROLLED BY THE SUBMITTER — Continued

2. Occupational Exposure

You must make separate confidentiality claims for the description of worker activity, physical form of the new chemical substance, number of workers exposed, and duration of activity. Mark (X) the "Confidential" box next to any item you claim as confidential.

(1) — Describe the activities in which workers may be exposed to the new chemical substance. Include activities in which workers wear protective equipment.
(2) — Indicate the physical form(s) of the new chemical substance at the time of exposure.
(3) — Estimate the maximum number of workers involved in each activity.
(4) and (5) — Estimate the maximum duration of the activity for any worker in hours per day and days per year.

Worker activity (1)	Confidential	Physical form(s) (2)	Confidential	Maximum number (3)	Confidential	Maximum duration		Confidential
						Hrs/day (4)	Days/yr (5)	

☐ *Mark (X) this box if you attach a continuation sheet.*

3. Environmental Release and Disposal

You must make separate confidentiality claims for the release number and the amount of the new chemical substance released and other release and disposal information. Mark (X) the "Confidential" box next to each item you claim as confidential.

(1) — Enter the number of each release point identified in the process description, part II, section A, subsection 1d(3).
(2) — Estimate the amount of the new chemical substance released directly to the environment or into control technology (in kg/day or kg/batch).
(3) — Identify the media (air, land, or water) to which the new substance will be released from that release point.
(4) — Describe control technology, if any, that will be used to limit the release of the new substance to the environment. For releases disposed of on land, characterize the disposal method.
(5) — Identify the destination(s) of releases to water.

Release Number (1)	Amount of new substance released (2)	Confidential	Media of release (3)	Control technology (4)	Confidential

(5) Mark (X) the destination(s) of releases to water. 1 ☐ POTW (publicly owned treatment works) 2 ☐ Navigable waterway 3 ☐ Other — *Specify* _____

☐ *Mark (X) this box if you attach a continuation sheet.*

Part II — HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE — Continued

Section B — INDUSTRIAL SITES CONTROLLED BY OTHERS

Complete section B for each type of processing or use operation involving the new chemical substance at sites you do not control.

*To claim information in this section as confidential, circle or bracket the **specific** information that you claim as confidential.*

Operation description

Describe the typical processing or use operation. Identify the unit operation steps which may occur during the operation. Estimate the number of sites at which the operation is likely to occur. Identify situations in which worker exposure to and/or environmental release of the new chemical substance may occur. Estimate the percent of new chemical substance as formulated in products manufactured for commercial purposes in the operation or as used in the operation. Estimate the number of workers exposed and the duration of exposure. Identify controls which limit worker exposure and environmental release if typically used. Identify byproducts which may result from the operation.

☐ *Mark (X) this box if you attach a continuation sheet.*

Part III — LIST OF ATTACHMENTS

Attach continuation sheets for sections of the form and test data and other data (including physical/chemical properties and structure/activity information), and optional information after this page. Clearly identify the attachment and the section of the form to which it relates, if appropriate. Number consecutively the pages of the attachments. In the column below, enter the inclusive page numbers of each attachment.

Mark (X) the "Confidential" box next to any attachment **name** you claim as confidential. Read the **Instructions Manual** for guidance on how to claim any information in an attachment as confidential. You must include with the sanitized copy of the notice form a sanitized version of any attachment in which you claim information as confidential.

Attachment name	Attachment page number(s)	Confidential

☐ *Mark (X) this box if you attach a continuation sheet. Enter the attachment name and number.*

FORM EPA-7710-25 (4-26-83)

[FR Doc. 83-12401 Filed 5-13-83; 8:45 am]
BILLING CODE 6560-50-C

federal register

Friday
May 13, 1983

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut:	
CT82-3001	Feb. 5, 1983.
CT81-3032	May 15, 1981.
Hawaii: HI83-5104	Mar. 18, 1983.
Iowa:	
IA82-4030	June 18, 1982.
IA82-4048	Oct. 1, 1982.
Ohio:	
OH83-2006	Feb. 11, 1983.
OH83-2013	Feb. 25, 1983.
Texas:	
TX83-4002	Jan. 7, 1983.
TX83-4003	Jan. 7, 1983.
TX83-4004	Jan. 7, 1983.
TX83-4005	Jan. 7, 1983.
TX83-4026	Apr. 8, 1983.
Utah UT83-5108	Mar. 25, 1983.
West Virginia WV83-3000	Mar. 11, 1983.
New York, Conn., Dela., Ne., Md., Mass., N.H., N.J., Pa. & R.I.:	NY-83-3013 Apr. 29, 1983.
New York: NY81-3062	Sept. 11, 1981.
Indiana: IN83-2031	Apr. 22, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR82-4006 (AR83-4040)	Feb. 12, 1982.
AR82-4036 (AR 83-4037)	July 9, 1982.
AR82-4038 (AR 83-4039)	July 23, 1982.
AR82-4039 (AR 83-4037)	July 23, 1982.
Indiana: IN83-2016 (IN83-2032)	Feb. 11, 1983.
Iowa: IA81-4101 (IA83-4035)	Dec. 11, 1981.
Maryland: MD81-3056 (MD83-8017)	Aug 14, 1981.
New Hampshire: NH82-3009 (NH83-3011).	Feb. 26, 1982.
New Mexico: NM82-4043 (NM83-4036)	Aug. 27, 1982.
Ohio:	
OH83-2040	Aug. 20, 1982.
OH82-2045 (OH83-2041)	Aug. 13, 1982.
OH83-2010 (OH 83-2039)	Feb. 11, 1983.
Wisconsin: WI80-2064 (WI83-2041	Sept. 26, 1980.

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

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. CT82-3001 - MOD. #13 (47 FR 5612 - February 5, 1982) FAIRFIELD, LITCHFIELD AND WINDHAM COUNTIES, CONN.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS:		
AREA 5	17.20	3.05+ 3.75%

DECISION NO. CT81-3032 - MOD. #24 (46 FR 20740 - May 15, 1981) HARTFORD, MIDDLESEX, NEW HAVEN, NEW LONDON AND TOLLAND COUNTIES, CONN.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
SHEET METAL WORKERS	16.69	3.25+3%

DECISION NO. HI83-5106 - Mod. #1 (48 FR 11610 - March 18, 1983) Statewide, Hawaii	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$14.61	$5.61
Cement Masons:		
Cement Masons	14.18	5.55
Troweling Machine Operators	14.33	5.55
Landscape and Irrigation Laborers:		
Group 1	8.87	2.52
Group 2	8.13	2.52
Group 3	6.26	2.52
Roofers	15.30	4.93

DECISION NO. IA82-4030 - MOD. #15 (47 FR 26537 - 6/18/82) Black Hawk, Cerro Gordo, Clinton, Des Moines, Dubuque, Johnson, Linn & Polk Cos., Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Zone 1:		
Carpenters, soft floor layers, piledrivermen	$ 9.00	2.78
Millwrights	9.60	2.78
Cement masons - Zone 1	9.00	2.50
Ironworkers - Zone 1	10.70	1.96
Laborers:		
Zone 1 - Group 1	7.35	1.60
Group 2	7.50	1.60
Group 3	7.70	1.60

DECISION NO. IA-82-4048 - MOD. #5 (47 FR 43517 - 10/1/82) Woodbury County, Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Line construction:		
GROUP 1 - Lineman; all rigs setting assembled "H" fixtures, steel & concrete transmission structures	15.65	.65+b+ 7½%
GROUP 2 - Special equipment operations (hole digging machines, all tractors, transmission line pole hauling & setting equipment other than assembled "H" fixtures	12.99	"
GROUP 3 - Blaster	12.52	"
GROUP 4 - Groundman	10.17	"
GROUP 5 - Groundman-truck driver	10.33	"
GROUP 6 - Pole treating truck driver	10.02	"
GROUP 7 - Pole treating specialist	12.05	"

DECISION NO. OR83-2006 - Mod. #4 (48 FR 6459-February 11, 1983) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers & Stonemasons:		
Area 2	$15.49	$1.87
Area 3	17.13	2.94
Area 8	17.94	1.11
Area 9	15.59	3.23
Area 14	18.59	4.12
Area 15	15.95	3.23
Area 16	15.85	2.86
Area 17	16.54	2.44
Area 19	16.06	1.55
Area 23	15.95	3.23
Area 24	14.78	2.04
Carpenters & Piledrivermen:		
Area 2:		
Carpenters	15.05	2.58
Piledrivermen	15.70	2.58
Area 5:		
Carpenters	15.05	2.58
Piledrivermen	15.70	2.58
Area 11:		
Piledrivermen	17.91	2.73
Area 12:		
Piledrivermen	17.91	2.73
Area 13:		
Carpenters:		
Piledrivermen	17.91	2.73
Electricians:		
Area 9:		
Electricians	17.90	2.63
Cable Splicers	18.40	2.64
Area 11	17.10	3.42
Area 17	19.83	3.36
Area 18:		
Electricians	21.20	2.50
Cable Splicers	24.38	2.60
Ironworkers:		
Area 3:		
Within 15 miles radius of Local Union Office #290	16.86	2.95
Outside 15 miles radius of Local Union Office #290	17.01	2.95
Area 4	15.00	6.09
Area 5	18.78	2.32
Area 7	19.62	3.12
Area 9	15.33	3.15

Painters:	Basic Hourly Rates	Fringe Benefits
Area 4:		
Brush	$18.46	$3.22
Bridge and Open Steel; Closed Steel over 55'	19.16	3.22
Closed Steel below 55'; Spray	18.86	3.22
Area 5:		
Brush	15.60	
Spray	16.25	
Area 6:		
Brush	14.00	1.75
Roller	14.50	1.75
Spray	15.00	1.75
Bridges	15.50	1.75
Area 10:		
Brush	14.75	1.00
Spray	15.45	1.00
Area 11:		
Brush; Roller	17.62	1.00
Structural Steel	18.82	1.00
Spray; Sandblast	18.12	1.00
Area 13:		
Brush	14.94	2.67
Structural Steel	15.24	2.67
Spray	15.44	2.67
Plumbers: Steamfitters and Pipefitters:		
Area 4:		
Plumbers	19.43	3.22
Area 5	14.38	3.77
Area 7	18.50	2.50
Area 12:		
Within 12 miles radius of 3rd and Main Streets, Dayton, Ohio	18.56	4.68
Outside 12 mile radius of 3rd and Main Streets, Dayton, Ohio	18.81	4.68
Area 17	16.45	3.10
Line Construction:		
Area 8:		
Linemen	17.90	2.63
Cable Splicers	18.40	2.64
Groundmen	12.53	2.44
Area 9:		
Cable Splicers	15.99	3.37
Linemen	17.10	3.42
Line Equipment Operators	14.84	3.31
Groundmen; Truck Drivers	11.24	3.14

Modification Page 3

DECISION NO. OH83-2006 - (Cont'd)	Basic Hourly Rates	Fringe Benefits
Area 11:		
Cable Splicers; Equipment Operators; Linemen	$20.00	$1.55
Groundmen	13.00	1.305
Area 15:		
Linemen	19.16	2.33+k
Technicians	18.59	2.28+k
Cable Splicers	22.03	2.57+k
Operator, Class 1	15.33	2.00+k
Operator, Class 2	13.41	1.84+k
Groundmen	11.50	1.68+k
Area Descriptions:		
Painters:		
Area 6: Belmont, Harrison, and Jefferson Counties		
Plumbers; Steamfitters; and Pipefitters:		
Area 7: Butler and Warren Counties		
Add:		
Painters:		
Area 20:		
Brush; Bridges; Steel; Guard Rails	15.24	1.95
Area Description for Area 20: Monroe, Morgan, Noble and Washington Counties		
Omit:		
Painters:		
Area 19:		
Paperhangers (ONLY)		
Plumbers: Steamfitters; and Pipefitters:		
Area 8 as originally issued (rates and Area Description)		

Modification Page 4

DECISION NO. OH83-2013 - MOD. #2 (48 FR 8230 - February 25, 1983) Ashtabula, Cuyahoga, Lake, Lorain, Portage, Stark, & Summit Counties, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers:		
Ashtabula (Cities of Ashtabula & Geneva), Cuyahoga, Lake & Lorain Cos.	$18.29	$4.24
Bricklayers; Stonemasons:		
Cuyahoga Co.	18.59	4.12
Stark Co.	17.94	2.12
Cement Masons:		
Cuyahoga Co.	19.45	2.89
Electricians:		
Cuyahoga & Lorain (Columbia Twp.) Cos.	19.83	3.36
Stark Co.:		
Commercial Building	17.10	3.42
Ironworkers:		
Ashtabula (NW ¼ of Co.), Cuyahoga, Lake, Lorain, Portage (Exclu. Ravenna Ordnance Depot), & Summit Cos.:		
Ornamental; Reinforcing; & Structural	19.62	3.12
Sheeters	19.87	3.12
Stark Co.	18.78	2.32
Line Construction:		
Cuyahoga & Lorain (Columbia Twp.) Cos.:		
Cable Splicers; Equipment Ops.; Linemen	20.00	1.55
Truck Drivers (Winch) Groundmen	13.00	1.305
Stark Co.:		
Cable Splicers	15.99	3.37
Linemen	17.10	3.41
Truck Drivers; Groundmen	11.24	3.14
Line Equipment Ops.	14.84	3.31
Marble Setters; Terrazzo Workers; & Tile Setters:		
Cuyahoga Co.:		
Marble Setters; Terrazzo Workers	18.59	4.12
Painters:		
Ashtabula, Cuyahoga, Lake, Portage (N. of East West Turnpike), & Summit (N. of East West Turnpike), & Lorain (NE part) Cos.:		
New Commercial Building; Brush; Roller; Paperhanger	$18.46	$3.22
Sandblasting; Spray; & Closed Steel Below 55 ft.	18.86	3.22
Tapers	19.16	3.22
Commercial Building Repaint; Brush; Roller; Paperhanger	17.46	3.22
Sandblasting; Spray; & Closed Steel Below 55 ft.	17.86	3.22
Tapers	18.16	3.22
Residential: Brush; Roller; Paperhanger	15.06	3.22
Sandblasting; Spray; & Closed Steel Below 55 ft.	15.46	3.22
Tapers	15.76	3.22
Pipefitters; Plumbers; & Steamfitters:		
Portage & Summit Cos. (S. of #303, except Corporate limits of Hudson):		
Commercial Building	16.45	3.10
Plumbers:		
Ashtabula, Cuyahoga, Lake, Portage (N. of #303), & Summit (N. of #303) Cos.	19.43	3.22
Roofers:		
Ashtabula, Cuyahoga, Lake, & Lorain Cos.	20.28	2.30
Sheet Metal Workers:		
Ashtabula, Cuyahoga, & Lake Cos.	18.96	3.63
Laborers:		
Ashtabula Co.:		
Group 1	16.40	
Group 2	16.75	
Group 3	16.90	
Group 4	16.95	
Group 5	17.05	
Group 6	17.15	
Group 7	17.25	
Group 8	17.30	

DECISION NO. OH83-2013 (Cont'd):

	Basic Hourly Rates	Fringe Benefits
Change:		
Laborers (Cont'd):		
Cuyahoga Co.:		
Group 1	$16.54	$4.50
Group 2	16.69	4.50
Group 3	16.74	4.50
Group 4	16.79	4.50
Group 5	16.94	4.50
Group 6	17.01	4.50
Group 7	17.04	4.50
Group 8	17.19	4.50
Group 9	18.04	4.50
Lake Co.:		
Group 1	16.80	2.65
Group 2	17.05	2.65
Stark Co.:		
Group 1	14.16	2.70
Group 2	14.36	2.70
Group 3	14.66	2.70
Group 4	14.76	2.70

Basic Hourly Rates	Fringe Benefits

DECISION #TX83-4002-MOD.#4
(48 FR 931 - 1/7/83)
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & Stonemasons	11.00	1.00
Carpenters:		
Zone 1 - Carpenters	14.45	.81
Millwrights	14.80	.81
Ironworkers - Zone 1	13.50	3.00
Laborers - Group 1	8.25	1.35
Group 2	8.40	1.35
Painters:		
Group 1	12.75	.50
Group 2	12.87	.50
Group 3	13.50	.50
OMIT:		
Painters - Group 4	12.20	.50

DECISION #TX83-4003-MOD.#3
(48 FR 935 - 1/7/83)
Bexar County, Texas

CHANGE:		
Carpenters:		
Carpenters	12.75	2.63
Millwrights	13.05	2.63

DECISION #TX83-4004-MOD. #6
(48 FR 936 - 1/7/83)
Galveston & Harris Cos., Texas

CHANGE:		
Painters:		
Galveston County:		
Group 1	14.945	3.06
Group 2	15.195	3.06
Group 3	14.19	3.06

DECISION #TX83-4005-MOD.#2
(48 FR 934 - 1/7/83)
Lubbock County, Texas

CHANGE:		
Laborers:		
Group 1	7.51	.70
Group 2	7.78	.70
Group 3	7.71	.70
Group 4	7.86	.70
Group 5	8.11	.70

DECISION #TX83-4026-MOD#1
(48 FR 15425 - 4/8/83)
Jefferson & Orange Cos., Texas

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Truck Drivers:		
Group 1	13.74	1.25
Group 2	14.53	1.25
Group 3	14.53	1.25
Group 4	14.82	1.25

DECISION NO. UT83-5108 - Mod. #4
(48 FR 12651 - March 25, 1983)
Statewide, Utah

	Basic Hourly Rates	Basic Hourly Rates
Change:		
Electricians:		
Area 1:		
Zone 1:		
Electricians:		
Technicians	$14.25	$2.00+ 3-3/8%
Cable Splicers	14.50	2.00+ 3-3/8%

DECISION NO. WV83-3000
MOD. NO. 1
(48 FR 10565 - March 11, 1983)
Statewide, West Virginia

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Highway Construction:		
Group 1	$14.63	2.45
Group 2	13.59	2.45
Group 3	12.66	2.45
Group 4	12.36	2.45
Group 5	11.55	2.45
Group 6	11.08	2.45

Modification Page 7

DECISION NO. NY83-3013 - MOD. #1
(48 FR 19560 - April 29, 1983)
CONNECTICUT, DELAWARE, MAINE, MARYLAND, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, PENNSYLVANIA & RHODE ISLAND

CHANGE:

Heading reference to the decision superseded by NY83-3013 by replacing reference to "Decision No. NY81-3073" with reference to "Decision No. NY81-3075"

	Basic Hourly Rates	Fringe Benefits

	Basic Hourly Rates	Fringe Benefits

Modification Page 8

DECISION NO. NY81-3062 - MOD. #5
(46 FR 45530 - Sept. 11, 1981)
WESTCHESTER CO., NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	19.3675	3.02
BOILERMAKERS	19.09	.04+32%
BRICKLAYERS, CEMENT MASONS, PLASTERERS, POINTERS, CAULKERS, CLEANERS & STONE MASONS	15.85	4.47+a
CARPENTERS		
Building	15.35	4.735
DOCKBUILDERS	16.35	7.03
ELECTRICIANS	17.45	.02+26%
GLAZIERS	16.75	5.35
IRONWORKERS		
Ornamental	15.93	7.55
Structural	15.00	11.32
LABORERS (HEAVY & HIGHWAY)		
Blasterers, blaster (quarry master)	12.10	.82+18% +a
Joy drillers, concrete form aligner, concrete form and curb form highway (steel), deck winches on screws, jumbo driller	11.55	.82+18% +a
Asphalt curb machine operator, jeeper operator, pavement breaker operator, rock scalers, power saw operator, bit grinder or grinders, barco rammer operator, air tamper and all type powered tampers not covered by any other classification, steel kings, power buggy operator, jack hammer drillers, all type pneumatic tool and gasoline drillers, concrete saw or saws, asphalt screeder on barbergreen, form pin puller, railroad spike puller, pumps and their operation, pneumatic tools and service of air power, gunniting	11.45	.82+18% +a
General concrete laborers or anything pertaining to concrete which means any men handling aggregate or concrete materials and carpenters tender and steel handling, pipe layers, puddlers, asphalt worker, fine grade men between forms, epoxy and waterproofing	11.30	.82+18% +a
Joy driller's helper, wagon driller helper, air track driller helper, common laborers, signal men and pitman, truck spotters, powdermen, landscape and nurserymen, dump men	11.20	.82+18% +a
Wrecking:		
Blasterers	12.20	.82+18% +a
Barmen and burner	11.20	.82+18% +a
Barmen helpers and laborers	11.55	.82+18% +a
Shaft and Tunnel in Free Air		
Blasters	12.35	.82+18% +a
Concrete setters	12.55	.82+18% +a
Form setters	12.05	.82+18% +a
Miners, drill runners air, tuggers, chippers, pneumatic tools and source of air-power pumps and their operations and vibrator operators	11.85	.82+18% +a
Puddlers	11.80	.82+18% +a
Chuck tenders, nippers, concrete laborers, tunnel sewer and water pipe reliners and boring	11.70	.82+18% +a
Laborers	11.45	.82+18% +a
Powder carriers, signalmen	11.40	.82+18% +a
Brakemen, outside laborers	11.35	.82+18% +a

Modification Page 9

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush	12.65	2.78
Spray	13.65	2.78
Tapers	13.45	2.78
Steel & swing stage, boatswain chair	14.46	2.78
PLUMBERS	16.68	5.043+b
POWER EQUIPMENT OPERATORS (Building Construction):		
GROUP I - A	18.8525	1.20+a+ 18.25%
GROUP I - B	17.035	1.20+a+ 18.25%
GROUP II	17.94	1.20+a+ 18.25%
GROUP III-A	17.2975	1.20+a+ 18.25%
GROUP III-B	15.9775	1.20+a+ 18.25%
GROUP IV-A	17.015	1.20+a+ 18.25%
GROUP IV-B	15.835	1.20+a+ 18.25%
GROUP V-A	16.0125	1.20+a+ 18.25%
GROUP V-B	14.6925	1.20+a+ 18.25%
GROUP VI-A-1	20.22	1.20+a+ 18.25%
GROUP VI-A-2	19.3675	1.20+a+ 18.25%
GROUP VI-A-3	18.3675	1.20+a+ 18.25%
GROUP VI-A-4	19.0825	1.20+a+ 18.25%
GROUP VI-A-5	23.0825	1.20+a+ 18.25%
GROUP VI-A-6	16.5125	1.20+a+ 18.25%
GROUP VI-A-7	22.7975	1.20+a+ 18.25%
GROUP VI-B-1	13.7125	1.20+a+ 18.25%
GROUP VI-B-2	14.6775	1.20+a+ 18.25%
GROUP VI-B-3	13.7275	1.20+a+ 18.25%
GROUP VI-B-4	16.91	1.20+a+ 18.25%
GROUP VII	18.855	1.20+a+ 18.25%
POWER EQUIPMENT OPERATORS (Heavy & Highway):		
GROUP I-A	17.25	1.20+b+ 17.75%
GROUP II-A	16.45	1.20+b+ 17.75%
GROUP III-A	16.33	1.20+b+ 17.75%
GROUP IV-A	15.20	1.20+b+ 17.75%
GROUP IV-B	13.33	1.20+b+ 17.75%
GROUP V-A-1	18.45	1.20+b+ 17.75%
GROUP V-A-2	17.70	1.20+b+ 17.75%
GROUP V-A-3	20.70	1.20+b+ 17.75%
GROUP V-A-4	17.45	1.20+b+ 17.75%
GROUP V-A-5	16.83	1.20+b+ 17.75%
GROUP V-A-6	20.95	1.20+b+ 17.75%
GROUP V-A-7	15.20	1.20+b+ 17.75%
GROUP V-A-8	16.29	1.20+b+ 17.75%
GROUP V-1	13.33	1.20+b+ 17.75%
GROUP V-2	12.50	1.20+b+ 17.75%
ROOFERS	13.25	6.14
SHEET METAL WORKERS	15.65	.13+33%
SPRINKLER FITTERS	16.92	2.83
SOFT FLOOR LAYERS:		
Soft Floor Layers	16.37	5.93
Hand Sewers	10.52	5.93
ADD:		
STEAMFITTERS:		
Steamfitters●	16.16	.96+ 34.5%
Refrigeration (combined compressor tonnage not over 5 tons) & air conditioning (water cooled, not over 10 tons) & air conditioning (air cooled, not over 15 tons)	10.75	3.03

MODIFICATION PAGE 10

Decision No. IN83-2031
Mod # 1
(48 FR 17503 - April 22, 1983)
Statewide, except Lake Laporte, Porter & St. Joseph Counties

CHANGE:

	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS:		
Area 17	$17.06	2.56
Area 18	17.00	2.93
POWER EQUIPMENT OPERATOR:		
Area 1:		
Group 1	15.16	4.28
Group 2	13.55	4.28
Group 3	12.28	4.28
Group 4	10.86	4.28
Area 3:		
Group 1	15.50	2.40
Group 2	13.78	2.40
Group 3	12.86	2.40
Group 4	11.36	2.40
Area 4:		
Group 1	16.65	2.60
Group 2	10.50	2.60
Area 5:		
Group 1	15.45	2.20
Group 2	13.55	2.20
Group 3	11.67	2.20
TRUCK DRIVERS:		
Group 1	12.81	96.50a
Group 2	12.76	96.50a
Group 3	12.71	96.50a
Group 4	12.66	96.50a
Group 5	12.61	96.50a
Group 6	12.56	96.50a
Group 7	12.51	96.50a
Group 8	12.46	96.50a
Group 9	12.41	96.50a
Group 10	12.36	96.50a
Group 11	12.31	96.50a
Group 12	12.21	96.50a

CLASSIFICATION DEFINITIONS:
LABORERS:
Group 2 - Add Concrete Conveyor Assembly Man

CLASSIFICATION DEFINITIONS (Cont'd)
POWER EQUIPMENT OPERATORS:
CHANGE:
Area 1 to Area 5
Group 1 - ADD:
Self-Propelled Widener
CHANGE:
Areas 2 and 3 to Areas 1, 2 & 3
Group 4 - ADD:
Bituminous Paver
DELETE:
Area 5

	Basic Hourly Rates	Fringe Benefits

SUPERSEDES DECISION

STATE: ARKANSAS COUNTY: SEBASTIAN, CRAWFORD & WASHINGTON
DECISION NO. AR83-4040 DATE: Date of Publication
SUPERSEDES DECISION No. AR82-4006 dated February 12, 1982 in 47 FR 6547
DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including four stories).

SEBASTIAN AND CRAWFORD COS.	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS	14.15	.69
CARPENTERS:		
Carpenters	11.19	1.54
Millwrights-Piledrivermen	12.65	1.54
CEMENT MASONS	12.50	.64
ELECTRICIANS:		
Electricians	14.79	3%+1.35
Cable splicers	15.04	3%+1.35
ELEVATOR CONSTRUCTORS	13.19	2.69+A
ELEVATOR CONSTRUCTORS HELPERS	70%JR	2.69+A
ELEVATOR CONSTRS. PROBATIONARY HELPERS	50%JR	
IRONWORKERS	14.60	2.37
LINE CONSTRUCTION:		
Linemen-Operator	14.04	3%+1.35
Cable splicers	14.29	3%+1.35
Powderman	90%JR	3%+1.35
Truck driver	75%JR	3%+1.35
Groundman	65%JR	3%+1.35
PAINTERS:		
Roller work, sheetwork, finishing by machinery	9.15	
Brush	8.65	
Spray	9.65	
Swing stage work	9.15	
Sandblasting-steam cleaning	9.65	
PLASTERERS	12.50	.64
PLUMBERS-STEAMFITTERS	13.66	1.24
ROOFERS	11.91	.30
SHEET METAL WORKERS	14.08	3%+1.93
SPRINKLER FITTERS	14.57	2.83
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.24	1.40
Group III	11.76	1.40
Group IV	9.76	1.40

WASHINGTON COUNTY:	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$ 9.00	
CARPENTERS	7.92	
CEMENT MASONS	7.67	
ELECTRICIANS	9.51	
GLAZIERS	7.60	
IRONWORKERS	6.87	
LABORERS:		
Common	5.23	
Mason tenders	5.67	
Plasterers tender	7.45	
PAINTERS	8.00	
PLASTERERS	11.22	
PLUMBERS-PIPEFITTERS	11.46	1.14
ROOFERS	7.50	
SHEET METAL WORKERS	7.51	
TILE SETTERS	7.90	
TRUCK DRIVERS	6.05	12%
POWER EQUIPMENT OPERATORS:		
Asphalt finishing	6.15	17%
Asphalt pavers	6.05	12%
Asphalt rakers	5.40	12%
Asphalt Dist. operators	5.82	11%
Bulldozers	5.95	16%
Backhoe	5.47	
Cranes	6.87	
Rollers	5.40	12%
Motor patrol operator	6.50	
Foundation drill operator	7.29	
Scrapers	5.75	15%

WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii).

SEBASTIAN AND CRAWFORD COUNTIES ONLY

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement suckers

GROUP IV - Skilled "B" - Swinging scaffold, baron, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and pileadrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, and dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

FOOTNOTES: (APPLICABLE TO SEBASTIAN AND CRAWFORD COUNTIES-ONLY)

A - 6 months to 5 years - 6%; over 5 years - 8% of basic hourly rates: plus seven paid holidays.
New Years Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; Christmas Day.

WELDERS--received rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii).

SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: PULASKI AND JEFFERSON
DECISION NO. AR83-4037 DATE: Date of Publication
SUPERSEDES DECISION #AR82-4036 dated July 9, 1982 in 47FR29974 and #82-4039 dated July 9, 1982 in 47FR29975
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rate	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS	13.05	1.44
CARPENTERS:		
Carpenters	12.15	1.46
Millwrights-Piledrivermen	12.65	1.46
CEMENT MASONS	12.50	.64
ELECTRICIANS:		
Electricians	14.70	3%+2.35
Cable splicers	14.825	3%+2.35
ELEVATOR CONSTRUCTORS:		
Journeymen	13.19	2.69+A
Helpers	70%JR	2.69+A
Probationary helpers	50%JR	
GLAZIERS	10.48	.25
IRONWORKERS	13.20	2.21
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
LINE CONSTRUCTION:		
Lineman-Operators	15.20	B
Cable splicers	15.325	B
Groundmen	65%JR	B
Winch equipment B - 3-1/2%+1.85	73%JR	B
MARBLE, TILE & TERRAZZO WORKERS	11.35	.80
PAINTERS:		
Painters, paperhangers, steam cleaners, sheetrock finishers and wall cover hangers	11.00	.63
Spray gun operators and sandblasters	11.60	.63
All skeleton steel and all work on stages, structural steel over 30 feet high	11.25	.63
PLASTERERS	12.50	.64
PLUMBERS-PIPEFITTERS:		
Jefferson County	13.97	1.98
Pulaski County:		
Within 10 mi. radius of Pulaski County Courthouse	14.90	1.53
Over 10 miles from Pulaski County Courthouse	14.95	1.53
ROOFERS	$11.91	.30
SHEET METAL WORKERS	14.08	3%+1.93
SPRINKLER FITTERS	14.57	2.83
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.34	1.40
Group III	11.76	1.40
Group IV	9.67	1.40

FOOTNOTES:
A. 6 mos. to 5 years - 5%; over 5 years - 8% of basic hourly rate: plus seven paid holidays.

PAID HOLIDAYS:
A-New Years Day
B-Memorial Day
C-Independence Day
D-Labor Day
E-Thanksgiving Day
F-Day after Thanksgiving
G-Christmas Day

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plasterers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement nozzlers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, lowerman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sideboms, skycracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 106 and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10B, end dump Euclid, puzpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and portable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDES DECISION

STATE: ARKANSAS COUNTY: UNION AND OUACHITA
DECISION NO. AR83-4039 DATE: Date of Publication
SUPERSEDES DECISION NO. AR82-4038 dated July 23, 1982 in 47 FR 32032
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.60	2.415
BRICKLAYERS	12.50	1.60
CARPENTERS:		
Carpenters	12.15	1.46
Millwrights-Piledrivermen	12.65	1.46
CEMENT MASONS	12.50	.64
ELECTRICIANS:		
Electrical contracts $20,000 or less:		
Electricians	15.09	3-1/4%
Cable splicers	15.39	3-1/4%
Electrical contracts over $20,000:		
Electricians	15.88	3-1/4%
Cable splicers	16.18	3-1/4%
IRONWORKERS	13.25	1.91
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
LINE CONSTRUCTION:		
Electrical contracts $20,000 or less:		
Linemen-Operators	15.09	3-1/4%
Cable splicers	15.39	3-1/4%
Electrical contracts over $20,000:		
Linemen-Operators	15.88	3-1/4%
Cable splicers	16.18	3-1/4%
Electrical contracts $20,000 or less and over $20,000.00:		
Groundmen	65%/hr	3-1/4%
Truck drivers	70%/hr	3-1/4%
Winch operator	80%/hr	3-1/4%

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush, roller, sheet rock work and paperhanging	$ 9.00	
Spray and sandblasting	9.875	
PLASTERERS	12.50	.64
PLUMBERS-PIPEFITTERS	14.75	1.65
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.34	1.40
Group III	11.76	1.40
Group IV	9.67	1.40
ROOFERS	11.91	.30
SHEET METAL WORKERS	13.04	3%+1.62
SPRINKLER FITTERS	14.57	2.83

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii).

DECISION NO. AR83-4039 Page 2

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction Laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement puckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (bomel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and pileadrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sideboms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator coerators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, purpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: ARKANSAS
DECISION NO. AR83-4038
SUPERSEDES DECISION NO. AR82-4039 dated July 23, 1982 in FR 32033
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

COUNTY: GARLAND, CLARK & HOT SPRINGS
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.00	2.05
BOILERMAKERS	16.60	2.415
BRICKLAYERS-STONEMASONS:		
Clark & Garland Counties	12.75	.60
Hot Springs County	12.30	.79
CARPENTERS:		
Carpenters	12.15	1.46
Millwrights-Piledrivermen	12.65	1.46
CEMENT MASONS	12.50	.64
ELECTRICIANS:		
Electricians	13.17	3%+1.80
Cable splicers	13.295	3%+1.80
ELEVATOR CONSTRUCTORS:		
Journeymen	13.19	2.69+A
Helpers	70%JR	2.69+A
Probationary helper	50%JR	
IRONWORKERS	13.20	1.91
LABORERS:		
Group I	8.55	1.45
Group II	8.80	1.45
Group III	8.95	1.45
Group IV	9.05	1.45
Group V	9.20	1.45
Group VI	9.45	1.45
Group VII	9.35	1.45
LINE CONSTRUCTION:		
Lineman	13.17	3%+1.80
Cable splicers	13.295	3%+1.80
Groundman	64%JR	3%+1.80
Truck drivers (with winch)	80%JR	3%+1.80
Truck drivers (flat bed)	64%JR	3%+1.80
PAINTERS:		
Brush and roller	$ 9.25	
Paperhanging	9.75	
Sheet rock (tape & float only)	9.75	
Stage and steel	11.25	
Spray and sandblasting	12.50	
Painters operating any kind of taping or floating machine	13.00	
PLASTERERS	12.50	.64
PLUMBERS-PIPEFITTERS:		
Within 10 miles of Garland County Courthouse	13.07	1.98
10 miles and over from Garland County Courthouse	13.97	1.98
POWER EQUIPMENT OPERATORS:		
Group I	13.63	1.40
Group II	12.24	1.40
Group III	11.76	1.40
Group IV	9.67	1.40
ROOFERS	11.91	.30
SHEET METAL WORKERS	14.08	3%+1.93
SPRINKLER FITTERS	14.57	2.83
TILE LAYERS (Garland and Clarke Counties)	12.75	.60

FOOTNOTES:
A - 6 months to 5 years - 6%; over 5 years - 8% of basic hourly rate, plus seven paid holidays.
PAID HOLIDAYS:
New Years Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day, Day after Thanksgiving Day and Christmas Day.

WELDERS--receive rate prescribed for craft performing operation to which welding incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii).

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement mixers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sideboons, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or drum drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, and dirp fluclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Indiana

COUNTIES: Lake, LaPorte, Porter and St. Joseph

DECISION NO. IN83-2032

DATE: Date of Publication

Supersedes Decision No. IN83-2016, dated February 11, 1983 in 48 FR 10574

Description of Work: Building Construction Projects (Does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	$16.00	3.03
Area 2	17.21	2.73
BOILERMAKERS	18.83	3.405
BRICKLAYERS ; Stonemasons, Caulkers, Pointers and Cleaners:		
Area 1	17.05	3.25
Area 2	15.72	3.37
CARPENTERS:		
Area 1:		
Carpenters & Piledriver-men	17.10	3.57
Millwrights	17.20	3.57
Area 2:		
Carpenters, Millwrights & Piledrivermen	16.15	2.43
CARPENTERS (Heavy & Highway)		
Area 2	14.76	2.65
CEMENT MASONS:		
Area 1	17.36	2.93
Area 2	17.37	2.93
Area 3	16.13	2.09
Area 4	18.00	2.16
CEMENT MASONS (Heavy & Highway Construction):		
Area 1	17.00	2.93
Area 2	17.00	2.93
Area 3	14.21	3.54
Area 4	17.06	2.56
ELECTRICIANS:		
Area 1	17.55	2.24
Area 2	18.46	12¾
Area 3	17.55	14.3%
ELEVATOR CONSTRUCTORS:		
Area 1	18.305	2.33+ a&b
Area 2	16.11	2.465 +a&b
ELEVATOR CONSTRUCTORS' HELPERS:		
Area 1	70%JR	2.33+ a&b
Area 2	70%JR	2.465 +a&b
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	
GLAZIERS:		
Area 1	15.55	1.65
Area 2	13.42	16%
IRONWORKERS:		
Area 1	17.80	3.87
Area 2	15.40	4.56
MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS:		
Area 1:		
Marble Setters & Terrazzo Workers	17.05	3.25
Tile Setters	16.95	3.25
Area 2	13.75	2.72
PAINTERS:		
Area 1	14.70	2.39
Area 2:		
Brush	14.85	2.27
Drywall Tapers	15.05	2.27
Paperhangers	15.10	2.27
Area 3:		
Brush	13.00	
Spray	14.00	
Area 4	12.94	1.63
PLASTERERS:		
Area 1	15.35	2.93
Area 2	15.89	2.24
PLUMBERS:		
Area 1	16.05	3.05
Area 2	16.73	3.61
Area 3	15.93	2.45
PIPEFITTERS:		
Area 1	18.00	3.00
Area 2	15.93	2.45
ROOFERS:		
Area 1	16.91	2.40
Area 2:		
Composition	14.60	2.03
Slate & Tile	15.10	2.03
SHEET METAL WORKERS:		
Area 1	17.15	3.19
Area 2	16.16	2.16
SPRINKLER FITTERS	16.67	2.73

DECISION NO. IN83-2032

POWER EQUIPMENT OPERATORS: (Building Construction)	Basic Hourly Rates	Fringe Benefits
Area 1:		
Group 1	17.65	3.70
Group 2	17.15	3.70
Group 3	15.20	3.70
Group 4	14.00	3.70
Area 2:		
Group 1	16.40	3.95
Group 2	15.50	3.95
Group 3	15.05	3.95
Group 4	14.25	3.95
Group 5	13.45	3.95
POWER EQUIPMENT OPERATORS: (Heavy & Highway Const.)		
Area 1 & Area 2		
Group 1	16.30	3.55
Group 2	15.85	3.55
Group 3	15.40	3.55
Group 4	14.20	3.55
Group 5	13.15	3.55
POWER EQUIPMENT OPERATORS: (Underground, Sewer & Water Construction)		
Area 1:		
Group 1	17.65	3.70
Group 2	17.15	3.70
Group 3	15.20	3.70
Group 4	14.00	3.70

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
Area 1:		
Lineman & Equipment Op. (4)	17.38	.65+ 8.5%
Equipment Operator (3)	16.43	.65+ 8.5%
Equipment Operator (1)	13.47	.65+ 8.5%
Powderman, Equipment Mechanic	13.17	.65+ 8.5%
Senior Groundman, Truck Driver w/Winch	11.22	.65+ 8.5%
Groundman Truck Driver w/Winch	10.79	.65+ 8.5%
Groundman Truck Driver W/O Winch	9.45	.65+ 8.5%
Groundman	8.85	.65+ 8.5%
Area 2:		
Lineman, Groundman Equipment Operator Crawler Type Equipment Larger than D-4	18.74	.65+ 8.5%
Groundman Truck Driver W/O Winch	15.73	.65+ 8.5%
Groundman Truck Driver W/O Winch	14.93	.65+ 8.5%
Groundman	14.33	.65+ 8.5%
Area 3:		
Linemen, Equipment Op. Crawler type Equip. Larger than D-4	15.94	.45+ 8%
Groundman Truck Driver W/Winch	12.86	.45+ 8%
Groundman Truck Driver W/O Winch	12.52	.45+ 8%
Groundmen	11.96	.45+ 8%

DECISION NO. IN83-2032

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Building Construction		
Area 1:		
Group 1	13.23	1.89
Group 2	13.43	1.89
Group 3	13.53	1.89
Group 4	14.23	1.89
Area 2:		
Group 1	12.98	1.89
Group 2	13.18	1.89
Group 3	13.28	1.89
Group 4	13.98	1.89
Area 3:		
Group 1	11.73	1.89
Group 2	11.93	1.89
Group 3	12.03	1.89
Group 4	12.73	1.89
LABORERS:		
Heavy & Highway Construction:		
Area 1:		
Group 1	12.40	1.94
Group 2	12.55	1.94
Group 3	12.60	1.94
Group 4	12.70	1.94
Group 5	13.25	1.94
Area 2:		
Group 1	10.98	1.94
Group 2	11.13	1.94
Group 3	11.18	1.94
Group 4	11.28	1.94
Group 5	11.83	1.94

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
(Heavy & Highway Const.)		
LaPorte & St. Joseph Cos.		
Group 1	12.81	96.50a
Group 2	12.76	96.50a
Group 3	12.71	96.50a
Group 4	12.66	96.50a
Group 5	12.61	96.50a
Group 6	12.56	96.50a
Group 7	12.51	96.50a
Group 8	12.46	96.50a
Group 9	12.41	96.50a
Group 10	12.36	96.50a
Group 11	12.31	96.50a
Group 12	12.21	96.50a
(Building, Heavy & Highway Construction)		
Lake & Porter Cos.		
Group 1	12.35	2.35
Group 2	12.55	2.35
Group 3	12.75	2.35
Group 4	12.95	2.35
Group 5	12.95b	2.35

FOOTNOTES:
a - Per Week, Per Employee
b - Plus $.20 per axle for each axle over six (6)

DECISION NO. IN83-2032

AREA DESCRIPTIONS

ASBESTOS WORKERS

Area 1 - Lake & Porter Counties
Area 2 - LaPorte & St. Joseph Counties

BRICKLAYERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

CARPENTERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

CEMENT MASONS

Area 1 - Lake County, Gary Area and Porter Co. (W 2/3 including Valparaiso)
Area 2 - Remainder of Lake County

Area 3 - St. Joseph County
Area 4 - LaPorte County and Remainder of Porter County

ELECTRICIANS

Area 1 - Lake County
Area 2 - LaPorte and Porter Counties
Area 3 - St. Joseph County

GLAZIERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

ELEVATOR CONSTRUCTORS

Area 1 - Lake & Porter Counties
Area 2 - LaPorte & St. Joseph Counties

IRONWORKERS

Area 1 - Lake, Porter and LaPorte (West of a line 3 miles East of Rt. 421 parallel to Rt. 421) Cos.
Area 2 - St. Joseph & LaPorte (remainder of Co.)Counties

MARBLE SETTERS, TILE SETTERS & TERRAZZO WORKERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

DECISION NO. IN83-2032

AREA DESCRIPTION (CONT'D)

PAINTERS

Area 1 - West ½ of Lake County
Area 2 - East ½ of Lake Co., LaPorte County, West of Hwy. 39 including Michigan City
Area 3 - LaPorte County, Michigan City only
Area 4 - St. Joseph County & LaPorte County East of Hwy. 39

PLASTERERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

PLUMBERS

Area 1 - Lake County
Area 2 - LaPorte (excluding Michigan city) and Porter county
Area 3 - LaPorte Co. (Michigan City) and St. Joseph County

PIPEFITTERS

Area 1 - Lake, LaPorter and Porter Counties
Area 2 - St. Joseph County

ROOFERS

Area 1 - Lake, & Porter Counties
Area 2 - LaPorte & St. Joseph Counties

SHEET METAL WORKERS

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

LABORERS (Building Construction)

Area 1 - Lake Co. & Porter Co. (North of U.S. Hwy. 20)
Area 2 - LaPorte Co. & Porter Co. (South of U.S. Hwy. 20)
Area 3 - St. Joseph County

LABORERS (Heavy & Highway Construction)

Area 1 - Lake County
Area 2 - LaPorte, Porter & St. Joseph Counties

POWER EQUIPMENT OPERATORS (Bldg., Heavy & Highway Construction)

Area 1 - Lake, LaPorte & Porter Counties
Area 2 - St. Joseph County

DECISION NO. IN83-2032

AREA DESCRIPTION (CONT'D

LINE CONSTRUCTION

Area 1 - Calumet Area, Lake County (North of U. S. 30)
Area 2 - Remainder of Lake County
Area 3 - LaPorte, Porter and St. Joseph Counties

CLASSIFICATION DEFINITIONS

LABORERS (HEAVY & HIGHWAY CONSTRUCTION)

Group 1 - Construction Laborer, Carpenter Tender, Fence Erector, Grade Checker, Guard Rail Erector, Continuous Steel Rod or Mat Installer, Wire Mesh Layer, Joint Man (Mortar, Mastic, and all other types), Lighting Installer (Permanent or Temporary), Lineman for Automatic Grade Maker on Paving Machines, Mortar Man, Multi- Plate Erector, Rip-Rap Installer (All products and materials) Road Marking and Delineation Laborer, Setting and Placing of all Precast Concrete Products, Sign Installation including supporting structure, Spraying of all Epoxy, Curing Compound, or like material
Group 2 - Air Tool, Power Tool, and Power Equipment Operator, Asphalt Lute Man, Asphalt Raker Man, Batch Truck Dumper, Bridge Hand Rail Erector, Handler (Bulk or Bag Cement), Chain Saw Man, Concrete Puddler, Concrete Rubber, Concrete Saw Operator, Core Drill Operator, Eye Level, Hand Blade Operator, Hydro Seeder Man, Motor Driven Georgia Buggy Operator, Power Driven Compactor or Tamper Operator, Power Saw Operator, Pumpcrete Assembly Man, screed Man or screw Man on Asphalt Paver, Rebar Installer, Sand blaster Man, Sealer applicator for asphalt, (toxic), Setting and Placing Prestressed or Precast Concrete Structural Members, Side Rail Setter (for Sidewalks, Side Ditches, Radii, and Pavements), Spreader Box Tender (Manual or Power Driven), Straw Blower Man, Subsurface Drain and Culvert Pipe Layer, transverse and Longitudinal Hand Bull Float Man, Concrete Conveyor Assembly Man
Group 3 - Horizontal Boring and Jacking Man, Jackman and Sheetman, Pipe Grade Man, winch and Windlass Operator
Group 4 - Conduit Installer, Cutting Torch Burner, Laser Beam, Aligner, Manhole Erector, Sewer Pipe Layer, Water Line Installer - Temporary or Permanent, Welders (Electric or Oxy-Acetylene)
Group 5 - Air Track and Wagon Drillman, Concrete Finisher, Dynamite and Powder Man

DECISION NO. IN83-2032

CLASSIFICATION DEFINITIONS

LABORERS (BUILDING CONSTRUCTION)

AREAS 1 and 2

Group 1 - Building and Construction Laborers; Scaffold Builders (other than for Masons or Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers and Cleaners; Water Boys and Tool Housemen; Roofers Tenders; Railroad Workers; Masonry Wall Washers; Cement Finishers Tenders; Carpenter Tenders; Mason Tenders in Area I and IA; Portable Water Pumps with Discharge up to 3 inches

Group 2 - Waterproofing; Hauling of Creosote Lumber or like treated material (ex railroad material); Asphalt Rakers and Lutemen; Kettlemen; Air Tool Op.; Pneumatic Tool Op.; Air & Electric Vibrators and Chipping Hammer Op.; Earth Compactors; Jackman & Sheetmen in Ditches more than 6 feet Deep; Laborers in ditches 6' deep or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field); Sewer Pipe Layers; Motor Driven Wheelbarrows and Concrete Buggies; Hyster Op.; Pump crete Assemblers; Core Drills Op.; Cement; Lime or Silica Clay Handlers; Handling of Toxic Materials Damaging to Clothing Pneumatic Spikers; Deck Engine & Winch Op.; Water Maine & Cable Ducking; Screed Man or Screw Op; on Asphalt Paver; Chain Saw & Demolition Saw Op.; Concrete Conveyor Assembler

Group 3 - Plaster Tenders; Mason Tenders ex in area I &IA; Mortar Mixers; Welders; Cutting Torch or Burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders for Plasterers; Scaffold Builders for Mason ex Area I & IA; Water Blast Mach. Op.

Group 4 - Dynamite Men; Drillers - Air Track or Wagon Drilling for Explosives

DECISION NO. IN83-2032

CLASSIFICATION DEFINITIONS

LABORERS (BUILDING CONSTRUCTION CONT'D)

AREA 3

Group 1 - Building & Construction Laborers; Scaffold Builders (other than for Plasterers); Ironworker Tenders; Mechanic Tenders; Window Washers & Cleaners; Waterboys & Toolhousemen; Roofer's Tenders; Railroad Workers; Masonry Wall Washers (interior & exterior); Cement Finisher Tenders; Carpenter Tenders; all Portable Water Pumps with discharge up to three (3) inches; Plaster Tenders

Group 2 - Waterproofing; Handling of Creosote Lumber of like treated material; (excluding railroad material); Asphalt Rakers & Lutemen; Kettlemen; Air Tool Operators and all Pneumatic Tool Operators Air and Electric Vibrators and Chipping Hammer Operators; Earth Compactors; Jackmen & Sheetmen working Ditches deeper than six (6) feet in depth; Laborers working in ditches (6) feet in depth or deeper; Assembly of Unicrete Pump; Tile Layers (sewer or field) & Sewer Pipe Layer (metallic or non-metallic); Motor driven wheelbarrows and Concrete Buggies Hyster Operators; Pump Crete Assemblers; Core Drill Operators; Cement, Lime or Silica Clay Handlers (bulk or bag) Handling of Toxic Materials; Damaging to Clothing; Pneumatic Spikers; Deck Engine & Winches Operators; Water Main & Cable Ducking (metallic and non-metallic) Screed Man on Screw Operator on Asphalt Paver; Chain and Demolition Saw operators; Concrete Conveyor Assemblers

Group 3 - Master Blast Machine Operator; Mortar Mixers; Welders (acetylene or electric); Cutting Torch or burner; Cement Nozzle Laborers; Cement Gun Operators; Scaffold Builders when working for Plasterers

Group 4 - Dynamite Men; Drillers-Air Track or Wagon Drilling for explosives

DECISION NO. IN83-2032

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION)

AREA 1

Group 1 - Mechanic, Asphalt Plant, Autograde, Batch Plant, Benoto (Requires 2 Engineers), Boiler and Throttle Valve, Boring Machine (Mining Machine), Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe (Endloader with Backhoe bucket over ½ cu. yd.), Combination Tugger Hoist & Air Tugger, Compressor and Throttle, Concrete Breaker (Truck Mounted), Concrete Conveyor, Concrete Paver over 27E cu. ft., Concrete Paver 27E cu. ft. & under, Concrete Pump with boom (Truck Mounted), Concrete Tower, Cranes-All, Cranes-Hammerhead Tower, Crete Crane, Derricks-All, Derricks-Traveling, Forklift-Lull Type, Fork Lift-10 ton & over, Hoists-1,2, & 3 Drum, Hoist-2 Tugger one Floor, Hydraulic Boom Truck, Locomotives-All, Motor Patrol, Mucking Machine, Pile Driving & Skid Rig, Pit Machines, Pre-Stress Machines, Pump Cretes & Similar Types, Rock Drill (Self-Propelled), Rock Drill (Truck Mounted), Slip Form Paver, Straddle Buggies, Tractor with Boom & Side Boom, Trenching Machine, Winch Tractors

Group 2 - Asphalt Spreader, Boilers, Bulldozers, Combination Backhoe (Endloader with Backhoe bucket ½ cu. yd. & under), Engineer acting as Conductor in charge of crew, Grader-Elevating, Greaser Engineer, Grouting Machines, Highlift Shovels or Front Endloader, Hoists-Automatic, Corboy Drilling Machines, Hoists-All Elevators, Hoists-Tugger Single Drum, Post Hole Digger, Rollers-All, Scoops-Tractor Drawn, Stone Crushers, Tournapull, Winch Trucks

Group 3 - Concrete Mixer (two bag & over), Conveyor-Portable, Steam Generators, Tractors-Farm & Similar Type, Air Compressor-small 150 and under (1 to 5 not to exceed a total of 300 feet), Air Compressor - large over 150, Combination - Small Equipment Operator, Forklift - under 10 ton, Generator, Pumps (1 to 3 not to exceed a total of 300 feet), Pumps-Well Points, Welding Machines (2 thru 5), Winches-4 Electric Drill Winches

Group 4 - Heaters-Mechanical (1 to 5), Oiler, Switchmen

AREA 2

Group 1 - Mechanic, Asphalt Plant, Asphalt Spreader, Autograde, Batch Plant, Benoto (requires two Engineers), Boiler and Throttle Valve) Boring Machine (Road), Caisson Rigs, Central Redi-Mix Plant Concrete Conveyor Systems, Concrete Power over 27E cu. ft., Concrete Paver 27E cu. ft. and under, Concrete Placer, Concrete Pumps (truck mounted), Concrete Tower, CranesAll, Cranes-Hammerhead, Creter Cranes, Derricks-All, Forklift capable of hoisting and mechanically moving forks horizontally, Grader-Elevating, Highlift Shovels or

DECISION NO. IN83-2032

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION) (CONT'D)

Front End Loader Hoists-Two or more drums, Locomotives-All, Motor Patrol, Pile Drivers and Skid Rig, Pre-stress Machine, Rock Drill (self-propelled), Rock Drill (truck mounted) Scoops - Tractor drawn, Slip-Form Paver, Tournapull, Tractor with Boom and Side Boom, Trenching Machines 12 or more inches in width

Group 2 - Combination Backhoe Front End Loader Machine with backhoe bucket or with attachments

Group 3 - Air Compressor 600 cu. ft. and over, Bobcat (over 3/4 cu. yd.), Boilers, Broom-All Powered Propelled, Bull Dozers, Compressor and Throttle Valve, Concrete Breaker (truck mounted), Concrete Mixer of more than 21 cu. ft. capacity, Forklift with a fixed or tilt mast, Greaser Engineer, Hoists-One drum, Hydraulic Boom Truck, Post-Hole Digger (vehicle mounted), Pump Cretes- (Squeeze crete type pumps, Gypsum Bulker and Pump), Rollers-All, Steam Generators, Stone Crushers, Straddle Buggies, Tractors, Winch Truck with "A" Frame

Group 4 - Buck Hoists, Combination - Small Equipment Operator, Conveyor-Portable, Grouting Machines, Hoist Elevators Mat'l & Personnel, Hydraulic Power Units Grouting and Pile Driving, Stud Welder, Trenching Machines less than 12 inches in width, Welding Machines 8 through 15

Group 5 - Bobcat (up to and including 3/4 cu. yd.), Compressor over 210 cu. ft. and less than 600 cu. ft., Generators - over 50 KW, Heaters-Mechanical, Hoists-All Elevator (perm. installation), Hoist-Automatic, Hoist-Tugger Single Drum, Oilers, Pumps-Well Points and Electric Submersibles, Small Rubber Tired End Loaders ¾ cu. yd. and under, Tractors-Farm Type, Welding Machines (2 through 8)

DECISION NO. 1983-2032

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY CONSTRUCTION

AREA 1 & AREA 2

Group 1 - Auto Patrol - Maintainer, Automatic Dry Batch Plant, Automated Concrete Placer, Automated Sub-Grader, Automated Slip Form Paver, Automated Finish Machine, Combination Backhoe, Front Endloader Machine (½ cu. yd. backhoe bucket or over or with attachment), Combination Backhoe (1 cu. yd. backhoe bucket or over or with attachments), Ballast Regulator (R.R.),, Belt Loader - Stationary, Boring Machine (road), Bulldozer, Concrete Mixer - 27 cu. ft. or over, Concrete Pump, Concrete Pump Truck Mounted, Concrete Breaker Truck Mounted,Concrete Breaker Self-Propelled, Core Drilling Machine, Cranes and Backhoes-All attachments, Cranes-Hammerhead, Crater Crane, Derricks, Derricks Traveling, Dredge Engineer, Dredge Operator, Formless Curb and Gutter Machine 36 inches and over, Formless Curb and Gutter Machine under 36 inches, Gradall and Machines of a like nature, Guard Rail Post Driver Truck Mounted, Lead Greaser, Helicopter, Highlift Shovel 3 yds. and over, Hoist 1 drum, Hoist 2 & 3 drum, Hydraulic Power Units (grouting, pile driving and extracting), Locomotive Operator, Mechanic - Welder, Mucking Machine, Panelboard Concrete Plant (Central Mix Type), Power-Wetherington, Pile Driver - Skid or Crawler, Road Paving Mixer, Rock Drill Crawler or Skid Rig, Rock Drill Truck Mounted, Rose Carrier, Roto Mill Grinder 36" and over, Roto Mill Grinder less than 36", Throttle Valve & Compressor or Clever Brooks Type Combination, Throttle Valve and Fireman Combination or Horizontal or Upright Boiler, Tournapull or similar type Equipment, Tractor - Boom, Tractor Drawn Belt Loader, Tractor Drawn Belt Loader with attached pusher (requires two engineers),Trench Machine, Tug Boat Operator, Wheel Excavator, Winch Truck with "A" Frame, Scoops, Tornapulls or similar types machine used in tandem (Add $1.00 to Class 1 hourly rate for each machine attached thereto)

Group 2 - Combination Backhoe Front End Loader Machine with less than ½ cu. yd. backhoe bucket or with att., Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Bridge Deck Finisher, Concrete Mixer-less than 27 cu. ft., Greaser, Highlift Shovel under 3 cu. yds., Jersey Spreader or Base Paver, Pavement Bump Grinder (Self-Propelled), Roller-(Asphalt-Waterbound-Macadam-Bituminous Macadam-Brick Surface), Sheepfoot Roller (Self-Propelled) with blade, Surface Heater and Planer, Tamper (Multiple Vibrating-Asphalt-Waterbound Macadam-Bituminous Macadam-Brick Surface), Tractor-Push, Tractor with Scoop, Widener-Apsco or similar type

DECISION NO. 1983-2032

CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (HEAVY AND HIGHWAY CONSTRUCTION (CONT'D)

Group 3 - Assistant Plant Engineer, Back Filler, Bituminous Distributor, Broom and Belt Machine, Bull Float, Concrete Finishing Machine, Concrete Spreader-Power Driven, Digger (Post-Hole, Power Driven), Finishing Machine and Bull Float, Forklift, Form Grader, Form Tamper (Motor Driven), Multiple Tamping Machine, Paving Breaker, Roller (Earth & Subbase Material), Roller Sheepfoot (Self Propelled), Sub-Grader, Tamper-Multiple Vibrating-Earth and Subbase Material, Tractaire, Tractaire with Drill, Tractor (with all drawn attachments except Backhoe and including highlift, Endloader of 1 cu. yd. capacity and less),

Group 4 - Air Compressor, Conveyor-All, Fireman on Boiler, Generator, Assistant Mechanic, Power Curing Spraying Machine Self-Propelled, Broom-Self-Propelled, Seaman Tiller, Spike Machine (R.R.), Striping Machine (Paint, Self-Propelled), Throttle Valve, Welding Machine, Well Points Systems,

Group 5 - Assistant Greaser, Deck Hand, Betherington Driver, Mechanical Heater (1 to 5), Outboard or Inboard Motor Boat, Oiler, Power Saw-Concrete-Power Driven, Truck Crane Oiler-Driver, Water Pump, Helper on C.M.I. and similar type equipment, Grasscutter,

POWER EQUIPMENT OPERATORS - UNDERGROUND, SEWER & WATER CONSTRUCTION

AREA 1

Group 1 - Mechanic, Asphalt Plant, Autograde, Batch Plant, Benoto (requires 2 Engineers), Boiler and Throttle Valve, Boring Machine (Mining Machine), Caisson Rigs, Central Redi-Mix Plant, Combination Backhoe-Endloader with Backhoe Bucket over ½ cu. yd., Combination Tugger Hoist & Air Compressor, Compressor and Throttle, Concrete Breaker (Truck Mounted), Concrete Conveyor, Concrete Paver over 27S cu. ft., Concrete Paver 27S cu. ft. & under, Concrete Pump with Boom (Truck Mounted), Concrete Tower, Cranes-All, Cranes-Hammerhead Tower, Crater Cranes, Derricks - All, Derricks-Traveling, Forklift-Lull Type, Forklift-10 ton & over, Hoists-1,2, & 3 drum, Hoist-2 Tugger one floor, Hydraulic Boom Truck, Locomotives-All, Motor Patrol,

DECISION NO. IN83-2032

POWER EQUIPMENT OPERATORS - UNDERGROUND, SEWER & WATER CONSTRUCTION

AREA 1 (CONT'D)

Mucking Machine, Pile Driving & Skid Rig, Pit Machines, Pre-Stress Machines, Pump Cretes & Similar Types, Rock Drill (Self propelled), Rock Drill (Truck Mounted), Slip-Form Paver, Straddle Buggies, Tractor with Boom & Side Boom, Trenching Machine, Winch Tractors,
Group 2 - Asphalt Spreader, Boilers, Bulldozers, Combination, Backhoe - Endloader with Backhoe Bucket ½ cu. yd. & under, Engineer acting as conductor in charge of crew, Grader-Elevating, Greaser Engineer, Grouting Machines, Highlift Shovels or Front Endloader, Hoists-Automatic, Corboy Drillings Machines, Hoists-All Elevators, Hoists-Togger single drum, Post Hole digger, Roller-All, Scoops-Tractor Drawn, Stone Crushers, Tournapull, Winch Trucks
Group 3 - Concrete Mixer (2 Bag & Over), Conveyor-Portable, Steam Generators, Tractor-Farm & Similar Type, Air Compressor - Small 150 and under (1 to 5 not to exceed a total of 300 feet), Air Compressor - large over 150, Combination - small equipment operator, Forklift - under 10 ton, Generator, Pumps (1 to 3 not to exceed a total of 325 feet), Pumps-Well Points, Welding Machines (2 thru 5), Winches-4 Electric Drill Winches
Group 4 - Heaters-Mechanical (1 to 5), Oilers, Switchmen

TRUCK DRIVERS
LaPORTE & ST. JOSEPH COUNTIES

Group 1 - Acey Wagons over 3 Buckets
Group 2 - Acey Wagons to and including 3 Buckets
Group 3 - Tandem-tandem Semi-Trucks; Truck Mechanics and Welders; Heavy Equipment Type Water Wagon over 5,000 gallons; tri-Axle Trucks pulling Tilt-Top Trailers; Low Boys, Tandem-tandem Axle
Group 4 - Tri-Axle Trucks; Tandem Axle Trucks; Equipment not self loaded or pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hug Bottom Dump, Tournatrailers, Tournarockers, athey Wagons, or similar equipment over 12 cu. yd.; Tandem Axle Trucks pulling Tilt-Top Trailers; Low Boys; Tandem Axle, Tri-Axle Batch
Group 5 - Tandem "Dog-Legs"; Semi-Water Trucks; Sprinkler Trucks; Heavy Equipment Type Water Wagons 5,000 Gallons & Under
Group 6 - Truck Mounted Pavement Breakers; Tandem Trucks over 15 Ton Payload; Single Axle Semi-Trucks; Farm Tractors hauling material; equipment not self loaded or Pusher loaded such as Koehring or similar Dumpster, Track Truck, Euclid Bottom Dump and Hub Bottom Dump, Tournatrailers, Tournarockers, Athey Wagons or similar Equipment 12 Cubic yds. & under; Mixer Trucks, All Types; Single Axle Trucks pulling Tilt-Top Trailer; Lowboys, Single Axle
Group 7 - Tandem Axle Fuel Trucks; Tandem Axle Water Trucks; Bituminous Distributor (one man)
Group 8 - Single Axle Dog-Legs; Tandem Trucks or Dog Legs; Winch Trucks or A Frames used for Transportation; Batch Trucks Wet or Dry over 3(34E) Batches-Grease and Maintenance Truck Servicing Tandem axle Trucks
Group 9 - Single Axle Fuel Trucks; Single Axle Water Trucks; Bituminous Distributors, (two man)

DECISION NO. IN83-2032

CLASSIFICATION DEFINITIONS (CONT'D)

TRUCK DRIVERS (CONT'D)

Group 10 - Single Axle Straight Trucks; Wet or Dry 3 (34E) Batches or less; Grease & Maintenance Trucks Servicing Single Axle Trucks
Group 11 - Tenders; Greasers; Tire Men; Batch Board Tenders
Group 12 - Pick-Up Trucks

TRUCK DRIVERS
LAKE & PORTER COUNTIES

Group 1 - 2 & 3 Axle
Group 2 - 4 Axle
Group 3 - 5 Axle
Group 4 - 6 Axle
Group 5 - Over 6 Axles

STATE: Iowa
DECISION NO: IA83-4035
COUNTY: Pottawattamie
DATE: Date of Publication
Supersedes Decision NO. IA81-4101, dated 12/11/81 in 46 FR 60754.
DESCRIPTION OF WORK: Building Projects in entire County (does not include single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	16.68	3.06
Boilermakers	16.12	2.825
Bricklayers & Stonemasons	14.88	2.05
Carpenters:		
Carpenters	14.57	2.10
Piledrivermen	14.705	2.10
Millwrights	14.85	2.10
Cement Masons	13.85	1.85
Electricians	15.74	3.05+ 3-1/2%
Elevator Constructors:		
Mechanics	15.30	2.69+a
Helpers	70%JR	2.69+a
Helpers (Probationary)	50%JR	
Glaziers	14.73	1.74
Ironworkers	12.60	1.40
Laborers:		
Common Laborers	11.96	1.55
Mason Tenders; Mortar Mixers; Pipelayers	12.135	1.55
Buggymobile Operators	12.30	1.55
Plasterers' Tenders	12.345	1.55
Line Construction:		
Group 1 - Lineman;all rigs setting assembled "H" fixtures,steel & concrete transmission structures	15.65	.65+ 7-1/2% +b
Group 2 - Special equipment operations (hole digging machines,all tractors,transmission line pole hauling & setting equipment other than assembled "H" fixtures	12.99	.65 7-1/2% +b
Group 3 - Blaster	12.52	.65 7-1/2% +b
Group 4 - Groundman	10.17	.65 7-1/2% +b
Line Construction:(Cont'd		
Group 5 - Groundman, Truck Driver	10.33	.65+ 7-1/2% +b
Group 6 - Pole Treating truck driver	10.02	.65+ 7-1/2% +b
Group 7 - Pole Treating Specialist	12.05	.65+ 7-1/2% +b
Painters:		
Brush, Paperhangers	10.60	.25
Highwork,spray,stage, structural steel	11.15	.25
Plasterers	15.42	1.43
Plumbers	14.59	3.00
Power Equipment Operators		
Group 1	13.47	2.20
Group 2	13.71$	2.20
Group 3	11.52	2.20
Group 4	10.69$	2.20
Roofers:		
Slate, tile	12.25	1.45
Composition	11.95	1.45
Helpers (handling roofing materials,erecting & dismantling scaffold for roofers & removing & cleaning up old roof	50%JR	1.45
Sheet Metal Workers	17.45	1.28
Sprinkler Fitters	16.47	2.83
Steamfitters	15.64	2.20
Terrazzo Workers, Tile Setters & Marble Setters	15.37	.85
Terrazzo, Tile & Marble Setters Finishers	13.80	

FOOTNOTES:
a - Employer contributes 8% of basic hourly rate for over 5 years service & 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit; Seven Paid Holidays A thru G
b - Seven Paid Holidays A thru G

PAID HOLIDAYS

A - New Years' Day; B - Memorial Day; C - Independence Day; D - Labor Day; E - Thanksgiving Day; F - the Friday after Thanksgiving Day; G - Christmas Day

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Cranes, incl. those being used as backhoe, dragline, clamshell, etc.; tower cranes; electric overhead cranes; truck cranes & cherry pickers 12-1/2 ton & over rated capacity;derricks; piledrivers & extractors; caisson rigs; sideboom & winch truck used for erection of structural steel & moving & setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen); mechanic

Group 2 - 1 & 2 drum hoists; air & electric tuggers (on power plants or setting steel or grating); econcmobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); sideboom & winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes & cherry pickers (under 12-1/2 ton); concrete mixers (1 yd. & over); ditching machines (8" & over); fork lifts (on steel erection & machinery moving or hoisting above one complete story); concrete pump; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal); working boat (tug, tow, etc.); group greaser

Group 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; fork lifts (other than Group No.2); gunnite machine;self-propelled rollers; stump chippers; self-propelled tampers; air & electric tuggers (other than above); ditching machine under 8", pile threader; firemen (boiler)

Group 4 - Mechanical heaters; truck crane dirvers; permanent elevators; air compressors (one or a combination of 400 cfm or more; pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; generator (75 KW & over); dewatering pumps; boat used for personnel transport or as a safety boat

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MARYLAND
DECISION NO.: MD83-3017
LOCATION: BALTIMORE CITY
DATE: DATE OF PUBLICATION
Supersedes Decision No. MD81-3056 dated August 14, 1981 in 46 FR 41325
DESCRIPTION OF WORK: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	14.78	2.07
CARPENTERS	13.80	2.11
CEMENT MASONS	9.57	2.12
ELECTRICIANS	16.60	3.5% +2.70
IRONWORKERS:		
Structural & Reinforcing	14.48	4.14
Fence Erectors	14.13	4.14
LABORERS:		
Laborers	7.75	1.075
Power Tool Operators	7.85	1.075
Pipelayers, Wagon Drill Operators, Air Track Drillers, Burners (demolition)	8.25	1.075
Mason Tenders & Mortar Mixers (brick & stone work only)	10.45	1.075
Jackhammer Operators - 80# and over	8.00	1.075
LINE CONSTRUCTION:		
Linemen, Cable Splicers, Digging and Equipment Operators	15.00	8-1/4% +.70
Truck with winch, truck with poles or steel handling	10.05	8-1/4% +.70
Truck without winch	9.38	8-1/4% +.70
Groundman	9.45	8-1/4% +.70
PAINTERS:		
Brush and Roller	13.30	2.29
Steel, spray, swinging stages, boatswain chair sand & waterblasting, steam cleaning, and epoxies	14.05	2.29
Ames tool - bazooka	14.30	2.29
SIGN ERECTORS	9.18	4%+a+b

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		2.50+
Pick-up	9.86	c+d
Dump, water, fuel, and lube trucks, sweeper, boring machine and miscellaneous equipment	10.14	2.50+ c+d
Drop frame gooseneck and trailer	10.39	2.50+ c+d
Euclid wagon and dumpster	10.54	2.50+ c+d
POWER EQUIPMENT OPERATORS:		
Group I	12.70	2.30
Group II	12.07	2.30
Group III	11.34	2.30
Group IV	10.00	2.30

FOOTNOTES:

a - Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Good Friday, Friday after Thanksgiving and employee's birthday.

b - Vacation: One week per year after 1 year of service, 2 weeks after 3 years of service and 3 weeks after 10 years of service.

c - Paid Holidays: New Year's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, and employee's birthday, providing employee has worked one day and was available for work during the holiday week.

d - Vacation: Employees who have worked 100 days in the previous contract year and have 1 year of service, 1 week's paid vacation; 2 years of service, 2 weeks paid vacation; 10 years of service, 3 weeks paid vacation.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group I - Backfiller, backhoe, batching plants, cableway, Case type hoe (with a front end bucket over 1-1/4 yds.), concrete mixing plants, concrete paver, derrick, derrick boat, double concrete pump, dragline, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds. and over), grader, gradall, hoist (2 active drums or more), pile driving machine, power crane, power shovel, repair mechanic, standards guage locomotive, trenching machine, tunnel mucking machine, twin engine scoop, welder, whirley rig and bulldozers (D-9 or equivalent and above).

Group II - Asphalt spreader, bull float, Case type hoe (with a front end bucket 1-1/4 yds. and under), concrete mixer (with a slip), concrete pump, concrete spreader, ditch-witch type trencher, excavating scoop (under 25 yds.), finishing machine, front end loader (under 1-3/4 yds.), grout pump, hi-lift, longitudinal float, narrow guage locomotive, one drum hoist, power roller on hot mix asphalt, screeding machine, stone crusher, stone spreader, tractor with attachments (2 or more provided both attachments are being used), subgrader, well-drill and all bulldozers except D-9 or equivalent and above.

Group III - Compressors, conveyors, firemen, fueltruck, grease truck, light plants, mighty midget with compressor, space heaters, welding machines, wellpoint system and all power rollers except on hot mix asphalt.

Group IV - Oilers (all types)

SUPERSEDEAS DECISION

STATE: New Hampshire
DECISION NUMBER: NH83-3011
COUNTIES: Rockingham and Stafford
DATE: Date of Publication
Supersedes Decision No. NH82-3009 dated February 26, 1982, in 47 FR 8519
DESCRIPTION OF WORK: Building, Heavy and Marine Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.56	$3.31
BOILERMAKERS	18.25	3.295
BRICKLAYERS; CEMENT MASONS:		
Marble Masons, Plasterers, Stonemasons, Tile Setters and Terrazzo Workers	13.14	1.92
CARPENTERS:		
Area 1:		
Carpenters and Soft Floor Layers	15.96	3.37
Area 2:		
Carpenters and Soft Floor Layers	12.61	1.55
Piledrivers, Wharf and Dock Buildings and Millwrights	13.46	1.55
Area 3:		
Carpenters and Soft Floor Layers	12.61	1.55
Piledrivers, Dock Builders and Millwrights	13.46	1.55
ELECTRICIANS:		
Area 1	15.40	3%+1.30
Area 2	14.87	3%+2.65
Area 3	15.35	3%+.83
Area 4	15.40	3%+1.30
ELEVATOR CONSTRUCTION:		
Constructors	13.88	2.180+a+b
Helpers	9.72	2.180+a+b
IRONWORKERS:		
Structural, Ornamental and Reinforcing	15.23	3.19
LINE CONSTRUCTION:		
Linemen	$12.00	$1.45+c+3-3/8%
Equipment Opeators	10.20	1.45+c+3-3/8%
Groundman	9.60	1.45+c+3-3/8%
Driver Groundman	7.80	1.45+c+3-3/8%
PAINTERS:		
Area 1:		
New Construction:		
Brush and Taper	14.31	2.91
Sandblasting and Spray	15.31	2.91
Repaint Rate:		
Brush and Tapers	12.81	2.91
Sandblasting and Spray	13.81	2.91
Steel, New and Repaint Rates	16.83	1.91
Area 2:		
Commercial and Industrial	11.85	.25
Sandblasting and Spray	13.35	.25
Structural Steel	12.75	.25
Area 3:		
Commercial and Industrial	11.85	2.91
Sandblasting, Spray and Tender	13.85	2.91
Structural Steel	12.75	2.91
PLUMBERS and STEAMFITTERS:		
Area 1	17.67	2.70
Area 2	15.05	2.72
Area 3	15.60	2.10
Area 4	15.60	2.10
ROOFERS	7.80	
SHEET METAL WORKERS	14.60	2.33
SPRINKLER FITTERS	14.37	2.83

DECISION NO. NH83-3011

Page 2

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Building Construction:		
Rockingham County:		
Group 1	$10.13	$2.35+d
Group 2	10.34	2.35+d
Group 3	10.86	2.35+d
Group 4	11.43	2.35+d
Group 5	10.49	2.35+d
Heavy Construction:		
Rockingham County (including the Townships of Auburn, Candia, Chester, Danville, Deerfield, Derry, London Derry, Raymond, Sandown, Windham, Hempstead and Freemont):		
Group 1	8.25	2.35+d
Group 2	8.75	2.35+d
Group 3	9.00	2.35+d
Tunnel-Free Air Operation:		
Heavy Construction:		
Rockingham County:		
Group 1	11.41	2.35+d
Group 2	11.63	2.35+d
Group 3	11.75	2.35+d
Group 4	12.18	2.35+d
Building & Heavy Constr:		
Stafford County:		
Group 1	10.13	2.35+d
Group 2	10.34	2.35+d
Group 3	10.49	2.35+d
Group 4	10.86	2.35+d
Group 5	11.43	2.35+d
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Class 1	17.61	1.81+e
Class 2	17.49	1.81+e
Class 3	14.78	1.81+e
Class 4	16.09	1.81+e
Class 5	13.13	1.81+e
Class 6	13.92	1.81+e
Boom lenghts including jib- over 150' additional $.61; over 185' additional $.99; over 210' additional $1.38; over 250' additional $2.10; over 295' additional $2.92 Per Hour		

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
Heavy Construction:		
Class 1	$17.61	$1.81+e
Class 2	19.22	1.81+e
Class 3	17.49	1.81+e
Class 4	14.78	1.81+e
Class 5	16.09	1.81+e
Class 6	13.13	1.81+e
Class 7	13.92	1.81+e
Boom length including jib- over 150' additional $.28; over 185' additional $.55; over 220' additional $.83; over 275' additonal $1.10 Per Hour		
Marine Construction:		
Class 1	13.41	2.36+g
Class 2	14.64	2.36+g
Class 3	13.36	2.36+g
Class 4	13.29	2.36+g
Class 5	11.22	2.36+g
Class 6	12.23	2.36+g
Class 7	9.97	2.36+g
Class 8	10.54	2.36+g
Boom length including jib - over 150' additional $.25; over 185' additional $.50; over 220' additional $.75; over 275' additional $1.00 Per Hour		
TRUCK DRIVERS:		
Class 1	6.41	1.30+h
Class 2	6.64	1.30+h
Class 3	6.87	1.30+h
Class 4	7.02	1.30+h

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTES:
a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day
b. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day
c. Holidays: Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day provided employee has been employed 5 working days prior to the holiday and provided employee works the scheduled work days immediately preceding and following the holidays
d. Holidays: Memorial Day, Independence Day; and Thanksgiving Day provided employee works the scheduled work days before and after each holiday
e. 10 Paid Holidays: New Year's Day; Memorial Day; Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Fast Day, Columbus Day, and Armistice Day
f. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday; Columbus Day; Veterans' Day; and Fast Day
g. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday, Patriot's Day; Columbus Day; and Veteran's Day, provided the employee has worked 3 days during the week in which the holidays falls and is available for work the days preceding the Holidays
h. Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Washington's Birthday; and Columbus Day, provided employee works 2 days in the calendar week in which the holiday falls; reports for work the last day assigned prior to the holiday and the first day assigned following the holiday.

AREA DESCRIPTIONS

CARPENTERS:
Area 1: Rockingham County (Township of Salem)
Area 2: Remainder of Rockingham County
Area 3: Stafford County

ELECTRICIANS:
Area 1: Rockingham County (Townships of Exeter, Greenland, Hampton, Hampton Falls, Portsmouth, Newington, Newmarket, Northwood, Nottingham, Rye, Seabrook, Strathan, South New Market and New Fields)
Area 2: Rockingham County (Townships of Kingston, Kensington, North Kingston, Hampstead, North Plaistow, Westville, Atkinson, North Salem and Salem)
Area 3: Remainder of Rockingham County
Area 4: Stafford County

AREA DESCRIPTIONS (Cont'd)

PAINTERS:
Area 1: Rockingham County (Township of Salem)
Area 2: Remainder of Rockingham County
Area 3: Stafford County

PLUMBERS and STEAMFITTERS:
Area 1: Rockingham County (Townships of Plainstow, Atkinson, Danville, Hampstead, and Kingston)
Area 2: Rockingham County (Townships of Salem and Windham)
Area 3: Remainder of Rockingham County
Area 4: Stafford County

GROUP DESCRIPTIONS

LABORERS
Building Construction
Rockingham County

Group 1: Laborers

Group 2: Plasterers Tenders

Group 3: Drillers, Pavement Breakers, Pneumatic Tool Operators; Chipping Gun Operators; Blasters and Powdermen

Group 4: All other Pneumatic Tool Operators, on Boiler and Stack Work

Group 5: Pipelayers, Fence and Guard Rail Erectors

Heavy Construction
Rockingham County (Townships of Auburn, Candia, Chester, Chester, Deerfield, Derry, London Derry, Raymond, Sandown, Windham, Hempstead and Freemont)

Group 1: Laborers and Pipelayers

Group 2: Pneumatic Tool Operator, Drillers, Pavement Breakers, Electric Chipping Hammers, used for Laborers work

Group 3: Blasters and Powdermen

LABORERS (Cont'd)

Tunnel - Free Air Operation (Heavy Construction)
Rockingham County

Group 1: Change House Attendant

Group 2: Laborers Topside

Group 3: Miners Helpers, Tunnel Laborers, Shaft Laborers; All other Men

Group 4: Miners, Motormen, Mucking Machine Operators, Nozzlemen, Grout Men, Cable Tenders, Shaft and Tunnel Steel and Rod Men, Concrete Workers, Form Erectors, Form Movers and Strippers, Cage Tenders, and Bellmen

Building and Heavy Construction
Stafford County

Group 1: Laborers

Group 2: Plasterers Tenders

Group 3: Boilers, Stack Work, Pneumatic Tool Operator, Drillers, Pavement Breakers, Electric Chipping Operator, Blasterers, Powdermen and Creosote Work

Group 4: Pipelayers, Fence and Guardrail Erectors

Group 5: Pneumatic Tool on Boiler and Stack Work

POWER EQUIPMENT OPERATORS
Building Construction

Class 1: Shovels, Cranes, Truck Cranes, Cherry Pickers; Dragline, Trench Hoe, Backhoe, 3 Drum Machine, Derricks, Pile, Elevator Tower Hoist, Gradall, Shovel Dozer (except when pushing), Front End Loader (except when pushing), Fork Lift Auger, Boring Machine, Rotary Drill Post Hole Hammer, Post Hole Digger, Pumpcrete Machine

Class 2: Master Mechanics

Class 3: Sonic or Vibratory Hammer, Grader, Scraper, more than 21 yds., struck, Tandem Scraper, Concrete Pump, Bulldozer, Scraper 21 yds. struck or less, Portable Steam Boiler, Portable Steam Generator, Roller, Spreader, Tamper, Asphalt Paver, Mechanics, Maintenance

Class 4: Assistant Engineers (Fireman)

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Class 5: Pumps (1-3 grouped), Compressor, Welding Machines (1-3 grouped), Generator, Concrete Vibrator, Lighting Plant, Heater (power driven 1-5), Wellpoint (operating and installing), Syphons-Pulsometers, Concrete Mixers, Valves controlling Permanent Plant Air or Steam Conveyor, Jackson type Tamper Cranes and Gradalls, Oiler (other than Truck Cranes and Gradalls)

Class 6: Oilers on Truck Cranes and Gradalls

Heavy Construction

Class 1: Power Shovels, Cranes, Truck Cranes, Derrick, Pile Drivers, Trenching Machines, Mechanical Hoist, Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumpcrete Machines; Elevating Graders, Shovels Dozers (when used for digging or loading), Front End Loaders (when used for digging or loading), Mucking Machines (when used as in Shafts and Tunnels), Shaft Hoists, Steam Engineers, Backhoe, Gradalls and Cableways

Class 2: Master Mechanics

Class 3: Grader, Scrapers, more than 21 yds., Struck and Tandem Scrapers, Bulldozers, Scrapers 21 yds., Struck or less, Grout Pumps, Portable Steam Boilers, Roller, Spreaders, Asphalt Pavers, Locomotive and Tampers Self-propelled or Tractor-drawn, Mechanics, Maintenance, Sonic or Vibratory Hammers

Class 4: Pumps (1-3 grouped), Compressors Welding Machine (2)(1-3 grouped) Generator, Lighting Plants, Heaters (power driven (105), Syphons, Pulsometers, Concrete Mixers, Valves controlling Permanent Plant Air or Steam, Conveyors, Wellpoint System (operating and installing)

Class 5: Assistant Engineers (Firemen)

Class 6: Oilers (other than Truck Cranes and Gradalls)

Class 7: Oiler on Truck Cranes and Gradalls

POWER EQUIPMENT OPERATORS (Cont'd)
Marine Construction

Class 1: Power Shovel, Crane, Truck Crane, Derrick, Cherry Picker, Pile Driver, two or more Drum Machine, Lighter, Derrick Boat, Trenching Machine, Mechanical Hoist, Pavement Breaker, Cement Concrete Paver, Dragline, Hoisting Engine, Pumpcrete Machine, Elevating Grader, Shovel Dozer (except when pushing), Front End Loader (except when pushing), Backhoe, Gradall, Cableway, Boring Machine, Rotary Drill, Post Hole Hammer, Post Hole Digger for Lift

Class 2: Swinger Engine

Class 3: Sonic Vibratory Hammer, Grader, Scraper (over 21 yds. struck), Tandem Scraper Concrete Pump, Bulldozer, Scraper (21 yds. struck or less)

Class 4: Portable Steam Boiler, Portable Steam Generator, Roller, Tractor Mechanic (maintenance), Concrete Mixer with Side Loader

Class 5: Assistant Engineer (Fireman)

Class 6: Pump, Compressor, Welding Machine, Heater (power driven), Valve Controlling Permanent Plant (air or steam), Wellpoint System, Auger (power by independent engine and attached to Pile Drivers), Hydraulic Saw, Generator, Lighting Plant, Syphon, Pulsometer, Concrete Mixer

Class 7: Oiler (other than Truck Cranes and Gradall)

Class 8: Oiler on Truck Crane and Gradall

TRUCK DRIVERS

Class 1: Two Axle Equipment

Class 2: Three Axle Equipment including Low Beds

Class 3: Special Earth Hauling Equipment other than Conventional type on the Road Truck and Semi-trailers, Trailer Dumps

Class 4: Off Highway

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: NEW MEXICO COUNTY: STATEWIDE
DECISION NO. NM83-4016 DATE: Date of Publication
SUPERSEDES DECISION NO. NM82-4043 dated August 27, 1982 in 47FR38032
DESCRIPTION OF WORK: Streets, highway, utility and light engineering construction shall include the construction, alteration, repair and demolition of roads, streets, highways, alleys, sidewalks, curbs, gutters, guard rails, fences, parkways, parking areas, airports (other than buildings thereon), bridle paths, athletic fields, highway bridges, median channels and grade separations involving highways; parks, golf courses, viaducts; uncovered reservoirs and uncovered sewage and water treatment facilities; canals, ditches and channels (including linings other than concrete linings); earth dams under one million (1,000,000) cubic yards; well drilling telephone and electrical transmission lines and site preparations which are part of streets, highway, utility and light engineering projects; and shall include construction, alteration, repair, and demolition of utilities such as sanitary sewers, storm sewers, water lines, gas lines, including appurtenances thereto such as lift stations, inlets, manholes, sewer lagoons, septic tanks and service outlets (stubouts), providing such utility construction is outside the property line or more than five (5) feet from a building or heavy engineering structure, including the Navajo Indian Reservation.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$7.40	.44
CEMENT MASONS	7.08	.26
IRONWORKERS:		
Reinforcing	7.49	.50
Structural	8.24	1.29
LABORERS:		
Group I	4.92	.35
Group II	5.22	.35
Group III	5.22	.35
Group IV	5.62	.35
COMMERCIAL LINE WORK-AREA A		
LINEMEN-TECHNICIANS		
Zone I	15.90	P
Zone II	17.33	P
Zone III	18.29	P
Zone IV	20.03	P
CABLE SPLICERS		
Zone I	17.49	P
Zone II	18.92	P
Zone III	19.88	P
Zone IV	21.62	P
EQUIPMENT OPRS. (includes Helicopter operator)		
Zone I	15.10	P
Zone II	16.71	P
Zone III	17.49	P
Zone IV	19.29	P
EQUIPMENT MECHANIC (includes Helicopter Mechanic) & POWERMAN:		
Zone I	13.81	P
Zone II	15.26	P
Zone III	16.22	P
Zone IV	17.96	P
COMMERCIAL LINE WORK-AREA A (cont.'d)		
GROUNDMAN & JACKHAMMER OPRS.		
Zone I	$11.29	P
Zone II	12.72	P
Zone III	13.68	P
Zone IV	15.42	P
P--3-1/2H+$2.00		
COMMERCIAL LINE WORK-AREA B		
LINEMEN-TECHNICIANS		
Zone I	10.15	3½+.60
Zone II	11.60	3½+.60
CABLE SPLICERS		
Zone I	10.40	3½+.60
Zone II	11.85	3½+.60
EQUIPMENT OP(includes Helicopter Operators:		
Zone I	9.64	3½+.60
Zone II	11.02	3½+.60
EQUIPMENT MECHANIC (includes Helicopter Mechanic & POWERMAN		
Zone I	8.93	3½+.60
Zone II	10.21	3½+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	7.21	3½+.60
Zone II	8.24	3½+.60
COMMERCIAL LINE WORK-AREA C		
LINEMEN-TECHNICIANS		
Zone I	14.70	3½+.60
Zone II	15.15	3½+.60
Zone III	15.30	3½+.60
Zone IV	15.55	3½+.60
CABLE SPLICERS		
Zone I	15.05	3½+.60
Zone II	15.50	3½+.60
Zone III	15.65	3½+.60
Zone IV	15.90	3½+.60

	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK-AREA C (cont'd)		
EQUIPMENT OPERS. (Includes helicopter (operator):		
Zone I	$13.28	3½+.60
Zone II	13.68	3½+.60
Zone III	13.83	3½+.60
Zone IV	14.08	3½+.60
EQUIPMENT MECHANIC (Includes helicopter mechanic)		
Zone I	13.68	3½+.60
Zone II	13.68	3½+.60
Zone III	13.83	3½+.60
Zone IV	13.62	3½+.60
POWERMAN		
Zone I	13.23	3½+.60
Zone II	13.23	3½+.60
Zone III	13.38	3½+.60
Zone IV	13.62	3½+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	10.44	3½+.60
Zone II	10.89	3½+.60
Zone III	11.04	3½+.60
Zone IV	11.29	3½+.60
LINE CONSTRUCTION-UTILITY & REA ELECTRIC AND TELEPHONE UTILITIES REA CO-OPS, RAILROADS AND MUNICIPALITIES		
Lineman-Technician	13.90	3½+1.30
Cable splicers	14.67	3½+1.30
Equipment op. (includes helicopter operator)	12.10	3½+1.30
Equipment mechanic (includes helicopter mechanic)	12.10	3½+1.30
Powderman	11.68	3½+1.30
Groundman & Jackhammer op.	9.50	3½+1.30
PAINTERS:		
Brush	7.96	.44
Spray	7.74	.20
POWER EQUIPMENT OPERATORS:		
Group I	7.32	.26
Group II	7.52	.26
Group III	8.10	.26
Group IV	8.12	.26
Group V	8.12	.26
Group VI	8.27	.26
Group VII	8.32	.26
Group VIII	8.47	.26
Group IX	8.97	.26
Group X	9.77	.26

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Distributor (asphalt)	$6.37	.26
Dump or batch trucks:		
Under 8 CY	5.97	.26
8 CY and under 16 CY	6.17	.26
Diesel-powered transport	6.57	.26
Flat bed, 1½ ton	5.97	.26
Flat bed, over 1½ ton	6.17	.26
Lowboy, heavy equipment	6.57	.26
Lowboy, light equipment	6.37	.26
Off-highway hauler	6.37	.26
Pick-up truck 3/4 ton or under	5.97	.26
Trailer or semi-trailer dump and transit-mix & warehousemen	5.97	.26

WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

CLASSIFICATION AREA AND ZONE DEFINITIONS

LABORERS:

GROUP I

Common laborer; carpenter tender; concrete buggy operator (hand); concrete workers

GROUP II

Wagon, air track, drill and diamond drillers' tender (outside)

GROUP III

Air and power tool man; asphalt raker; batching plant scaleman; tenders (to cement masons and plasters); chain sawman; concrete touch-up-man; concrete saw man; curbing machine; asphalt or cement; cutting torchman; metal from setter-road; grade setter; hod carrier; mortar mixer and mason tender; powderman; scaler; vibrator compactor (hand type); vibrator-man (hand-type); concrete power buggyman, wagon; air track drill and diamond drillers (outside)

GROUP IV

Gunite pumpcreteman and nozzleman; multiplate setter; pipelayer; manhole builder; Powderman-blaster-make up

COMMERCIAL LINE WORK

AREA A - Bernalillo, Catron, Chaves, Cibola, Colfax, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia, White Sands Missile Range, and that portion of Fort Bliss in New Mexico.

ZONE I

Cities and Towns Basing Points and Miles from Main Post Office

*Albuquerque - 25 miles	Roswell - 12 miles
Santa Fe - 10 miles	Ruidoso - 12 miles
Las Vegas - 8 miles	Portales - 12 miles
Farmington - 6 miles	Carrizozo - 12 miles
Raton - 6 miles	Clovis - 12 miles
Tucumcari - 6 miles	Gallup - 10 miles
Aztec - 6 miles	**Pojoaque - 2 miles

*The eastern edge of the Albuquerque Zone extends no further than the western boundary of the Village of Tijeras.

**All areas adjacent to Projoaque that are over two (2) miles distance from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 9 percent of the journeyman rate of Zone 1.

ZONE III - Extending up to 30 miles beyond Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 15 percent of the journeyman rate for Zone 1.

ZONE IV - Anything beyond 30 miles from Zone 1, EXCEPT ALBUQUERQUE, rates per hour shall be increased by 26 percent of the journeyman rate for Zone 1.

FOR ESTABLISHING the outlying free zones from the Albuquerque free zone ONLY, Zone 2 shall extend up to 10 miles beyond zone 1, Zone 3 shall extend up to 20 miles beyond Zone 1, and Zone 4 any thing beyond 20 miles from Zone 1

FOR WORK IN LOS ALAMOS COUNTY, USE THE ZONE THREE (3) RATE.

CLASSIFICATION AREA AND ZONE DEFINITIONS (cont'd)

COMMERCIAL LINE WORK (cont'd)
AREA B - Applies to switching stations and sub-stations adjacent to power plants in Zone 1 and Zone 2 in Luna, Dona Ana, Otero, and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico
ZONE I
That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area withi a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the Post Office in Alamogordo, New Mexico.
ZONE II
All other areas of the jurisdiction except those specified in 1

AREA C - Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from the main Post Office of Artesia, Carlsbad, Hobbs and Lovington.

ZONE I - 0 to 12 miles ZONE II - 12 to 22 miles
ZONE III - 22 to 40 miles ZONE IV - 40 miles and beyond

POWER EQUIPMENT OPERATORS
GROUP I - Concrete paving curing machine
GROUP II - Belt type conveyors (material and concrete); broom (self-propelled); fork lift; grease truck operator; head oiler; hydro lift; tractor (under 50 drawbar HP with or without attachment); Industrial locomotive brake-man; front end laoder (2 CY or less); fireman; oiler screedman; roller (pull type); mulching machine; roller (self-propelled)
GROUP III - Concrete paving form grader; concrete paving gang vibrator; concrete paving joint or saw machine; concrete paving sub-grader; tractor with backhoe attachment; subgrade or base finisher; power plant (electric general or welding machine)
GROUP IV Bulldozer (including self-propelled roller with dozer attachment); batch ot continous mix plant (concrete soil-cement or asphalt); roller (steel wheel); front end loader (2 CY thru 10 CY); scraper operator; motor grader
GROUP V - Asphalt distribotor; asphalt paving or laydown machine; asphalt retort heater; mixer, heavy duty, asphalt or soil cement; trenching; clam type shaftmucker; backhoe, clamshell, dragline, gradall, shovel (under 3/4 cy); elevating grader or belt loader; cranes (crawler or mobile) under 20 ton; air compressor (300 CFM & over); crushing screening and washing plants; drilling machine (cable core or rotary); mixer, concrete (1 cy and less); pump (6" intake or over); winch truck; hoist (50 drawbar HP or over)
GROUP VI - Concrete paver mixer; hoist (2 drum and over); side boom; traveling crane; piledriver; backhoe, clamshell, dragline, gradall, shovel (3/4 cy to 3 cy); cranes (crawler or mobile) 20 ton to 40 ton; frontend loader (over 10 cy); mixer, concrete (over 1 cy); mechanic and/or welder)
GROUP VII - Concrete slip-form paving machine; concrete paving finishing machine; concreto paving logitudinal float; gunite machine; refrigerator; jumbo former drilling stage; slusher; concrete paving spreader; pumpcrete machine; grout pump operator

CLASSIFICATION AREA AND ZONE DEFINITIONS (cont'd)

POWER EQUIPMENT OPERATORS (cont'd)
GROUP VIII - Mine hoist; bulldozer (multiple units); scraper (multiple units); mocking machine; backhoe, clamshell, dragline, gradall, shovel (over 3 cy); cranes (crawler or mobile) over 40 tons
GROUP IX - Belt loader (CMI types) overator; derrick cableway
GROUP X - Pipemobile operator; mole operator

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards con-ract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Ohio
COUNTY: Lucas
DECISION NUMBER: OH83-2040
DATE: Date of Publication
Supersedes Decision No. OH82-2044 dated August 20, 1982, in 47 FR 36520
DESCRIPTION OF WORK: Building and Residential Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.50	$2.48
BOILERMAKERS	19.15	3.155
BRICKLAYERS; MARBLE SETTERS; and STONEMASONS	16.935	2.99
CARPENTERS: MILLWRIGHTS and PILEDRIVERMEN	17.91	2.73
CEMENT MASONS	15.50	2.12
ELECTRICIANS:		
Commercial:		
Electricians	21.20	2.50
Cable Splicers	24.38	2.60
Residential	12.48	2.76
ELEVATOR CONSTRUCTORS:		
Mechanics	17.37	2.69+ a+b
Helpers	70%JR	2.69+ a+b
Probationary Helpers	50%JR	
GLAZIERS	15.89	2.37
IRONWORKERS	17.75	3.44
LATHERS	17.91	2.73
LINE CONSTRUCTION:		
Linemen	19.16	2.33+c
Cable Splicers	22.03	2.57+c
Technicians	18.59	2.28+c
Operator - Class 1	15.33	2.00+c
Operator - Class 2	13.41	1.84+c
Groundmen	11.50	1.68+c
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS	14.42	1.06
PAINTERS:		
Commercial:		
Brush; Drywall Tapers and Finishers; and Paperhangers	14.90	3.36
Bridge; Railings; Powerhouse; Refinery Tanks	15.15	3.36
Pressure Cleaning; Sandblasting; and Spray	15.45	3.36
Residential	13.56	3.36

	Basic Hourly Rates	Fringe Benefits
PLASTERERS	$18.02	$1.71
PLUMBERS; STEAMFITTERS: and PIPEFITTERS	17.90	3.42
ROOFERS	16.50	3.09
SHEET METAL WORKERS	16.825	3.64
SOFT FLOOR LAYERS:		
Commercial	16.09	2.91
Residential	13.41	2.36
SPRINKLER FITTERS	17.67	2.83
TERRAZZO WORKERS and TILE SETTERS	17.40	1.36
LABORERS:		
Group 1: Unskilled	14.43	2.71
Group 2: Mason Tenders	14.51	2.71
Group 3: Gunnite Pot Men	14.63	2.71
Group 4: Mortar Mixers	14.58	2.71
Group 5: Concrete Pump Nozzle Men: All Power Driven Tools; and Power Buggies	14.585	2.71
Group 6: Pipe Layers: Bellmen: Bottom Men for Fire Brick Work only; Bottom Man over 5 ft.; Shoring and Cribbing	14.685	2.71
Group 7: Nozzle Operators for Gunnite Work: Miners w/o pressure	15.34	2.71
Group 8: Plasterers' Tenders and Mixers	14.30	2.71
Group 9: Car Pushers	14.77	2.71
Group 10: Winch Operators	14.56	2.71
Group 11: Caisson over 25 ft.	14.89	2.71
Group 12: Muckers w/o pressure	14.87	2.71

DECISION NO. OH83-2040

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits
GROUP A	17.24	3.02
GROUP B	17.08	3.02
GROUP C	16.73	3.02
GROUP D	15.92	3.02
GROUP E	15.59	3.02
GROUP F	13.38	3.02

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Well & Pump Work (Incl. Drilling & Repair of All Water Wells; Test Holes & Wells; & Installation & Repair of Deep Well Type of Shallow Well Pumps on Water Wells)		
Well Driller & Pump Installer	8.10	.61 +d+e

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS:

GROUP A - A-Frame; Rotary Drills Used on Caisson Work for Foundations and Sub-Structure Work; Boiler or Compressor Operator Mounted on Crane (Piggyback Operation); Boom Truck (All Types); Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps; Cranes (All Types); Derricks (All Types); Draglines; Dredge (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Helicopter Operator and Helicopter Winch Operator when Hoisting Builders Materials; Hoes (All Types); Hoisting Engines (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives (All Types); Maintenance Engineer (Mechanic or Welder); Mixers Paving (multiple Drum); Mobile Concrete Pumps with Boom; Panelboard (All Types on Site); Pile Driver; Power Shovels; Side Booms; Slip Form Pavers; Straddle Carriers (Building Construction on Site); Hammerhead Tower Cranes; Trench Machines (over 24" Wide); Tug boat

GROUP B - Asphalt Paver; Bulldozer; C.M.I. Type Equipment; Endloaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; Push Cat

Group C - Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Fork Lifts; Hoist (One Drum); House Elevators; Man Lift; Power Boilers (Over 15 lbs. Pressure); Pump Operators Installing Well Points or Other Type of Dewatering System; Pumps (4" and over discharge); Submersible Pumps (4" and over discharge); Trenchers 24" and under

GROUP D - Compressors on Building Construction; Conveyors (Building Material) Generators; Gunnite Machines; Mixers (Capacity more than one Bag); Mixers (One Bag Capacity, Side Loader); Post Driver; Post Hole Diggers; Pavement Breaker (Hydraulic or Cable); Road Widening Trencher; Rollers; Welder Operator

DECISION NO. OH83-2040

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS (CONT'D)

GROUP E - Backfillers & Tampers; Batch Plant; Bar and Joint Installing Machines; Bullfloats; Burlap and Curing Machines; Clefplanes; Concrete Spreading Machines; Crushers; Deck Hands; Drum Firemen (Asphalt); Farm Type Tractors Pulling Attachments; Finishing Machines; Form Trenchers; High Pressure Pumps Over ½" Discharge; Hydro Seeders; Self-Propelled Power Spreader; Self-Propelled Sub-grader; Tire Repairmen; Tractors Pulling Sheeps Foot Roller or Grader; Vibratory Compactors (with Integral Power)

GROUP F- Oiler; Tenders; Inboard & Outboard Motor Boat Launch; Light Plant Operator; Power Driven Heaters (oil Fired); Power Boilers (less than 15 lbs. Pressure); Pumps Under 4" Discharge; Submersible Pumps Under 4" Discharge

PAID HOLIDAYS:
A- New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Seven Paid Holidays: A through F, & Day after Thanksgiving
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. Ten Paid Holidays: A through F, Good Friday, Day after Thanksgiving Day, Christmas Eve, & New Year's Eve
d. 9 Paid Holidays: New Year's Day; Good Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving; Christmas Eve; & Christmas Day
e. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year - 2 weeks' paid vacation; 11th continuous calendar year - 3 weeks' paid vacation

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Ohio
COUNTIES: Mahoning and Trumbull
DECISION NUMBER: OH83-2041
DATE: Date of Publication
Supersedes Decision No. OH82-2045, dated August 13, 1982 in 47 FR 35431
DESCRIPTION OF WORK: Building and Residential Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.24	$2.43
BOILERMAKERS	17.255	3.305
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; and STONEMASONS:		
Area 1	15.74	2.70
Area 2	15.69	1.75
CARPENTERS; LATHERS:		
Commercial Building	14.76	3.44
Residential	13.28	3.44
CEMENT MASONS:		
Area 1	16.13	1.95+a
Area 2	16.56	1.46+a
ELECTRICIANS:		
Area 1	18.23	2.77
Area 2	17.90	3.06
Area 3:		
Commercial Building	17.10	3.42
Residential (4 units only)	11.86	2.57
ELEVATOR CONSTRUCTORS:		
Mechanics	16.10	2.465+b+c
Helpers	70%JR	2.465+b+c
Probationary Helpers	50%JR	
GLAZIERS:		
Area 1	14.95	2.91
INSULATORS:		
Residential	8.51	3.44
IRONWORKERS	16.01	3.16
LINE CONSTRUCTION:		
Area 1:		
Linemen; Cable Splicer; Operator - Pole Digging Equipment	18.70	2.29
Groundmen	14.96	1.97
Area 2:		
Linemen	17.10	3.42
Cable Splicer	15.99	3.37
Line Equipment Operators	14.84	3.31
Groundman; Truck Driver	11.24	3.14
MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS:		
Area 1	$17.92	
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS:		
Area 1	14.405	
MILLWRIGHTS:		
PILEDRIVERMEN	15.61	3.44
PAINTERS:		
Brush; Dipping; Hydro Jet Cleaning; Paperhangers; Roller; Steamcleaning; Wall Washing; and Waterproofing	15.04	2.66
Spray; Epoxy-mastic (Brush and Roller)	15.54	2.66
Drywall Taping	15.19	2.66
Open Structural Steel	15.25	2.66
PLASTERERS:		
Area 1:		
Commercial	15.61	.83
Residential	13.27	.83
Area 2:		
Commercial	16.52	.93
Residential	12.95	.83
PLUMBERS; STEAMFITTERS; and PIPEFITTERS:		
Area 1	16.61	2.72
Area 2	15.92	3.83
ROOFERS	15.73	2.43
SHEET METAL WORKERS	15.14	1.64
SOFT FLOOR LAYERS:		
Commercial	14.17	3.44
Residential	12.75	3.44
SPRINKLER FITTERS	17.67	2.83
LABORERS:		
Group 1	13.60	2.70
Group 2	13.72	2.70
Group 3	13.84	2.70
Group 4	13.90	2.70
Group 5	13.92	2.70
Group 6	13.97	2.70
Group 7	14.00	2.70
Group 8	14.10	2.70
Group 9	14.20	2.70

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Commercial Building:		
Group 1	$15.46	$2.36
Group 2	14.77	2.36
Group 3	14.13	2.36
Group 4	13.72	2.36
Group 5	13.62	2.36
Group 6	15.73	2.36
Residential:		
Group 1	$14.46	$2.36
Group 2	13.77	2.36
Group 3	13.13	2.36
Group 4	12.72	2.36
Group 5	12.62	2.36
Group 6	14.73	2.36

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. $25.00 per Employee per year
b. 7 Paid Holidays: A through F, and Day after Thanksgiving
c. Employer contributes 8% of Regular Hourly Rate to Vacation Pay Credit for employee who has worked in business more than 5 years, and 6% for employee in business less than 5 years

AREA DESCRIPTIONS

BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; and STONEMASONS:
Area 1: Mahoning County and City of Youngstown
Area 2: Trumbull (Remainder of County)

CEMENT MASONS:
Area 1: Mahoning and Trumbull (Townships of Hubbard and Liberty) Cos.
Area 2: Trumbull County (Remainder of County)

ELECTRICIANS:
Area 1: Mahoning (Milton Township) and Trumbull (excluding Hubbard and Liberty Townships) Counties
Area 2: Mahoning (excluding Milton and Smith Townships) and Trumbull (Hubbard and Liberty Townships) Counties
Area 3: Mahoning County (Smith Township)

GLAZIERS:
Area 1: Except South of Route #224 in Mahoning County

LINE CONSTRUCTION:
Area 1: Mahoning (excluding Smith Township) and Trumbull Counties
Area 2: Mahoning County (Smith Township)

MARBLE SETTERS; TERRAZZO WORKERS; and TILE SETTERS:
Area 1: Mahoning County

MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS and TILE SETTERS' FINISHERS:
Area 1: Mahoning (excluding Smith Township) and Trumbull Counties

PLASTERERS:
Area 1: Mahoning and Trumbull (Liberty and Hubbard Townships) Counties
Area 2: Trumbull County (Remainder of County)

PLUMBERS; STEAMFITTERS; and PIPEFITTERS:
Area 1: Mahoning and Trumbull (Hubbard and Liberty Townships) Counties
Area 2: Trumbull County (-xcluding Hubbard and Liberty Townships)

LABORERS

Group 1: Asphalt Paving; Building and Construction; Carpenter Tenders and Railroad Construction Laborers

Group 2: All Machine Driven Tools, Electric, Gas, or Air and Operation of all; Pumps under 4"; All Men working in Concrete such as Pouring, Paddling, Raking and Conveying; Scaffold Help; Jackhammer Operator; Mason Tender; Mortar Mixer (Hand or Machine); Scrap Iron Burning and Spikers

Group 3: All Work done by Laborers 7 ft. or more in Depth; Hod Carrier

Group 4: Laborers (except Jackhammer) Working on Repair of Blast Furnaces or Coke Plant and Auxiliary Facilities

Group 5: Jackhammer Operator in Trench or Shaft; Jack Hammer on Blast Furnace or Coke Plant; Laser Beam Operator; Muckers; Pipelayers; Powder and Dynamite; and Tunnel and Caisson

Group 6: Ram Tight

Group 7: Gunniting and Sandblasting; Miner Air Tool; Pump Crete Operations; and Wrench Man

Group 8: Lancing

Group 9: Bellman; Hook Up Man

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS

CLASS I - Asphalt Planer Heater; Austin Western & Similar Type; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Berm Builder-Automatic; Backfiller W/Drag Attachments; Boat Derricks; Boat Tug; Boring Mach. Attached to Tractor; Bullcalm; Bulldozer; C.M.I. Road Builder & similar Types; Cable Placer & Layer; Carrier-Straddle; Carryall-Scraper or Scoop; Chicago Boom; Compactor w/Blade Attached; Concrete Spreader Finisher Comb., Crane; Crane-Stationary or Climbing; Crane-Electric Overhead; Crane-Side Boom; Crane Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Diggers-Wheel (not Trencher or Road Widener); Double Nine; Drag Line; Dredge; Drill-Kenny or Similar Type; Electromatic; Fork Lift; Frankle Pile; Gradall; Grader-Power; Gurry; Gurry-Self-Propelled; High Lift; Hoist- Monorail; Hoist-Stationary & Mobile Tractor; Hoists -2 or 3; Jackall; Jumbo Mach.; Kocal or Kuhlman; Land-Seagoing Vehicle; Loader - Elevating; Loader-Front End; Locomotive; Mechanic as Welder; Metro Clip Harvester w/Boom; Mucking Mach.; Paving-Asphalt Finishing Mach.; Paver-Road Concrete; Paver-Slip Form; Place Crete Mach; Post Driver; Power Driven Hydraulic Pumps & Jacks; Pump Crete Machine; Regulator-Ballast; Reigs-Drilling; Shovels; Spikemaster; Stonecrusher; Tie Puller & Loader; Tie Tamper; Tractor-Double Boom; Tractor W/Attachments; Truck-Boom; Truck-Tire-Assigned to Job; Trench Mach.; Tunnel Machine (Mark 21 Java or Similar); Whirley

CLASS II - Asphalt Plant; Bending Machine; Boring Mach.; Chip Harvester W/O Boom; Cleaning Mach.- Pipeline Type; Coating Mach-Pipeline Type; Concrete Belt Placer; Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift Walk Behind; Form Line Mach.; Greaser Truck Op.; Grout Pump; Gunnite Mach.; Hook Bolting Mach.; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Firemen; Power Broom; Refrigeration Plant; Sasgen Derricks; Seeding Mach.; Self-Propelled Mobile Vibrator Compactor or Roller; Hoist-Single Drum; Soil Stabilizer (Pump Type); Spray Cure Mach.-Self Propelled; Straw Blower Mach.; Sub-Grader; Tube Finisher or Broom C.M.I. or Similar Type; Tugger Hoist

CLASS III - Batch Plant-Job related; Boiler Op.; Compressor (125 CFM or over); Curb Builder (Self-propelled); Generator-Steam; Jack-Hydraulic Driven; Mixer-Concrete; Mulching Machine, Pin Puller; Pulverizer; Pump; Road Finisbing Machine (Pulltype); Roller; Saw-Concrete-Self-Propelled; Spray Cure Machine-Motor Powered; Spreader (Side driver shoulder attachment); Tractor; Trencher-Form; Water Blaster

CLASSIFICATION DEFINITIONS - POWER EQUIPMENT OPERATORS (CONT'D)

CLASS IV - Brake Man; Compressor Under 125 CFM; Conveyor; Conveyor 12 ft. or under other than servicing Bricklayers; Deck Hand; Drill Wagon; Generator Sets; Heaters-Portable Power (2 to 5); Mechanic; Jacks Hydraulic (Railroad); Ladavator; Roller (Walk behind 1 ton or over); Steam Jenny; Syphons; Tenders; Vibrator-Gasoline; Welding Machines (2) (Fuel Burning)

CLASS V - Oiler

CLASS VI - Rigs-Pile Driving or Caisson Type

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: OHIO
DECISION NUMBER: OH83-2039
COUNTIES: *SEE BELOW
DATE: Date of Publication
Supersedes Decision No. OH83-2010, dated February 11, 1983 in 48 FR 6469
DESCRIPTION OF WORK: Building Construction Projects (Does not include single family homes and apartments up to and including 4 stories)

*ADAMS, ALLEN, ASHLAND, AUGLAIZE, BELMONT, BROWN, BUTLER, CARROLL, CHAMPAIGN, CLARK, CLERMONT, CLINTON, COLUMBIANA, COSHOCTON, CRAWFORD, DARKE, DEFIANCE, DELAWARE, ERIE, FAIRFIELD, FAYETTE, FRANKLIN, FULTON, GALLIA, GEAUGA, GREENE, GUERNSEY, HAMILTON, HANCOCK, HARDIN, HARRISON, HENRY, HIGHLAND, HOCKING, HOLMES, HURON, JACKSON, JEFFERSON, KNOX, LAWRENCE, LICKING, LOGAN, MADISON, MARION, MEDINA, MEIGS, MERCER, MIAMI, MONROE, MONTGOMERY, MORGAN, MORROW, MUSKINGUM, NOBLE, OTTAWA, PAULDING, PERRY, PICKAWAY, PIKE, PREBLE, PUTNAM, RICHLAND, ROSS, SANDUSKY, SCIOTO, SENECA, SHELBY, TUSCARAWAS, UNION, VAN WERT, VINTON, WARREN, WASHINGTON, WAYNE, WILLIAMS, WOOD, & WYANDOT

ASBESTOS WORKERS	Basic Hourly Rates	Fringe Benefits
ADAMS, BROWN, BUTLER (Twps. of Fairfield, Hanover, Liberty, Milford, Morgan, Oxford, Ripley, Ross, St. Clair, Union & Wayne), CLERMONT, HAMILTON, HIGHLAND, & WARREN (Twps. of Deerfield, Hamilton, Harlan, Salem, Union, & Washington) COS.	$16.99	3.64
ALLEN, DEFIANCE, MERCER, PAULDING, VAN WERT, & WILLIAMS COS.	15.90	2.05
ASHLAND, COSHOCTON, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	17.75	2.24
AUGLAIZE, BUTLER (Middletown & Vic.), CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, LOGAN, MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (Twps. of Clear Creek, Franklin, Massie, Turtle Creek, & Wayne) COS.	18.76	2.48
BELMONT, JEFFERSON, & MONROE COS.	16.13	3.64
CARROLL, COLUMBIANA, & HARRISON COS.	17.24	2.43
CRAWFORD, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GUERNSEY, HARDIN, HOCKING, KNOX, LICKING, MADISON, MARION, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, ROSS, UNION, & VINTON COS.	18.12	3.78
ERIE (E½), GEAUGA, & HURON COS.	18.29	4.24
ERIE (W½), FULTON, HANCOCK, HENRY, OTTAWA, PUTNAM, SANDUSKY, SENECA, WOOD & WYANDOT COS.	17.50	2.48
GALLIA, JACKSON, LAWRENCE, MEIGS, PIKE, SCIOTO, & WASHINGTON COS.	15.60	1.73

BOILERMAKERS	Basic Hourly Rates	Fringe Benefits
ADAMS, BROWN, BUTLER, CHAMPAIGN, CLARK, CLERMONT, CLINTON, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GREENE, GUERNSEY, HAMILTON, HIGHLAND, HOCKING, JACKSON, LAWRENCE, LICKING, MADISON, MEIGS, MIAMI, MONTGOMERY, MORGAN, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PIKE, PREBLE, ROSS, SCIOTO, VINTON, & WARREN COS.	16.35	4.815
ALLEN, ASHLAND, AUGLAIZE, CRAWFORD, DARKE, DEFIANCE, DELAWARE, ERIE, FULTON, HANCOCK, HARDIN, HENRY, HURON, KNOX, LOGAN, MARION, MERCER, MORROW, OTTAWA, PAULDING, PUTNAM, RICHLAND, SANDUSKY, SENECA, SHELBY, UNION, VAN WERT, WILLIAMS, WOOD, & WYANDOT COS.	19.15	3.155

DECISION NO. OH83-2039

BOILERMAKERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
BELMONT, MONROE, & WASHINGTON COS.	18.45	2.715
CARROLL, COSHOCTON, GEAUGA, HARRISON, HOLMES, MEDINA, TUSCARAWAS, & WAYNE COS.	17.255	3.305
COLUMBIANA & JEFFERSON COS.	14.93	2.93
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS:		
ADAMS, & SCIOTO COS.	17.30	.55
ALLEN, AUGLAIZE, MERCER & VAN WERT COS.	15.49	1.87
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, WAYNE (Except Milton & Chippewa Twps.) & WYANDOT (Except Crawford, Ridge, Richland & Tymochtee Twps.) COS.	17.13	2.94
BELMONT, JEFFERSON (Warren & Mt. Pleasant Twps. & Village of Dillonvale), & MONROE COS.	14.67	2.34
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Dixon, Israel, Lanier, Somers & Gratis Twps.) & WARREN COS.	16.575	1.99
CARROLL, COLUMBIANA (Twps. of Knox, Butler, West, & Hanover) & TUSCARAWAS COS.	17.94	2.12
CHAMPAIGN, CLARK, & LOGAN COS.	15.59	3.23
CLINTON & HIGHLAND COS.	12.50	
COLUMBIANA (East Liverpool, Wayne, Franklin, Madison, St. Clair, & Yellow Creek Twps.), & JEFFERSON (Brush Creek & Saline Twps.) COS.	15.00	2.00
COLUMBIANA (Center, Elk Run, Fairfield, Middleton, New Waterford, Perry, Salem & Unity Twps.) CO.	15.74	2.70
COSHOCTON, FAIRFIELD, GUERNSEY, HOCKING, KNOX, LICKING, MORGAN, MUSKINGUM, & PERRY COS.	13.80	3.25
DARKE, MIAMI, & SHELBY COS.	15.95	3.23
DEFIANCE, FULTON (Except Fulton, Amboy & Swan Creek Twps.), HENRY (Except Monroe, Bartlow, Liberty, Washington, Richfield, Marion & Damascus Twps. & that Part of Harrison outside city limits of City of Napolean), PAULDING, PUTNAM, & WILLIAMS COS.	15.85	2.86
DELAWARE, FRANKLIN, MADISON, PICKAWAY, & UNION COS.:		
Bricklayers; Caulkers; Cement Blocklayers; Cleaners; Pointers; & Stonemasons	16.54	2.44
Rubble Work	15.74	2.44
ERIE, HANCOCK, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) COS. & ISLAND OF LAKE ERIE NORTH OF SANDUSKY	15.83	3.03
FAYETTE, PIKE, & ROSS COS.	16.06	1.55
FULTON (Fulton, Amboy, & Swan Creek Twps.), HENRY (Washington, Damascus, Richfield, Bartlow, Liberty, Harrison, Monroe, & Marion Twps.), & WOOD (Ross, Perrysbury, Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson, & Grand Rapids Twps.) COS.	16.935	2.99
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65+a
GREENE, MONTGOMERY & PREBLE (except Dixon, Israel, Lanier, Somers, & Gratis Twps.) COS.	15.95	3.23
HARRISON, JEFFERSON (Except Mt. Pleasant, Warren, Brush Creek, & Salineville Twps. & village of Dillonvale) COS.	14.78	2.04

DECISION NO. OH83-2039

BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE CO.	16.51	.55
MEDINA (Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York Twps.) CO.	18.59	4.12
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	16.72	2.67
MEDINA (Litchfield, Chatham, Harrisville, Homer, & Spencer Twps.) CO.	18.05	.81+b
NOBLE (Brookfield, Noble, Center, Sharon, Olive, Enoch, Stock, Elk, & Jackson Twps.) & WASHINGTON COS.	15.05	2.05

CARPENTERS

ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.	14.19	2.35
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS.	15.05	2.58
ASHLAND, CRAWFORD, ERIE, HANCOCK (City of Fostoria), HURON, OTTAWA, RICHLAND, SANDUSKY, SENECA, & WOOD (City of Fostoria) COS.	16.45	2.75 +c
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON & WARREN COS.	16.10	2.625
CARROLL, TUSCARAWAS, & WAYNE COS.	15.68	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.65	3.32
DEFIANCE, HENRY, PAULDING & WILLIAMS COS.	17.26	1.81
FULTON, HANCOCK (Except city of Fostoria), & WOOD (Except city of Fostoria) COS.	17.91	2.73
GEAUGA COUNTY	16.95	3.86
HOCKING, VINTON, & WASHINGTON COS.	14.60	2.21
MEDINA COUNTY	16.26	2.88

CEMENT MASONS

ADAMS, LAWRENCE (Except Fayette, Union & Rome Twps.), PIKE & SCIOTO COS.	15.86	.65
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, & VAN WERT COS.	12.25	1.50
ASHLAND, CRAWFORD, MARION, MORROW, RICHLAND, & WYANDOT (Exclu. Tymochtee, Crawford, Ridge, & Richland Twps.) COS.	14.35	2.20
BELMONT, HARRISON, & JEFFERSON COS.	15.03	1.18
BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, & WARREN COS.	16.26	2.55
CARROLL & TUSCARAWAS COS.	17.94	2.12
CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.73	1.87
COLUMBIANA CO.	16.13	1.95+d
DEFIANCE, PAULDING, & WILLIAMS COS.	16.05	2.30
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HOCKING, KNOX, LICKING, MADISON, MORGAN, MUSKINGUM, PERRY, PICKAWAY, ROSS, & UNION COS.	15.00	2.20

DECISION NO. OH83-2039

CEMENT MASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits
ERIE, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) COS. & THE ISLAND OF LAKE ERIE N. OF SANDUSKY	15.83	3.03
FULTON, HANCOCK, HENRY, PUTNAM, & WOOD (Exclu. Perry & Bloom Twps.) COS.	15.50	2.12
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65 +a
HOLMES, & WAYNE (Except Milton & Chippewa Twps.) COS.	11.98	2.04
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE (Fayette, Union, & Rome Twps.) CO.	16.51	.55
MEDINA (Litchfield, Chatham, Homer, Harrisville, & Spencer Twps.) CO.	18.05	.81+b
MEDINA (Except Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	16.64	1.92
MONROE, NOBLE, & WASHINGTON COS.	12.26	2.06

ELECTRICIANS

ADAMS, JACKSON (Bloomfield, Franklin, Hamilton, Jefferson, Lick, Madison, & Scioto Twps.), PIKE (Camp Creek, Marion, Newton, Scioto, & Sunfish), & SCIOTO COS.	17.03	3.32
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, WYANDOT (Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem Twps.) COS.	16.00	2.75
ASHLAND, CRAWFORD, HURON (New Haven, Richmond, Ripley & Greenwich Twps.) KNOX (Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Pike, Brown, & Jefferson Twps.), MARION, MORROW, RICHLAND, & WYANDOT (Sycamore, Crane, Eden, Pitt, & Antrim Twps.) COS.	16.98	2.30
BELMONT COUNTY:		
Electricians	15.03	4.49
Cable Splicers	15.28	4.50
BROWN, CLERMONT, & HAMILTON COS.:		
Up to & Incl. 18 mi. radius of Hamilton Co. Court House, Cincinnati	17.75	3.17
Over 18 mi. radius up to & Incl. 21. mi. radius of Hamilton Co. Court House, Cincinnati	18.05	3.18
Over 21 mi. radius up to & Incl. 25 mi. radius of Hamilton Co. Court House, Cincinnati	18.15	3.185
Over 25 mi. radius of Hamilton Co. Court House, Cincinnati	18.30	3.19
BUTLER, & WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union, & Washington Twps.) COS.:		
Electricians	17.90	2.63
Cable Splicers	18.40	2.64
CARROLL (W½ incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps), & WAYNE (S. of Baughman, Chester, Green & Wayne Twps.) COS.	17.10	3.42
CARROLL (S ½ Exclu. Fox, Harrison, Rose & Washington Twps.), HARRISON, & JEFFERSON COS.:		
Electricians	18.00	7.74
Cable Splicers	18.50	7.955
CHAMPAIGN, CLARK, & MADISON (Pike, Paint, Somerford, Union, & Stokes Twps.) COS	15.89	2.42

DECISION NO. OH83-2039

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Twps. of Wayne, Clear Creek, & Franklin Twps.) COS.:		
Electrical Communications Installers within 11 mi. radius of 3rd & Main Street, Dayton	16.98	2.34
Electrical Communications Installers beyond 11 mi. radius of 3rd & Main Street, Dayton	17.21	2.35
COLUMBIANA (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.) CO.:		
Electricians	13.30	3.02
Cable Splicers	13.70	3.03
COLUMBIANA (Butler, Fairfield, Perry, Salem, & Unity Twps.) CO.	17.90	3.06
COSHOCTON, GUERNSEY, KNOX (Clay, Jackson, Morgan, Miller, Milford, Hilliard, Butler, Harrison, Pleasant, & College Twps.), LICKING, MUSKINGUM, PERRY, & TUSCARAWAS (Auburn, York, Jefferson, Clay, Rush, Oxford, Washington, Salem, Perry & Bucks Twps.) COS.	15.95	2.53
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:		
Electricians	21.20	2.50
Cable Splicers	24.38	2.60
DELAWARE, FAIRFIELD, FRANKLIN, MADISON (Canaan, Darby, Deer Creek, Fairfield, Jefferson, Monroe, Oak Run, Pleasant & Range Twps.), PICKAWAY (Darby, Circleville, Harrison, Jackson, Madison, Monroe, Washington, Muhlenberg, Scioto & Walnut Twps.), & UNION COS.:		
Electricians	16.90	2.59
Cable Splicers	17.50	2.605
ERIE, & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarkfield, Norwick, Greenfield, Fairfield, Fitchville, & New London Twps.) COS.	17.05	1.51
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Except Camp Creek, Marion, Newton, Scioto, Sunfish & Union Twps.), ROSS, & VINTON (Clinton, Eagle, Elk, Harrison, Jackson, Richland, & Swan Twps.) COS.:		
Electricians	17.30	1.58
Cable Splicers	18.60	1.62
GALLIA CO.:		
Electricians	17.82	3.29
Cable Splicers	18.71	3.32
GEAUGA (Russell, Chester, & Bainbridge Twps.) CO.	19.83	3.36
GEAUGA (Auburn, Middlefield, Parkman & Troy Twps.) CO.	18.23	2.77
GEAUGA (Rem. of Co.) CO.:		
Electricians	17.93	2.42
Cable Splicers	18.18	2.43
LAWRENCE CO.:		
Electricians	17.32	3.28
Cable Splicers	18.19	3.31
MEDINA (Litchfield, & Liverpool Twps.) CO.	18.20	2.96
MEDINA (Rem. of Co.) & WAYNE (S½) COS.:		
Electricians	17.69	2.94
Cable Splicers	18.93	2.975
MEIGS, MONROE, MORGAN, NOBLE, VINTON (Brown, Knox, Madison, Vinton, & Wilkesville Twps.), & WASHINGTON COS.:		
Electricians	16.25	4.56
Cable Splicers	16.50	4.57

DECISION NO. OH83-2039

ELEVATOR CONSTRUCTORS	Basic Hourly Rates	Fringe Benefits
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, DARKE, GREENE, HAMILTON, HIGHLAND, MIAMI, MONTGOMERY, PREBLE, & WARREN COS.:		
Elevator Constructors	15.65	2.33 +e&f
Helpers	70%JR	2.33 +e&f
Helpers (Prob.)	50%JR	
ALLEN, AUGLAIZE, DEFIANCE, MERCER, PAULDING, PUTNAM, VAN WERT, & WILLIAMS COS.:		
Elevator Constructors	14.15	2.465 +e&f
Helpers	70%JR	2.465 +e+f
Helpers (Prob.)	50%JR	
ASHLAND, CHAMPAIGN, CLARK, COSHOCTON, CRAWFORD, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MORGAN, MORROW, MUSKINGUM, PERRY, PICKAWAY, RICHLAND, ROSS, SHELBY, TUSCARAWAS, UNION, & VINTON COS.:		
Elevator Constructors	16.385	2.465 +e&f
Helpers	70%JR	2.465 +e&f
Helpers (Prob.)	50%JR	
BELMONT, CARROLL, GUERNSEY, HARRISON, JEFFERSON, MONROE, NOBLE, & WASHINGTON COS.:		
Elevator Constructors	15.07	2.69 +e&f
Helpers	70%JR	2.69 +e&f
Helpers (Prob.)	50%JR	
COLUMBIANA COUNTY:		
Elevator Constructors	16.10	2.465 +e&f
Helpers	70%JR	2.465 +e+f
Helpers (Prob.)	50%JR	
ERIE, GEAUGA, & HURON COS.:		
Elevator Constructors	18.01	2.465 +e&f
Helpers	70%JR	2.465 +e&f
Helpers (Prob.)	50%JR	
FULTON, HANCOCK, HENRY, OTTAWA, SANDUSKY, SENECA, WOOD, & WYANDOT COS.:		
Elevator Constructors	17.37	2.69 +e&f
Helpers	70%JR	2.69 +e&f
Helpers (Prob.)	50%JR	
GALLIA, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.:		
Elevator Constructors	17.095	2.465 +e&f
Helpers	70%JR	2.465 +e&f
Helpers (Prob.)	50%JR	
MEDINA & WAYNE COS.:		
Elevator Constructors	16.76	2.465 +e&f
Helpers	70%JR	2.465 +e+f
Helpers (Prob.)	50%JR	
GLAZIERS		
ADAMS, BROWN, BUTLER (Hamilton & Vic.), CLERMONT, CLINTON (S½), HAMILTON, HIGHLAND (S. Part), & WARREN (Lebanon & South) COS.	16.36	1.51
ALLEN, AUGLAIZE, HANCOCK, HARDIN, LOGAN, MERCER, PAULDING, PUTNAM, SEELBY (N. Part), VAN WERT, & WYANDOT (Western Part) COS.	11.70	1.00
ASHLAND, CRAWFORD, HURON (S½), KNOX, MARION, RICHLAND & WYANDOT (E. Part) COS.:		
Outside Replacement	12.08	.51
Outside All Other Work	12.58	.51

DECISION NO. OH83-2039

GLAZIERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
BELMONT, GUERNSEY, HARRISON, & JEFFERSON COS.	11.90	2.12
BUTLER (Exclu. Hamilton & Vic.), CHAMPAIGN, CLARK, CLINTON (N½), DARKE, FAYETTE (W½), GREENE, HIGHLAND (N. Part), MIAMI, MONTGOMERY, PREBLE, SHELBY (S. Part), WARREN (N. of Lebanon) COS.	15.78	1.01 +9
CARROLL, COSHOCTON, HOLMES, MEDINA (S½), TUSCARAWAS, & WAYNE COS.	14.43	3.06
COLUMBIANA COUNTY	14.95	2.91
DEFIANCE, ERIE (NW Tip to Rte. #4), FULTON, HENRY, OTTAWA, SANDOSKY, SENECA, WILLIAMS, & WOOD COS.	15.89	2.37
DELAWARE, FAIRFIELD, FAYETTE (E½), FRANKLIN, HOCKING, JACKSON, LICKING, MADISON, MORGAN, MUSKINGUM, PERRY, PICKAWAY, PIKE, ROSS, UNION & VINTON COS.	14.64	1.01
ERIE (Exclu. NW Tip to Rte. #4), GEAUGA, HURON (N½), & MEDINA COS.	18.03	2.61
IRONWORKERS		
ADAMS (E½), GALLIA, JACKSON (S½), LAWRENCE, PIKE (S½), & SCIOTO COS..:		
Up to 10 mi. from Union Hall in Ashland, Ky.	17.23	3.11
10 to 60 mi. from Union Hall in Ashland, Ky.	17.56	3.11
Over 60 mi. from Union Hall in Ashland, Ky.	19.52	3.11
ADAMS (W½), BROWN, BUTLER (S½), CLERMONT, CLINTON (S. of a line drawn from Blanchester to Lynchburg), HAMILTON, HIGHLAND (Exclu. E. 1/5 and portion of Co. inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall),& WARREN (S½) COS.:		
Reinforcing	16.18	3.12
Ornamental; Structural	16.28	3.18
Fence Erectors	14.65	3.18
ALLEN (S½), AUGLAIZE, BOTLER (N½), CHAMPAIGN (W 2/3), CLARK (W 3/4), CLINTON (Exclu. S. of a line drawn from Blanchester to Lynchburg), DARKE, GREENE, HIGHLAND (Inside lines drawn from Marshall to Lynchburg & from the N. Co. line through E. Monroe to Marshall), LOGAN (W 2/3), MERCER (S½), MIAMI, MONTGOMERY, PREBLE, SHELBY, & WARREN (N½) COS.:		
Within 15 mi. radius of Local Union Office #290	16.86	2.95
Outside 15 mi. radius of Local Union Office #290	17.01	2.95
ALLEN (N½), DEFIANCE (Except Portion S. of a Line drawn from where Rte. 66 meets the N. Line through Independence to the E. Co. border), MERCER (N½), PAULDING, PUTNAM (Except Portion E. of a line drawn from the N. border down thru Miller City to where 696 meets the S. border), VAN WERT & WILLIAMS (Except Portion E. of a line drawn from Pioneer thru Stryker to the S. Border) COS.	15.00	6.09
ASHLAND, CARROLL, COSHOCTON (Exclu. Portion W. of a line beginning at N. W. Co. line going thru Walhonding & Tunnel Hill to the S. Co. line), HOLMES, RICHLAND, TUSCARAWAS, & WAYNE COS.	18.78	2.32
CHAMPAIGN (E 1/3), CLARK (E½), COSHOCTON (W. of a line Beg. at N. W. Co. line going thru Walhonding & Tunnel Hill to the S. Co. line), CRAWFORD (S. of Rte 30),		

DECISION NO. OH83-2039

IRONWORKERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
FAYETTE, HARDIN (Except a line drawn from Roundhead to Maysville), HIGHLAND (E 1/5), HOCKING, JACKSON (S½), KNOX, LOGAN (E 1/3), MARION, MORROW, MUSKINGUM (W. of a line Starting at Adams Mill going to Adamsville & going from Adamsville thru Blue Rock to the S. Border), PERRY, PIKE (N½), ROSS, VINTON, & WYANDOT (S. of Rte. #30) COS.	16.10	3.90
CRAWFORD (Area bet. lines drawn from where Hwy #598 & #30 meet thru N. Liberty to the N. Border & from said Hwy junction point due w. to the Border), DEFIANCE (S. of a line drawn from where Rte. #66 Meets the N. Line thru Independence to the E. Co. Border), ERIE (W. 1/3), FULTON, HANCOCK, HARDIN (N. of a line drawn from Maysville to a point 4 mi. S. of the N. line on the E. line), HENRY, HURON (W. of a line drawn from the N. Border thru Monroeville & Willard), OTTAWA, PUTNAM (E. of a line drawn from the N. Border down thru Miller City to where #696 meets the S. Border), SANDOSKY, SENECA, WILLIAMS (E. of a line drawn from Pioneer thru Stryker to the S. Border), WOOD, & WYANDOT (Area N. of Rte. #30) COS.	17.75	3.44
DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY, & UNION COS.	16.00	3.90
COLUMBIANA (Exclu. portion E. of a line from Damascus to Highlandtown), ERIE (Exclu. W. 1/3), GEAUGA (Except portion E. of a line from Austinburg to Middlefield & South), HURON (Exclu. portion W. of a line drawn from the N. Border through Monroeville & Willard), & MEDINA COS.	19.62	3.12
COLUMBIANA (E. of a line from Damascus to Highlandtown), & GEAUGA (E. of a line from Austinburg to Middlefield & S.) COS.	16.01	3.16
FRANKLIN CO.	15.85	3.90
MEIGS, MORGAN, NOBLE, & WASHINGTON COS.	15.33	3.15
BELMONT, GUERNSEY, HARRISON, JEFFERSON, MONROE, & MUSKINGUM (Except portion W. of a line starting at Adams Mill going to Adamsville & going from Adamsville through Blue Rock to the S. Border) COS.	13.96	5.59
LATHERS		
AUGLAIZE, BUTLER (N½), CHAMPAIGN (N½), CLARK (W½), CLINTON (N½), FAYETTE (W½), LOGAN W½), MERCER, & WARREN (N½) COS.	13.39	.41
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
CLERMONT, HAMILTON, HIGHLAND (Except NE Tip), & WARREN (S½) COS,	15.72	2.625

DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
LATHERS (CONT'D)		
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.65	3.32
DEFIANCE, HENRY, PAULDING, & WILLIAMS COS.	17.26	1.81
ERIE & HURON COS.	16.30	.01
FULTON, HANCOCK, OTTAWA, SANDUSKY, SENECA, & WOOD COS.	17.91	2.73
MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS		
ADAMS & SCIOTO COS.	17.30	.55
ALLEN, AUGLAIZE, MERCER, & VAN WERT COS.:		
Tile Setters	14.69	1.87
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, WAYNE (Except Milton & Chippewa Twps.), & WYANDOT (Except Crawford, Ridge, Richland, & Tymochtee Twps.) COS.	17.13	2.94
BROWN, BUTLER, CLERMONT, HAMILTON, PREBLE (Dixon, Israel, Lanier, Somers, & Gratis Twps.), & WARREN COS.:		
Marble Setters	16.285	1.97
Terrazzo Workers; & Tile Setters	16.235	1.97
CARROLL & TUSCARAWAS COS.:		
Marble Setters	14.82	2.55
Terrazzo Workers	14.74	2.55
Tile Setters	14.65	2.55
CHAMPAIGN, CLARK, DARKE, GREENE, LOGAN, MIAMI, MONTGOMERY, PREBLE (Except Dixon, Israel, Lanier, Somers, & Gratis Twps.), & SHELBY COS.	14.67	2.00
CLINTON & HIGHLAND COS.	12.50	
COLUMBIANA (Center, Elk Run, Fairfield, Middleton, New Waterford, Perry, Salem & Unity Twps.) CO.	17.92	
COLUMBIANA (St Clair, Madison, Wayne, Franklin, Washington, Yellow Creek, & Liverpool Twps.), & JEFFERSON (Brush Creek & Saline Twps.) COS.	15.00	2.00
COSHOCTON, FAIRFIELD, GUERNSEY, HOCKING, KNOX, LICKING, MORGAN, MUSKINGUM, & PERRY COS.	13.80	3.25
DEFIANCE, FULTON (Except Fulton, Amboy & Swan Creek Twps.), HENRY (Except Monroe, Bartlow, Liberty, Washington, Richfield, Marion & Damascus Twps. & that part of Harrison outside city limits of City of Napolean), PAULDING, PUTNAM & WILLIAMS COS.:		
Marble Setters	15.85	2.86
DELAWARE, FRANKLIN, MADISON, PICKAWAY, & UNION COS.	16.75	.20
ERIE, HANCOCK, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Ridge, Tymochtee, Crawford, & Richland Twps.) COS. & ISLAND OF LAKE ERIE NORTH OF SANDUSKY	15.83	3.03
FULTON (Fulton, Amboy, & Swan Creek Twps.), HENRY (Washington, Damascus, Richfield, Bartlow, Liberty, Harrison, Monroe, & Marion Twps.), & WOOD (Ross, Perrysburg, Lake, Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids Twps.) COS.:		
Marble Setters	16.935	2.99
FULTON (Except Fulton, Amboy, & Swan Creek Twps.), & WOOD (Except Troy, Freedom, Montgomery, Webster, Center, Portage, Middleton, Plain, Liberty, Henry, Washington, Weston, Milton, Jackson & Grand Rapids Twps.) COS.:		
Terrazzo Workers; & Tile Setters	17.40	1.36

DECISION NO.OH83 -2039	Basic Hourly Rates	Fringe Benefits
MARBLE SETTERS; TERRAZZO WORKERS & TILE SETTERS (CONT'D)		
GALLIA & MEIGS COS.:		
Terrazzo Workers; Tile Setters	16.15	1.00
GEAUGA CO.	18.12	2.65+a
HARRISON, & JEFFERSON (Except Mt. Pleasant, Warren, Brush Creek, & Salineville Twps. & the Village of Dillonvale) COS.:		
Tile Setters	14.53	2.04
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE CO.	16.51	.55
MEDINA (Hinckley, Granger, Brunswick, Medina, Liverpool, Montville, & York Twps.) CO.:		
Marble Setters; Terrazzo Workers	18.59	4.12
Tile Setters	19.155	3.00
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	15.77	2.57
MEDINA (Litchfield, Chatham, Homer, Harrisville, & Spencer Twps.) CO.	18.05	.81+b
NOBLE (Brookfield, Noble, Creek, Sharon, Olive, Enoch, Stock, Elk, Jackson, & Jefferson Twps.) & WASHINGTON COS.:		
Marble Setters & Tile Setters	15.05	2.05
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS & TILE SETTERS' FINISHERS		
ADAMS, BROWN, BUTLER, CLERMONT, CLINTON, FAYETTE, GALLIA, HAMILTON, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, SCIOTO, VINTON, WARREN, & WASHINGTON COS.:		
Finishers & Grinders	15.98	
Marble Sanders; Polishers; Sawyers; & Waxers	16.145	
Terrazzo Base Grinders (while Operating base grinding machine)	16.40	
ALLEN, DEFIANCE, FULTON, HENRY, PAULDING, PUTNAM, WILLIAMS, & WOOD (Exclu. Perry & Bloom Twps.) COS.	14.42	1.06
ASHLAND, GEAUGA, MEDINA (Exclu. Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & RICHLAND COS.:		
Marble Setters' Finishers	16.54	2.50
Terrazzo Workers' Finishers	16.57	2.50
Tile Setters' Finishers	16.54	2.50
AUGLAIZE, CHAMPAIGN, CLARK, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.:		
Finishers	10.84	
Base Machine	11.68	
CARROLL & TUSCARAWAS COS.:		
Terrazzo workers' Finishers	12.86	2.55
Terrazzo Grinders	14.20	2.55
Tile Setters' Finishers	12.74	2.55
COLUMBIANA, COSHOCTON, HARRISON, HOLMES, JEFFERSON, & WAYNE (Exclu. Milton & Chippewa Twps.) COS.	14.405	
DELAWARE, FAIRFIELD, FRANKLIN, MADISON, PICKAWAY, & UNION COS.:		
Finishers	14.00	
Terrazzo Floor Grinders	14.15	
Terrazzo Base Grinders	14.35	
HANCOCK, OTTAWA, SANDUSKY, SENECA, WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) COS.	11.08	3.03
MEDINA (Wadsworth, Guilford, Westfield, Lafayette, & Sharon Twps.), & WAYNE (Milton & Chippewa Twps.) COS.	15.27	2.57
MILLWRIGHTS		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.	17.36	2.32

DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
MILLWRIGHTS (CONT'D)		
ALLEN, ADGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT & WYANDOT COS.	15.70	2.58
ASHLAND, CRAWFORD, ERIE (E. of B & O RR Tracks), GEAUGA, HURON, MEDINA, & RICHLAND COS.	16.63	4.18
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	15.36	2.59
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	16.44	2.65
CARROLL, TUSCARAWAS, & WAYNE COS.	16.16	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	17.11	3.11
DEFIANCE, ERIE (W of B & O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	17.91	2.73
HOCKING, VINTON & WASHINGTON COS.	15.07	2.46
PAINTERS		
ADAMS, HIGHLAND, JACKSON, PIKE, & SCIOTO COS.:		
Brush; Exterior Bldgs. under 25 ft.; Paper or Wall Covering; Taping & Washing	13.35	1.03
Floor Sanding; Power Tools; Rollers; & Swing Stage	13.85	1.03
Burning; Sandblasting; Spray & Steamcleaning	14.35	1.03
ALLEN, ADGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT, & WILLIAMS COS.:		
Brush; Drywall Taping; & Rollers	13.05	1.59
Wall Covering	13.30	1.59
Sandblasting; Spray; & Steamcleaning	13.55	1.59
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND COS.:		
Brush; Cleaner; Roller; & Washer	13.70	.95
Drywall; Paperhanger; Pot Tender; Spray & Wall Coverer	14.45	.95
BELMONT, HARRISON, & JEFFERSON COS.:		
Brush	12.60	1.75
Roller	13.10	1.75
Spray	13.60	1.75
Taping	14.75	1.75
BROWN, CLERMONT, & HAMILTON COS.:		
Brush; Paperhanging; Roller; Taping; Wall Covering; & Washing	16.25	1.00
Steamcleaning	16.40	1.00
Spray	16.75	1.00
Hopper Tender; Sandblasting; & Waterblasting	17.15	1.00
BUTLER & WARREN COS.:		
Brush; Paperhanging; Roller; Taping; Wallcovering; & Washing	15.58	h
Hopper Tender; Sandblasting & Spray	16.58	h
CARROLL, HOLMES, TUSCARAWAS & WAYNE COS.:		
Brush; Rollers	15.01	2.10
Paperhangers	15.11	2.10
Drywalls	15.41	2.10
Spray	15.51	2.10
CHAMPAIGN, CLARK, LOGAN, & MADISON COS.:		
Brush	14.75	1.00
Drywall Tapers & Finishers	15.10	1.00
Spray	15.45	1.00

DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Brush; Roller	17.62	1.00
Drywall Taping & Spackling; & Wallcovering	17.97	1.00
Structural Steel	18.02	1.00
Cleaning; Sandblast; & Spray	18.12	1.00
COLUMBIANA CO.:		
Brush; Hydro-jet Cleaning; Paperhanging; Roller; Steam Cleaning; Wallwashing; & Waterproofing	15.04	2.66
Drywall Taping	15.19	2.66
Open Structural Steel	15.25	2.66
Spray	15.54	2.66
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, PICKAWAY, ROSS & UNION COS.:		
Drywall Sanders	14.69	2.67
Brush; Paperhangers; Rollers; & Wall Washing	14.94	2.67
Structural Steel	15.24	2.67
Drywall Tapers & Finishers	15.34	2.67
Spray	15.44	2.67
Sandblasting; Steam Cleaning	15.64	2.67
ERIE, HANCOCK, HURON, SANDUSKY, SENECA, & WYANDOT COS.:		
Old Commercial:		
Brush; Rollers; & Wash & Clean Surfaces	13.80	1.70+i
Drywall & Paperhangers	14.05	1.70+i
Sandblasting; & Spray	14.30	1.70+i
New Commercial:		
Brush; Rollers; & Wash & Clean Surfaces	15.30	1.70+i
Drywall & Paperhangers	15.55	1.70+i
Sandblasting; & Spray	15.80	1.70+i
FULTON, HENRY, OTTAWA, & WOOD COS.:		
Brush; Drywall Tapers & Finishers; Paperhangers; Spray & Sandblasting Pot Tenders	14.90	3.36
Pressure Cleaning; Sandblasting; & Spray	15.45	3.36
GALLIA, LAWRENCE, MEIGS & VINTON COS.:		
Brush; Roller	12.55	.70+j
Drywall Tapers & Paperhangers	13.50	.70+j
Spray; Taping Finishers	13.25	.70+j
GEAUGA CO.:		
Brush; Paperhangers & Rollers	18.46	3.22
Spray	18.86	3.22
HOCKING CO.:		
Brush; Roller; Washing; Wallcovering; & Paperhanging	14.50	
Open Structural Steel	15.00	
Taping; Beding; Finishing & Sanding	15.25	
Spray; Sandblasting; Hopper Tender; Swing Stage; & Window Jacks	15.50	
KNOX, LICKING, MUSKINGUM, & PERRY COS.:		
Brush	11.00	
Spray	12.00	
MEDINA CO.:		
Brush; Paperhangers; & Rollers	15.25	2.42
Structural Steel; Drywall Finishers & Tapers	16.00	2.42
Spray	16.10	2.42
MONROE, MORGAN, NOBLE & WASHINGTON COS.:		
Brush; Roller; Paperhanging & Taping	14.36	1.95
Spray; Sandblasting	15.13	1.95
PILEDRIVERMEN		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.	14.55	2.35
ALLEN, ADGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT COS.	15.70	2.58
ASHLAND, CRAWFORD, ERIE (E. of B & O RR Tracks), GEAUGA, HURON, MEDINA, & RICHLAND COS.	16.70	4.11
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	15.47	3.15

DECISION NO. OH83-2039

	Basic Hourly Rates	Fringe Benefits
PILEDRIVERMEN (CONT'D)		
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	16.10	2.625
CARROLL, TUSCARAWAS, & WAYNE COS.	16.16	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	16.65	3.32
DEFIANCE, ERIE (W. of B & O RR Tracks), FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, SANDOSKY, SENECA, WILLIAMS & WOOD COS.	17.91	2.73
HOCKING, VINTON, & WASHINGTON COS.	14.90	2.21
PIPEFITTERS; PLUMBERS; & STEAMFITTERS		
ADAMS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, PIKE, SCIOTO, & VINTON COS.:		
Within 10 mi. radius of Portsmouth	17.00	2.85
Over 10 and within 20 mi. radius of Portsmouth	17.25	2.85
Over 20 and within 35 mi. radius of Portsmouth	17.35	2.85
Over 35 mi. radius of Portsmouth	17.60	2.85
ALLEN, AUGLAIZE, HARDIN, MERCER, SHELBY, & VAN WERT COS.	17.30	2.20
ASHLAND, CRAWFORD, ERIE, HURON, KNOX, MORROW, RICHLAND, & WYANDOT COS.	17.85	2.73
BELMONT, & MONROE (N. of Rte #78) COS.	14.38	3.77
BROWN, CLERMONT, HAMILTON, & WARREN (S 1/3 of Co.) COS.:		
Pipefitters; Steamfitters	17.51	3.86
Plumbers; Gas Fitters	16.32	3.42
BUTLER & WARREN COS.	18.50	2.50
CARROLL (Ross, Monroe, Union, Lee, Orange, Perry, & Loudon Twps.), COSHOCTON, GUERNSEY, HOLMES, MORGAN (S. to State Rte. #78 & from McConnelsville N. on State Rte. #37 to the Perry Co. line), MUSKINGUM, NOBLE, & TUSCARAWAS COS.	17.99	1.81
CARROLL (Exclu. Ross, Monroe, Lee, Union, Orange, Perry, & Loudon Twps.), & WAYNE COS.	15.92	2.31 +k
CHAMPAIGN, CLARK, GREENE (Ross, Cedarville, Jefferson, Ceasar Creek, & New Jasper Twps.), LOGAN, & MADISON (N. of Rte. #38, incl. city of London) COS.	17.40	2.22
CLINTON, DARKE, FAYETTE, GREENE (Exclu. Miami, Cedarville, Ross, Jefferson, Ceasar Creek, & New Jasper Twps.), MIAMI, MONTGOMERY, & PREBLE COS.:		
Within 12 mi. radius of 3rd & Main Streets, Dayton, Ohio	18.56	2.98
Outside 12 mi. radius of 3rd & Main Streets, Dayton, Ohio	18.81	2.98
COLUMBIANA CO. (Exclu. Washington & Yellow Creek Twps. & Liverpool Twp. - Secs. 35 & 36 - W. of Co. Rd. #427)	16.61	2.72
COLUMBIANA (Washington & Yellow Creek Twps. & Liverpool Twp. - Secs. 35 & 36 - W. of Co. Rd. #427), HARRISON, & JEFFERSON COS.	17.57	5.36
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.	17.90	3.42

DECISION NO. OH83-2039

	Basic Hourly Rates	Fringe Benefits
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MADISON (E. of Rte. #38 not incl. city of London), MARION, PERRY, PICKAWAY, ROSS, & UNION COS.	17.85	2.54
GEAUGA, & MEDINA (N. of #18, exclu. city of Medina) COS.:		
Pipefitters; Steamfitters	17.67	3.18
GEAUGA, & MEDINA (N. of #18 & Smith Rd.) COS.:		
Plumbers	19.43	3.22
MEDINA (S. of #18, exclu. City of Medina) CO.	16.45	3.10
MEIGS, MONROE (S. of Rte. #78), MORGAN (S. of Rte. #76), & WASHINGTON COS.	16.04	1.73
PLASTERERS		
ADAMS, LAWRENCE (Except Fayette, Union & Rome Twps.), PIKE & SCIOTO COS.	15.86	.65
ALLEN, AUGLAIZE, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, KNOX, LICKING, LOGAN, MADISON, MERCER, MORGAN, MUSKINGUM, PERRY, PICKAWAY, ROSS, UNION, & VAN WERT COS.	15.56	1.33
BELMONT, HARRISON, & JEFFERSON COS.	14.68	1.15
BROWN, BUTLER, CLERMONT, HAMILTON, HIGHLAND, & WARREN COS.	16.645	1.27
CARROLL & TUSCARAWAS COS.	17.94	2.12
CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	18.20	.80
COLUMBIANA CO.	15.61	.83
ERIE, HURON, OTTAWA, SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.), & WYANDOT (Tymochtee, Crawford, Ridge & Richland Twps.) COS. & THE ISLAND OF LAKE ERIE N. OF SANDOSKY	15.83	3.03
FULTON, HANCOCK, HENRY, PUTNAM & WOOD (Exclu. Perry & Bloom Twps.) COS.	18.02	.71
GALLIA & MEIGS COS.	16.15	1.00
GEAUGA CO.	18.12	2.65 +a
HOLMES & WAYNE (Except Milton & Chippewa Twps.) COS.	17.98	2.04
JACKSON & VINTON COS.	14.05	2.55
LAWRENCE (Payette, Union & Rome Twps.) CO.	16.51	.55
MEDINA (Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	18.05	.81 +b
MEDINA (Except Litchfield, Chatham, Homer, Harrisville & Spencer Twps.) CO.	16.36	1.91
ROOFERS		
ADAMS, GALLIA, GUERNSEY, JACKSON, LAWRENCE, MEIGS, MORGAN, MUSKINGUM, NOBLE, PIKE, SCIOTO, & VINTON COS.	13.50	.65
ALLEN, AUGLAIZE, CHAMPAIGN, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, HARDIN, HOCKING, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORROW, PERRY, PICKAWAY, PUTNAM, ROSS, UNION, VAN WERT, & WYANDOT COS.	16.16	2.28
ASHLAND, CARROLL, COLUMBIANA, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	16.44	2.41
BELMONT, HARRISON, JEFFERSON, & MONROE COS.	13.81	1.00
BROWN, BUTLER, CLERMONT, HAMILTON & WARREN COS.	17.52	1.53
CLARK, CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.:		
Composition, Damp, & Waterproof	16.00	1.90
Slate, Tile & Asbestos	16.22	1.90

DECISION NO. OH83-2039

ROOFERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
DEFIANCE, FULTON, HANCOCK, HENRY, PAULDING, WILLIAMS & WOOD COS.	16.50	3.09
ERIE, GEAUGA, HURON, OTTAWA, SANDUSKY, & SENECA COS.	20.28	2.30
SHEET METAL WORKERS		
ADAMS, DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, GALLIA, GUERNSEY, HOCKING, JACKSON, KNOX, LAWRENCE, LICKING, MADISON, MARION, MEIGS, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PIKE, ROSS, SCIOTO, UNION, & VINTON COS.	15.65	2.97 +1
ALLEN, AUGLAIZE, BUTLER, CHAMPAIGN, CLARK, CLINTON, DARKE, GREENE, HARDIN, LOGAN, MERCER, MIAMI, MONTGOMERY, PREBLE, SHELBY, VAN WERT, WARREN & WYANDOT COS.	16.22	2.94 +1
ASHLAND, CARROLL, COSHOCTON, CRAWFORD, HOLMES, MEDINA, RICHLAND, TUSCARAWAS, & WAYNE COS.	15.17	2.14 +1
BELMONT, HARRISON, JEFFERSON, & MONROE COS.	14.07	1.98
BROWN, CLERMONT, HAMILTON, & HIGHLAND COS.	16.94	2.12
COLUMBIANA CO.	15.14	1.64
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SENECA, WILLIAMS, & WOOD COS.	16.825	3.64
ERIE, HURON, & SANDUSKY COS.	13.91	2.11
GEAUGA CO.	18.96	3.63
WASHINGTON CO.	12.48	1.33
SOFT FLOOR LAYERS		
ADAMS, FAYETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.	14.19	2.35
ALLEN, AUGLAIZE, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM UNION, VAN WERT, & WYANDOT COS.	15.05	2.58
ASHLAND, CRAWFORD, ERIE, HURON, OTTAWA, RICHLAND, SANDUSKY, & SENECA COS. & the portion of the city of Fostoria located in HANCOCK & WOOD COS.	16.45	2.75+ c
BELMONT, COLUMBIANA, HARRISON, JEFFERSON, & MONROE COS.	14.71	3.15
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON, & WARREN COS.	13.00	2.075
CARROLL, TUSCARAWAS, & WAYNE COS.	15.51	2.41
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & SHELBY COS.	15.30	2.67
DEFIANCE, FULTON, HANCOCK (Except city of Fostoria), HENRY, PAULDING, WILLIAMS & WOOD (Except city of Fostoria) COS.	16.09	2.91
GEAUGA	16.95	3.86
HOCKING, VINTON, & WASHINGTON COS.	14.20	2.21
MEDINA CO.	15.61	3.09 +m
SPRINKLER FITTERS		
GEAUGA, & MEDINA (N. of #18, exclu. City of Medina) COS.	17.67	3.18
REMAINING COS.	17.67	2.83

DECISION NO. OH83-2039

LABORERS	Basic Hourly Rates	Fringe Benefits
ADAMS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, & SCIOTO COS.:		
Group 1 - Bottom man; Building & Construction Laborers; Carpenters Tenders; Mason Tenders; Mortar Mixers; Pipelayers; Plasterers' Tenders; Sheeting & Shoring Men	12.06	2.70
Group 2 - Air & Machine Driven Tool Op.; Asphalt Rakers & Smoothers; Burning & Cutting Torches; Chain Saws; Form Setters (Street & Highway); Hand Spikers & Powered Concrete Buggies	12.31	2.70
Group 3 - Gunnite Men Machine Op.; Gunnite Nozzlemen; Powdermen & Blasters	12.58	2.70
ALLEN, AUGLAIZE, MERCER, PAULDING, PUTNAM, SHELBY & VAN WERT COS.:		
Group 1 - Building Laborers, Laser Beam; Power Wheelbarrow or Power Buggy	11.85	2.70
Group 2 - All Machine Driven Tools (Gas, Electric, Air); Asphalt Rakers; Caisson; Cement Finishers' Tenders; Cofferdam; Demolition; Packers; Pot Tenders; Pump Man Under 4" Discharge; Spikers by Hand (Railroad); Tamper; Torch Man; Tunnel Vibrators; & Cement Rakers	12.00	2.70
Group 3 - Blaster Tender; Cylinder, Shaft; Jackhammer; Manhole Builders; Mason Tenders; Mortar Mixers; Plasterers' Tenders; Sewer Bottom Man; Sewer Pipelayer; Sewer, Water Conduit; Gas, Oil Pipeline, except Mainlines; Wagon Drill Tender; Blaster-Powderman; Gunnite Ops.; Muckers & Miners (Tunnel & Caisson) Free Air; Sandblasters; & Wagon Drill Ops.	12.15	2.70
ASHLAND, CRAWFORD, KNOX, MORROW & RICHLAND COS.:		
Group 1 - Building & Construction Laborers; Carpenter Tenders; Concrete Handler; Finisher Tender; Guard Rail Erectors; & Tool Cribmen	12.46	1.70
Group 2 - Air & Power Driven Tools; Bottom Man; Burner on Demolition Work; Caisson Worker; Cofferdam worker; Creosote Worker; Form Setter; Hod Carrier; Laser Beam Set-Up Man; Mason Tender; Mortar Mixer; Mucker; Pipe Layer; Plasterer Tender; Powder Man; Scaffold Builder; Stonemason Tender; Swinging Scaffold; & Tunnel Laborers	12.66	1.70
Group 3 - Gunnite Op.	13.06	1.70
CARROLL, COSHOCTON, HOLMES, TUSCARAWAS, & WAYNE COS.:		
Group 1 - Building & Construction Laborers; Carpenter Tender; Concrete Handler; Finisher Tender; Guard Rail Erector; Tool Cribmen & Utility Construction	14.16	2.70
Group 2 - Air & Power Driven Tools; Bottom Men; Burner on Demolition; Caisson Worker; Cofferdam Worker; Creosote Worker; Form Setter; Hod Carrier; Laser Beam Setup Man; Mucker; Pipelayer; Plasterer Tender; Pow-		

DECISION NO. OH83-2039

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
der Men & Dynamite Blasters; Scaffold Building; Swinging Scaffold; & Tunnel Laborer	14.36	2.70
Group 3 - Mason Tender; Mortar Mixer; & Stonemason Tender	14.66	2.70
Group 4 - Gunnite Op.	14.76	2.70
BELMONT CO.:		
Group 1 - Laborers; Carpenter Tender; Demolition Worker; Landscape Laborer	11.72	1.65
Group 2 - Powderman Tender; Semi-Skilled Laborer; Scaffold Builders; Grade Checker; Brick Masons Tenders; Plasterer Tenders; Cement Finishers Tenders; Stone Masons Tenders; Lathers Tenders; Tile Setters Tenders; Mortar Mixer; Jackhammer Operators; Vibrator Operators; Tamper Operators; Pavement Buster Operator; Chipping and Peening Hammer Operators; Air Siphon and Air Pump Operators; Riprap Finishers; Concrete Saw Operators; Concrete Technician; Power Saw Operators; Chain Saw Operators; Motorized Buggy Operators; Pipe Layers Tenders; Drill Operators Tenders; Sheeters and Shorers; Post Hole Digger Operators; Asphalt Rakers; Lance and/or Water Blaster Operators; Blacksmith Tender; Batch House Scale Operators; Mastic Asphalt; Nozzlemen for Gunnite or Sandblasting; Ride or Walk Roller Tampers	12.02	1.65
Group 3 - Blacksmith; Powderman; Air Track Operator; Pipe Layer (Including Laser Beam Set Up) Burner	12.37	1.65
BROWN, CLERMONT, CLINTON, & HAMILTON COS.:		
Group 1	14.45	2.25
Group 2	14.55	2.25
Group 3	14.60	2.25
Group 4	14.65	2.25
Group 5	14.80	2.25
Group 6	14.95	2.25
Group 7	15.20	2.25
Group 8	13.92	2.25
Group 9	14.07	2.25
(See Page 28)		
BUTLER & WARREN COS.:		
Common Laborers	12.59	2.35
Asphalt Rakers; Hand Air Tamper Chisel; Smoothers Hand Air Pump; Tampers; Vibrator Power Tamper Op.	12.69	2.35
Mason Tenders; Mortar Mixers; & Scaffold Builders	12.92	2.35
Concrete Pumps & Hose Men; Gunnite Operator; & Sandblasters	12.94	2.35
CHAMPAIGN, CLARK, & LOGAN COS.:		
Group 1 - Carpenters' Tenders; Laborers	10.95	2.70
Group 2 - Air & Machine Driven Tool Ops.; Asphalt Raker & Tamper; Barko & Chain Saw; Bottom Man; Gunnite Machine Op. & Nozzle Man; Hand Spikers; Jackhammer; Power Concrete & Buggies; Sewer Pipelayers; & Wagon Drill	11.20	2.70
Group 3 - Mason Tenders; Mortar Mixers; & Plasterers' Tenders	11.35	2.70
Group 4 - Miners & Muckers for Tunnel & Caisson; Powdermen & Blasters	11.45	2.70

DECISION NO. OH83-2039

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
COLUMBIANA, HARRISON, & JEFFERSON COS.:		
Group 1 - Carpenters' Tenders; General Laborers	12.30	2.70
Group 2 - Brick Handlers; Men Mixing Cement for Cement Finishers; Mortar Mixer Machine Op.; Mortarmen for Masons & Plasterers; Scaffold Builders; Tenders for Brick Masons, Plasterers, Stonemasons, & Tile Setters	12.47	2.70
Group 3 - Acetylene Burners; Air Blow Pipe; Air Pump; Air Spades; Air Tampers; Power Driven Tools; Chipping Hammers; Concrete Saw; Jackhammers; Laborers Operating Concrete Busters; Panel Cleaning Machine Operators; Pipelayer & Tenders Working in Ditches or Tunnels & Hand Spikers on Railroads, & Laborers Handling Concrete for Test or Working with Tar, Acid & Creosote; Power Buggy; Power Saw; Sandblaster; Scuba Divers; Vibrators; & Welders	12.50	2.70
DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Group 1 - Laborers	13.39	2.70
Group 2 - All Machine & Power Driven Tools; Chipping Hammers; Power Buggies; Railroad Spikers by Hand; Swinging Scaffold over 15 ft.; & Vibrators	13.54	2.70
Group 3 - Air Drill; Batter Board Setter & Bottom Men; Jackhammer; Man Hole Builders; Sandblasters; & Sewer Pipelayers	13.59	2.70
Group 4 - Caisson Work; Scaffold W/Power Tools	13.64	2.70
Group 5 - Torch Man on Wrecking	13.69	2.70
Group 6 - Caisson Work W/Jackhammer	13.84	2.70
Group 7 - Gunnite Operator; Wagon Drill Operator, and Blaster - Powder Man	13.89	2.70
Group 8 - Tenders for Bricklayers and Masons	13.99	2.70
Group 9 - Tenders for Lathers and Plasterers	14.06	2.70
DEFIANCE, FULTON, HENRY, & WILLIAMS COS.:		
Group 1 - Carpenter Tenders; Cement Finishers' Tenders; Laborers	12.57	2.70
Group 2 - Gunnite Pot Man; Mason Tenders	12.69	2.70
Group 3 - All Power Driven Tools & Buggies	12.72	2.70
Group 4 - Burners, Torchmen & Nozzlemen for Concrete Pumps	12.715	2.70
Group 5 - Plasterers' Tenders	12.745	2.70
Group 6 - Bellman; Bottom Man; & Brick Expeditor	12.805	2.70
Group 7 - Car Pusher	12.86	2.70
Group 8 - Mucker W/O Pressure	12.975	2.70
Group 9 - Nozzle Operator Gunnite Work	13.22	2.70
DELAWARE, HANCOCK, HARDIN, MARION, SENECA, & WYANDOT COS.:		
Group 1 - Building & Construction Laborer; Tool Cribman; Carpenter Tender; Finisher Tender; Concrete Handler; Utility Construction Laborer; Guard Rail Erector	13.01	2.70

DECISION NO. OH83-2039

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Group 2 - Bottom Men; Scaffold Builder; Tunnel Laborer; Pipelayer; Air & Power Driven Tool; Burner on Demolition Work; Swinging Scaffold; Mucker; Caisson Worker; Cofferdam Worker; Powder Man & Dynamite Blaster; Creosote Worker; Mortar Mixer; Form Setter; Mason Tender; Plasterer Tender; Hod Carrier; Laser Beam Set-up Man; & Stonemason Tender	13.21	2.70
Group 3 - Gunnite Oper.	13.61	2.70
ERIE, HURON, OTTAWA, & SANDUSKY COS.:		
Group 1 - Building & Construction Laborer; Carpenter Tender; Concrete Handler; Finisher Tender; Guard Rail Erector; Tool Cribman; & Utility Construction Laborer	13.61	2.70
Group 2 - Air & Power Driven Tool; Bottom Men; Burner on Demolition Work; Caisson Worker; Cofferdam Worker; Creosote Worker; Form Setter; Hod Carrier; Laser Beam Set-Up Man; Mason Tender; Mortar Mixer; Mucker; Pipelayer; Plasterer Tender; Powder Men & Dynamite Blaster; Scaffold & Swinging Scaffold & Tunnel Laborer	13.81	2.70
Group 3 - Gunnite Oper.	14.21	2.70
FAIRFIELD, FAYETTE, FRANKLIN, HOCKING, MADISON, PICKAWAY, & UNION COS.:		
Group 1 - Carpenter Tenders; Cleaning, Debris; Cleaning of all Material; Common Laborers; Conveyor Belt; General Clean Up; Handling & Conveying All Material; Landscape; Loading and Unloading All Trucks; Man on Bucket Pouring Concrete; Pouring of all Concrete; Salamander; Sod Layers; Washing of All Windows; & Wire Mesh Handlers or Setters	12.24	2.70
Group 2 - Air or Electrical Pneumatic Tool Operator; All Scaffold Builders (Swinging Scaffold); Asphalt and Blacktop Rakers; Bottom Man; Brick Tenders; Caisson Bottom Man; Cement Mason Tender; Concrete Saw Operator, and Brush Feeders on Pulverizers; Forklift Operator; Gunnite Nozzle Man; Jackhammer Operator; Laser Gun, Burners; Mortar Mixers & Operator; Pipe Layers; Plasterers' Tenders; Power Buggy Operator; Power Driven Tools; Power Wheelbarrow Operator; Sand and Vacuum Cleaning; Sandblasting of Concrete; Stone Mason Tender; Vibrator Man; Wagon and Churn Drill Operators; & Wall Wrecker & Bar Man on Demolition	12.54	2.70

DECISION NO. OH83-2039

	Basic Hourly Rates	Fringe Benefits
GEAUGA CO.:		
Group 1 - Equipment Replacing Wheelbarrow & Concrete Buggy; Laborers & Tenders	16.54	4.50
Group 2 - Fire Brick Tenders; Power Driven Tools & Vibrators; Sewer & Utilities Laborers	16.69	4.50
Group 3 - Acetylene Burner; Jackhammer; & Mucker	16.74	4.50
Group 4 - Air Track and Wagon Drill; & Swinging Scaffold	16.79	4.50
Group 5 - Mason Tender Handling Carbon Block & Bottom Block Material	16.94	4.50
Group 6 - Gunite Operating Machines of all types	17.02	4.50
Group 7 - Blasters, Shooters Caisson, Well, Cylinder, Cofferdam & Mine Workers without Air; Acid Brick Tenders	17.04	4.50
Group 8 - Top man on Free Standing Radial Stack; Bellman & Bottom Man in Blast Furnace & Stove	17.19	4.50
Group 9 - Lansing Burners	18.04	4.50
LICKING CO.:		
Group 1 - All Portable Heaters; Carpenter Tender; Cleaning of All Material; Common Laborers; Conveyor Belt; General Clean-up Incl. Vacuum Cleaning; Handling and Conveying All Material; Landscape; Loading & Unloading All Trucks; Man on Bucket Pouring Concrete; Pouring of all Concrete; Sod Layers; Washing of all Windows; Water Pumps up to & Incl. 4" Intake	12.24	2.70
Group 2 - Air or Electrical Pneumatic Tool Operator; All Scaffold Builders; Asphalt & Blacktop Rakers; Bottom Man; Brick Tender; Brush feeders on Pulverizers; Burners; Cement Mason Tender; Concrete Saw Operators; Fork Lift Operators; Gunnite Nozzleman; Jackhammer Operator; Laser Gun; Mortar Mixer & Operator; Pipelayers; Plasterers' Tenders; Power Buggy Operators; Power Driven Tools; Power Wheelbarrow Operators; Sandblasting; Stonemason Tender; Swinging Scaffold; Vibrator Man; Wagon & Churn Drill Operators; Wall Wrecker & Bar Man on Demolition; Welders on Demolition	12.54	2.70

DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D)		
MEDINA CO.:		
Group 1 - Carpenter Tenders; Common Laborers; Concrete Bucket Tenders; Landscape Laborers; Mason Tender; & Welder Tenders	14.07	2.76
Group 2 - Air Driven Boring Machine; Asphalt Raker; Hook-up Man on Demolition Work; Material Mixer; Paving Bed Maker; Power Tools (Air, Gas or Electric); Scaffold Erector; Structural Precast Erector; Tamper Operator; & Wire Mesh Handler	13.77	2.76
Group 3 - Barco Type Tampers; Bob Cat or Similar; Bottom Man; Burners; Form Setters; Rod Carriers; Jackhammer; Mockers - Tunnel; Pipelayers; Power Buggy or Power Wheelbarrow; Power Saws; & Rock Drillers	13.72	2.76
Group 4 - Dynamite Men; Gunnite Nozzlemen; Pump Hose Nozzlemen; Structural Precast & Welder & Layout; Tunnel Miners; & Water Line Caulkers	13.57	2.76
MONROE, MORGAN, & WASHINGTON COS.:		
Unskilled	12.70	2.70
Semi-Skilled	13.05	2.70
GUERNSEY, MUSKINGUM, NOBLE, & PERRY COS.:		
Group 1 - Building & Construction Laborers; Carpenter Tenders; Planters (Landscape); Plumbers Tenders & Tree Trimmers	12.57	2.70
Group 2 - Air & Machine Driven Tool Operators; Asphalt Plant Agremeter Operator; Asphalt Plant Mixer Men; Brick Slingers; Car Pushers; & Tunnel Laborers; Caulkers; Cement Handlers; Concrete Puddlers (behind mixers); Curb Cutters & Setters; Cutting with Burning Torches; Dumpmen (Batch Trucks); Hand spikers Operators; Jackhammer Operator; Mason Tenders; Mortar Mixers; Muckers; Pipelayers; Plasterers' Tenders; Proportioning Plant Op.; Pump Men (Under 4"); Road Form Setters; Sewer Bottom Men; Sheeting & Shoring Men; Stone Mason Tenders; Vibrator Operator; Yarners & Wrench men	12.67	2.70
Group 3 - Brick Droppers; Lock Tenders; & Powdermen or Blasters	12.92	2.70
ROSS & VINTON COS.:		
All Water Pumps Up to & Incl. 3" Intake; Clean-up incl. Vacuum Cleaning; Cleaning Debris; Common Laborers; Conveyor Belt; Handling & Conveying All Materials; Landscape; Loading & Un-Loading All Trucks; Man on Bucket Pouring of All Concrete; Sod Layers; & Washing of all Windows	11.07	2.70
Air or Electrical Pneumatic Tool Operators; All Scaffold Builders (Swinging Scaffolds); Asphalt & Blacktop Rakers; Bottom Man; Brick Tenders; Brush Feeders on Pulverizers; Burners; Carpenters' Tenders; Cement Masons' Tenders; Concrete Saw Operators; Forklift Operators; Gunnite Nozzle Man; Jackhammer Operator; Laser Gun; Mortar Mixer & Operators; Pipelayers; Plasterers' Tenders; Power Buggy Operators; Power Driven Tools; Power Wheelbarrow Operators; Sandblasting; Stonemasons' Tenders; Vibrator Man; Wagon & Churn Drill Operators; Wall Wreckers & Bar Man on Demolition; Welders on Demolition	10.87	2.70
WOOD CO.:		
Unskilled Laborers	14.43	2.71
Plasterers' Tenders; Mixers	14.30	2.71
Mason Tenders	14.51	2.71
All Power Driven Tools & Buggies	14.585	2.71
Gunnite Pot Men	14.63	2.71
Mortar Mixers	14.58	2.71
Pipelayers	14.685	2.71
LINE CONSTRUCTION		
ADAMS, GALLIA, JACKSON (Bloomfield, Franklin, Hamilton, Lick, Jefferson, Scioto, & Madison Twps.), LAWRENCE, MEIGS, PIKE (Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), SCIOTO, & VINTON (Brown, Knox, Madison, Vinton, & Wilksville Twps.) COS.:		
Cable Splicers	20.14	2.90
Linemen	18.31	2.84
Operators: All Mechanized Equipment	14.65	2.71
Groundmen	11.90	2.62

DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT, & WYANDOT (Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge & Salem Twps.) COS.:		
Linemen	16.67	1.28
Equipment Operators	15.00	1.225
Groundmen; Truck Drivers	10.96	1.08
ASHLAND, CRAWFORD, HURON (New Haven, Richmond, Ripley & Greenwich Twps.), KNOX (Liberty, Clinton, Union, Howard, Monroe, Middlesburg, Morris, Wayne, Berlin, Brown, & Jefferson Twps.), MARION, MORROW, RICHLAND, & WYANDOT (Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee Twps.) COS.:		
Equipment Operators; Linemen	16.98	2.36
Line Truck Driver	10.18	2.13
Groundmen	11.03	2.16
BELMONT CO.:		
Linemen; Technicians	15.03	4.45
Cable Splicers	15.28	4.46
Groundmen	12.02	4.36
BROWN, CLERMONT, & HAMILTON COS.:		
ZONE I - Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Operators	17.75	3.17
Groundmen	13.31	3.015
ZONE II - Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.05	3.18
Groundmen	13.61	3.03
ZONE III - Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.15	3.185
Groundmen	13.71	3.03

DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
ZONE IV - Over 25 mi. radius from Hamilton Co. Court House, Cincinnati:		
Linemen; Machine Ops.	18.30	3.19
Groundmen	13.86	3.035
BUTLER, WARREN (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) COS.:		
Linemen	17.90	2.63
Cable Splicers	18.40	2.64
Groundmen	12.53	2.44
CARROLL (N ½ Incl. Fox, Harrison, Rose & Washington Twps.), COLUMBIANA (Knox Twp.), HOLMES, TUSCARAWAS (N. of Auburn, Clay, Rush, & York Twps.), & WAYNE (S. of Baughman, Chester, Greene & Wayne Twps.) COS.:		
Cable Splicers	15.99	3.37
Line Equipment Ops.	14.84	3.31
Groundmen; Truck Drivers	11.24	3.14
Linemen	17.10	3.42
CARROLL (S. of Fox, Harrison, Rose & Washington Twps.), HARRISON & JEFFERSON COS.:		
Linemen; Line Equipment Ops.; Truck Drivers	18.00	7.65
Cable Splicers	18.50	7.86
Groundmen	11.70	4.97
CHAMPAIGN, CLARK, GEAUGA (Bainbridge, Russell & Chester Twps.), & MADISON (except Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range, & Pleasant Twps.) COS.:		
Cable Splicers; Equipment Ops.; Linemen	20.00	1.55
Groundmen	13.00	1.305
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE, & WARREN (Wayne, Clear Creek, & Franklin Twps.), COS.:		
Cable Splicers; Linemen	16.98	2.49
Operators:		
Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	16.98	2.49
Line Truck with Winch or Pole & Steel Handling	12.74	2.345
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	10.19	2.26
COLUMBIANA CO. (Center, Elk Run, Franklin, Hanover, Liverpool, Madison, Middleton, St. Clair, Washington, Wayne, West & Yellow Creek Twps.):		
Cable Splicers	13.70	3.08
Linemen; Heavy Equipment Ops.	13.30	2.99
Groundmen & Truck Drivers	11.90	2.68
COLUMBIANA (Twps. of Butler, Fairfield, Perry, Salem, & Unity), & GEAUGA (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy) COS.:		
Cable Splicers; Linemen; Operator - Poledigging Equipment	18.70	2.29
Groundmen	14.96	1.97
COSHOCTON, GUERNSEY, MUSKINGUM, PERRY, & TUSCARAWAS (Rem. of Co.) COS.:		
Cable Splicers; Equipment Op.; Linemen	17.24	1.30
Groundmen	10.25	1.06
DEFIANCE, FULTON, HANCOCK, HENRY, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS, & WOOD COS.:		

DECISION NO. OH83-2039	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
Linemen	19.16	2.33 +n
Technicians	18.59	2.28 +n
Cable Splicers	22.03	2.57 +n
Operator Class I	15.33	2.00 +n
Operator Class II	13.41	1.84 +n
Groundmen	11.50	1.68 +n
DELAWARE, MADISON (Darby, Canaan, Monroe, Deer Creek, Jefferson, Fairfield, Oak Run, Range & Pleasant Twps.), PICKAWAY (Twps. of Circleville, Darby, Harrison, Jackson, Madison, Monroe, Muhlenburg, Scioto, Walnut, & Washington), & UNION COS.:		
Cable Splicers; Equipment Ops. & Linemen	18.32	1.34
Groundmen	10.25	1.06
ERIE & HURON (Lyme, Ridgefield, Norwalk, Townsend, Wakeman, Sherman, Peru, Bronson, Hartland, Clarksfield, Norwick, Greenfield, Fairfield, Fitchville, & New London Twps.) COS.:		
Cable Splicers; Equipment Ops. & Linemen	17.05	1.58
Truck Driver (Winch)	11.08	1.37
Groundman	11.08	1.37
Groundman		
FAIRFIELD, KNOX (Butler, College, Clay, Harrison, Hilliard, Jackson, Morgan, Milford, Miller, & Pleasant Twps.), & LICKING COS.:		
Cable Splicers; Linemen; Ops.: All Mechanized Equipment	16.50	1.28
Groundmen - Truck Driver	13.08	1.16
Groundmen	10.09	1.05
FAYETTE, HIGHLAND, HOCKING, JACKSON (Coal, Jackson, Liberty, Milton, & Washington Twps.), PICKAWAY (Deer Creek, Perry, Pickaway, Salt Creek, & Wayne Twps.), PIKE (Exclu. Camp Creek, Marion, Newton, Scioto, Sunfish, & Union Twps.), ROSS, & VINTON (Clinton, Eagle, Elk, Harrison, Jackson, Richland, & Swan Twps.) COS.:		
Cable Splicers	18.60	1.65
Linemen; Equipment Ops.	17.30	1.605
Truck Drivers	10.33	1.36
Groundmen	9.87	1.345
FRANKLIN CO.:		
Cable Splicers; Linemen	15.83	1.25
Operators	13.84	1.18
Groundmen	10.25	1.06
GEAUGA (Exclu. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.) CO.:		
Cable Splicers; Equipment Ops. & Linemen	17.93	2.98
Truck Drivers (Winch) Groundman; Groundman	11.65	2.76
MEDINA (Litchfield, & Liverpool Twps.) CO.:		
Cable Splicer; Equipment Op.; & Linemen	18.20	3.04
Truck Drivers (Winch) Groundman; Groundman	11.83	2.81
MEDINA (Brunswick, Chatham, Granger, Guilford, Harrisville, Hinckley, Homer, Lafayette, Medina, Montville, Sharon, Spencer, Wadsworth, Westfield, & York Twps.), & WAYNE (Northern ½ of Co.) COS.:		
Linemen	17.69	2.99
Cable Splicers	18.93	3.03
Equipment Operators	13.27	2.83
Truck Drivers; Groundman	8.85	2.68

DECISION NO. OH83-2039

LINE CONSTRUCTION (CONT'D)	Basic Hourly Rates	Fringe Benefits
MONROE, MORGAN, NOBLE, & WASHINGTON CO.:		
Cable Splicers; Linemen; & Equipment Operators	17.24	1.20
Groundmen	10.25	.96
TRUCK DRIVERS		
ADAMS, BROWN, HIGHLAND, JACKSON, LAWRENCE (W. of Coal Grove & W. of St. Rt. #75), PIKE, ROSS, SCIOTO, & VINTON COS.:		
Group 1 - Autos; Bus (inclu. Equip. used for hauling men, materials, & tools); Dumps up to 2 tons; Flat Bed (single axle vehicles under 2 tons); Fuel; Jeeps; & Pickups	12.82	44.00q
Group 2 - Dumps over 2 Tons; Tandems; Forklifts (inclu. Mason Tending Work); Truck Mechanic or Tender; Semi-tractor; Lowboy; Euclid; Dumpsters; End Dumps; Hopper-type Waster & Material Trucks; Truck with Hydraulic Attachments	13.93	44.00q
ALLEN, AUGLAIZE, DEFIANCE, HANCOCK, HARDIN, LOGAN, MERCER, PAULDING, PUTNAM, SHELBY, UNION, & VAN WERT COS.:		
Lowboys	9.60	44.00q
Tenders	8.60	44.00q
BELMONT, JEFFERSON (N. to Short Creek), & MONROE COS.:		
Pickups; Tenders	11.30	78.35q
Mechanic Tenders	11.31	78.35q
Flatbed Material Trucks; Dumps & Semi-Dumps	11.35	78.35q
Tank Truck (Straight & Semi)	11.38	78.35q
Semi-Tractor Trailers	11.40	78.35q
Pole Trailer	11.50	78.35q
Agitator & Mixer Trucks (Up to 5 cu. yds.)	11.58	78.35q
Euclids; Dumpsters; Turnarockers; Ross Carriers; & Athey Wagons	11.63	78.35q
Agitator & Mixer Trucks (Over 5 cu. yds.)	11.66	78.35q
Lowboy Trailer; Winch; Fork & Distributor Trucks (Front & Back End) & Truck Crane	11.93	78.35q
A-Frame	12.00	78.35q
Mechanics	12.03	78.35q
BUTLER & WARREN COS.:		
Group 1- Jeeps; Pickups; & Single Axle Trucks	13.06	92.00q
Group 2 - Fork Lifts; Tandem Axles; Dumps, Tandem Axles; & Winch Trucks	13.21	92.00q
Group 3 - Semi Combination & Combination of Hauling Units	13.31	92.00q
Group 4 - Drag & Low-Boys	13.47	92.00q
Group 5 - Euclids; Mechanics	13.51	92.00q
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE COS.:		
Straight Flat & Dumps; Winches	9.58	r,s&t
Ready Mix Dump Crete	9.64	r,s&t
Tandems & Tractor Trailer Combination	9.69	r,s&t
Euclids to & including 12 yds.	9.75	r,s&t
Euclids over 12 yds.	10.11	r,s&t
COLUMBIANA CO.:		
Group 1 - Dumps; Stake Body; Batch; Flat Bottom; & Pickups	13.22	1.41+ 51.00q
Group 2 - Semis; Tandems	13.44	1.41+ 51.00q
Group 3 - Carry Alls; Euclid Wagon; D.W. 10 Caterpillar (or equivalent)	13.69	1.41+ 51.00q
Group 4- Tractor Trailer (Low Boy)	13.79	1.41+ 51.00q

DECISION NO: OH83-2039

TRUCK DRIVERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
DELAWARE, FAYETTE, FRANKLIN, MADISON, PICKAWAY & ROSS COS.:		
Dumps & Straight	13.65	43.00q
Tandem & Semi-Farm Tractor	13.75	43.00q
Lowboy	13.85	43.00q
GALLIA, LAWRENCE (E. of Ohio State Rte. #75) & MEIGS COS.:		
Group 1 - Truck Tenders; Pickups; Station Wagons; Panel Trucks; Flat-body Material Truck; Dump Trucks (Up to 5 cu. yd.)	14.99	1.00+u
Group 2 - Tank Truck (straight); Dump Trucks (5 cubic yds. and over); Agitator or Mixer Trucks (up to 5 cubic yds); and Flat Bed Tandems	15.29	1.00+u
Group 3 - Winch Trucks; Fork Trucks; Distributor Trucks (front end and back end); Truck Crane; Monorail Truck	15.34	1.00+u
Group 4 - Mechanic's Tender	15.41	1.00+u
Group 5 - Agitator or Mixer Truck (5 cubic yds. and over)	15.47	1.00+u
Group 6 - Tri-Axle Dump Trucks; Hydraulic Lift Tailgate Truck & Farm Type Tractors; End Dumpsters; Turnarockers; Ross Carriers; Athey Wagon or Similar Equipment; A-Frame; Hydro-lift; Dual Purpose Trucks; Semi-Dump; Semi-trailer; Semi-Tank and Lowboy Trailers; Mechanics	15.77	1.00+u
Group 7 - Master Mechanic	16.08	1.00+u
HARRISON & JEFFERSON (S. to Short Creek) COS.:		
Group 1 - Truck Tenders	10.76	39.50q
Group 2 - Mechanic Tenders	10.77	39.50q
Group 3 - Flatboy Material Trucks; Dumps & Semi Dumps	10.81	39.50q
Group 4 - Tanks Trucks (Straignt & Semi)	10.84	39.50q
Group 5 - Semi-Trailers & Tractor Trailers	10.86	39.50q
Group 6 - Euclids; Dumpster; Turnarockers; Ross Carrier; Athey Wagon	11.09	39.50q
Group 7 - Lowboy Trailers; Winches; A-frames; Forks; Distributors (Front & Back End); & Truck Cranes	11.39	39.50q
Group 8 - Mechanics	11.49	39.50q
WASHINGTON COUNTY:		
Group 1 - Pickups; Station Wagons; Panel Trucks	13.29	v
Group 2 - Flat Body Material Trucks (Straight Jobs); Dump Truck (up to 5 cu. yds.); Mechanic Tenders; Tank Truck (Straight)	13.39	v
Group 3 - Dump Trucks (5 cu. yds. & over); Semi-Dump Trucks; Semi-Trailers; Agitators or mixed Trucks (up to 5 cu. yds.); Monorails	13.54	v
Group 4 - Low Boy Trailers; Winch Trucks; Fork Truck; Distributor Trucks (Front and Back end); Truck Crane; Agitators or Mixer Trucks (5 cu. yds. & Over); Hydraulic Tail Gate; Farm Type Tractors	13.69	v

DECISION NO. OH83-2039

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D)		
Group 5 - Euclids; Dumpsters; Turnarockers; Ross Carriers; Athey Wagons or similar Equipment; A-frame; Hydrolift; Dual Purpose Trucks	13.94	v
Group 6 - Mechanics	14.04	v
Group 7 - Master Mechanics	14.19	v
POWER EQUIPMENT OPERATORS: All Counties, except Columbiana: Well & Pump Work (Incl. Drilling & Repair of all Water Wells; Test Holes & Wells; & Installation & Repair of Deep Well Type of Shallow Well Pumps on Water Wells)		
Well Driller & Pump Installer	8.10	.61 +o+p
COLUMBIANA COUNTY:		
CLASS I	15.46	2.36
CLASS II	14.77	2.36
CLASS III	14.13	2.36
CLASS IV	13.72	2.36
CLASS V	13.62	2.36
CLASS VI	15.73	2.36

Basic Hourly Rates	Fringe Benefits

DECISION NO. OH83-2039

CLASSIFICATION DEFINITIONS

LABORERS

BROWN, CLERMONT, CLINTON, & HAMILTON COUNTIES

GROUP 1 - Common Laborers; Cement Masons' Tenders; Hand Operated Mechanical Mule; & Mechanical Sweeper
GROUP 2 - Bottom Man; Pipelayer
GROUP 3 - Burning Torch Operator; Concrete Pump Hose Man; Jackhammer; Mechanical & Air Tamper Operator; Mechanical Concrete Buggies; Power Operated Mechanical Mule; Vibrator Man
GROUP 4 - Bottom Jackhammer Man; Mason Tenders; Plasterers' Tenders; Stonemasons' Tenders
GROUP 5 - Plaster Mixer Pump Operator
GROUP 6 - Tunnel Laborer
GROUP 7 - Gunnite Nozzle Operator
GROUP 8 - Demolition Construction - Wrecking Laborers
GROUP 9 - Demolition Construction - Jackhammer Man; Burner; & Wall Man

POWER EQUIPMENT OPERATORS

COLUMBIANA COUNTY

CLASS I - Asphalt Planer Heater; Austin Western & Similar Type; Backfiller W/Drag Attachment; Backhoe; Batch Plant-Central Mix; Batch Plant-Portable Concrete; Berm Builder-Automatic; Boat Derrick; Boat Tug; Boring Mach. Attached to Tractor; Bullclam; Bulldozer; C. M. I. Road Builder & Similar Types; Cable Placer & Layer; Carrier-Straddle; Carryall - Scraper or Scoop; Chicago Boom; Compactor W/Blade Attached; Concrete Spreader Finisher Comb.; Crane; Crane-Stationary or Climbing; Crane-Electric Overhead Crane-Side Boom; Crane Truck; Crane-Tower; Derrick-Boom; Derrick-Car; Diggers-Wheel (not trencher or road widener); Double Nine; Drag Line; Dredge; Drill-Kenny or Similar Type; Electromatic; Fork Lift; Frankie Pile; Gradall; Grader-Power; Gurry; Gurry-Self-Propelled; High Lift; Hoist-Monorail; Hoist-Stationary & Mobile Tractor; Hoist-2 or 3; Jackall; Jumbo Mach.; Kocal and Kuhlman; Land-Spagoing Vehicle; Loader - Elevating; Loader-Front End; Locomotive; Mechanic as Welder; Metro Clip Harvester W/Boom; Mucking Mach.; Paving-Asphalt Finishing Mach.; Paver Road Concrete; Paver-Slip Form; Place Crete Mach; Post Driver; Power Driven Hydraulic Pumps & Jacks; Pump Crete Machine; Regulator-Ballast; Reigs- Drilling; Shovels; Spikemaster; Stonecrusher; Tie Puller & Loader; Tie Tamper; Tractor-Double Boom; Tractor w/Attachments; Trench Mach.; Trucks-Boom; Truck Tire-Assigned to Job; Tunnel Machine (Mark 21 Java or Similar); Whirley

DECISION NO. OH83-2039

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (CONT'D)

COLUMBIANA COUNTY (CONT'D)

CLASS II - Asphalt Plant; Bending Machine; Boring Mach.; Chip Harvester W/O-Boom; Cleaning Mach.- Pipeline Type; Coating Mach.- Pipeline Type; Concrete Belt Placer; Concrete Finisher; Concrete Planer or Asphalt; Concrete Spreader; Elevator; Fork Lift Walk Behind; Form Line Mach.; Grease Truck Op.; Grout Pump; Gunnite Mach.; Hoist-Single Drum; Huck Bolting Mach.; Hydraulic Scaffold; Paving Breaker; Pipe Dream; Pot Fireman; Power Broom; Refrigeration Plant; Sasgen Derrick; Seeding Mach.; Self-Propelled Mobile Vibrator Compactor or Roller; Soil Stabilizer (Pump Type); Spray Cure Mach. Self-Propelled; Straw Blower Mach.; Sub-Grader; Tube Finisher or Broom C.M.I or Similar Type; Tugger Hoist

CLASS III - Batch Plant-Job Related; Boiler Op.; Compressor (125' CFM or Over); Curb Builder (Self-Propelled); Generator-Steam; Jack-Hydraulic Driven; Mixer-Concrete; Mulching Mach.; Pin Puller; Pulverizer; Pump; Road Finishing Mach. (Pulltype); Roller; Saw-Concrete-Self-Propelled; Spray Cure Mach.-Motor Powered; Spreader (Side Driver Shoulder Attachment); Tractor; Trencher Form; Water Blaster

CLASS IV - Brake Man; Compressor Under 125 CFM; Conveyor; Conveyor 12 Feet or Under Other Than Servicing Bricklayers; Deck Hand; Drill Wagon; Fireman; Generator Sets; Heater-Portable Power (2 to 5); Jacks Hydraulic (Railroad); Ladavator; Roller (Walk Behind 1 Ton or Over); Steam Jenny; Syphons; Tender Mechanic; Vibrator-Gasoline; Welding Machines (2) (Fuel Burning)

CLASS V - Oiler

CLASS VI - Rigs-Pile Driving or Caisson Type

DECISION NO. OH83-2039

POWER EQUIPMENT OPERATORS

	ZONE I Basic Hourly Rates	ZONE II Basic Hourly Rates	ZONE III Basic Hourly Rates	Fringe Benefits
GROUP A	$17.24	$16.96	$17.52	3.02
GROUP B	17.08	16.80	17.37	3.02
GROUP C	16.73	16.44	17.02	3.02
GROUP D	15.92	15.66	16.24	3.02
GROUP E	15.59	15.33	15.92	3.02
GROUP F	13.38	13.13	13.74	3.02

ZONE I: Allen, Ashland, Belmont, Carroll, Coshocton, Defiance, Fulton, Guernsey, Hancock, Hardin, Harrison, Henry, Holmes, Jefferson, Monroe, Noble, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Tuscarawas, Van Wert, Washington, Wayne, Williams, & Wood Counties

ZONE II: Adams, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Crawford, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Hocking, Jackson, Knox, Lawrence, Licking, Logan, Madison, Marion, Meigs, Mercer, Miami, Montgomery, Morgan, Morrow, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, Vinton, Warren, & Wyandot Counties

ZONE III: Erie, Geauga, Huron, & Medina Counties

DECISION NO. OR83-2039

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP A - A-Frames; Boiler or Compressor Operator mounted on Crane (Piggy-Back Operation); Boom Truck; Cableways; Cherry Pickers; Combination Concrete Mixer and Tower; Concrete Pumps; Cranes; Derricks; Draglines; Dredge (Dipper, Clam or Suction) 3 Man Crew; Elevating Grader or Euclid Loader; Floating Equipment; Gradalls; Hammerhead Tower Cranes; Helicopter Operator and Helicopter Winch Operator When Hoisting Builders Materials; Hoes; Hoisting Engines (Two or More Drums); Lift Slab or Panel Jack Operator; Locomotives; Maintenance Engineer (Mechanic or Welder); Mixer Paving (Multiple drum); Mobile Concrete Pumps with Boom; Panelboard; Pile Driver; Power Shovels; Rotary Drills used on Caisson work for Foundations and Sub-Structure Work; Side Boom; Slip Form Pavers; Straddle Carriers; Trench Machine (Over 24" Wide); Tug Boat

GROUP B - Asphalt Paver; Bulldozer; C.M.I. Type Equipment; End Loaders; Kohlman Type Loaders (Dirt Loading); Lead Greaseman; Mucking Machines; Power Grader; Power Scoops; Power Scrapers; Push Cat

GROUP C - Air Compressor (Pressurizing Shafts or Tunnels); Asphalt Rollers; Fork Lifts; Hoist (One Drum); House Elevators; Man Lift; Power Boilers (over 15 lbs. Pressure); Pump Operators Installing Well Points or other Type of Dewatering System; Pumps (4" and Over Discharge); Submersible Pumps (4" and Over Discharge); Trenchers 24" and under

GROUP D - Compressors on Building Construction; Conveyors (Building Material); Generators; Gunnite Machines; Mixers (Capacity more than One Bag); Mixers (One Bag Capacity, side Loader); Pavement Breaker (Hydraulic or Cable); Post Driver; Post Hole Diggers; Road Widening Trencher; Rollers; Welder Operator

GROUP E - Backfiller & Tamper; Bar and Joint Installing Machines; Batch Plant; Bullfloats; Burlap and Curing Machine; Clefplanes; Concrete Spreading Machine; Crushers; Deck Hands; Drum Fireman (asphalt); Farm Type Tractors Pulling Attachments; Finishing Machines; Form Trenchers High Pressure Pumps Over 4" Discharge; Hydro Seeders; Self-Propelled Power Spreader; Self Propelled Sub-Grader; Tire Repairman; Tractors Pulling Sheeps Foot Roller or Grader; Vibratory Compactor (with Integral Power)

GROUP F - Inboard & Outboard Motor Boat Launch; Light Plant Operator; Oiler; Power Driven Heaters (Oil Fired); Power Boiler (Less than 15 lbs. Pressure); Pumps under 4" discharge Boiler (Less than 15 lbs. Pressure); Pumps under 4" Discharge Submersible Pumps under 4" Discharge; Tenders

DECISION NO. OR83-2039

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:

a. $75.00 per year
b. 2 paid holidays: C & D
c. 2 paid holidays: C & D
d. $25.00 per year
e. 7 paid holidays: A through F and Day after Thanksgiving
f. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for employee who has worked in business less than 5 years.
g. 3 paid holidays: D, E, & F
h. $25.00 per year
i. $50.00 per year
j. 6 paid holidays: A, C, E, F, Decoration Day, & Veterans' Day
k. 1 paid holiday: D, providing the employee has worked 5 consecutive days before and after the holiday.
l. 3% of gross earnings to SASMI
m. $150.00 per year
n. 10 paid holidays; A through F; Good Friday; Day After Thanksgiving Day; Christmas Eve & New Year's Eve
o. 9 paid holidays: A through F, plus Good Friday; Friday after Thanksgiving Day; & Christmas Eve
p. Employees who have been in continuous employment of the company for less than 1 year as of January 1 will receive pro-rated vacation based on 5/12 day per full month of employment, but not exceeding 5 days' vacation; 3rd continuous calendar year- 2 wks' paid vacation; 11th continuous calendar year - 3 wks' paid vacation
q. Per employee per week
r. $55.50 per week per employee
s. 1 year's employment - 1 week's paid vacation; 7 years' employment - 2 weeks' paid vacation providing the employee has been on payroll for 8 months during the previous 12 month period
t. An Employee who has been on the payroll 30 days or more & has worked his last scheduled workday witnin 7 calendar days before his next scheduled workday within 7 calendar days after New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, & Christmas Day shall receive 8 hours' pay for said holidays.
u. $385.50 per employee per month
v. $197.17 per employee per month

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Statewide - See Area Descriptions on Page 9

DECISION NO.: WI83-2041

DATE: Date of Publication

Supersedes Decision No. WI80-2084 dated September 26, 1980 in 45 FR 64058

DESCRIPTION OF WORK: Heavy, Tunnel, Sewer & Water Line Construction

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS & STONEMASONS:		
Area 1	$15.90	1.54
Area 2	13.22	2.19
Area 3	12.75	2.09
Area 4	13.83	2.45
Area 5	14.77	1.95
Area 6	14.24	2.25
Area 7	15.52	3.10
Area 8	14.24	2.25
Area 9	15.05	1.60
Area 10	15.53	1.55
Area 11	13.05	2.35
CARPENTERS & PILEDRIVERMEN:		
Area 1		
Carpenters	12.95	2.30
Piledrivermen	13.15	2.30
Area 2		
Carpenters	15.59	2.21
Piledrivermen	15.74	2.21
Area 3		
Carpenters	14.16	2.11
Piledrivermen	14.25	2.11
Area 4		
Carpenters	14.56	1.71
Piledrivermen	14.65	1.71
Area 5		
Carpenters	13.29	2.12
Piledrivermen	13.49	2.12
Area 6		
Carpenters	14.30	3.83
Piledrivermen	16.03	3.20
Area 7		
Carpenters & Piledrivermen	14.00	2.80
Area 8		
Carpenters & Piledrivermen	16.36	3.10
Area 9		
Carpenters	13.76	1.91
Piledrivermen	14.16	1.91
CEMENT MASONS:		
Area 1	15.85	.70
Area 2	15.90	1.54
Area 3	13.80	2.30
Area 4	12.38	3.75
Area 5	13.46	1.85
Area 6	12.67	1.65
CEMENT MASONS: (Cont.)		
Area 7	14.38	1.50
Area 8	12.72	2.19
Area 9	12.25	2.09
Area 10	12.55	2.35
Area 11	14.45	1.85
Area 12	13.18	1.95
Area 13	14.71	1.55
Area 14	13.93	
ELECTRICIANS:		
Area 1	15.59	1.10 + 6%
Area 2	15.66	12½%
Area 3		
Contracts - $50,000 or greater	14.23	2.00 + 4%
Contracts - under $50,000	12.81	2.00 + 4%
Area 4	15.31	.75 + 9½%
Area 5	15.13	.75 + 9½%
Area 6	17.50	.71 + 3 3/4%
Area 7	15.79	1.30 + 3%
Area 8	15.58	.72 + 13.2%
Area 9	15.54	1.19 + 12 3/4%
Area 10	15.16	1.88 + 14%
Area 11	15.75	19%
Area 12	17.50	.70 + 3%
Area 13	16.11	1.88 + 14%
IRONWORKERS:		
Area 1	15.11	1.96
Area 2	15.22	3.22
Area 3	16.27	5.00
Area 4	17.00	4.375
Area 5	16.05	1.59
Area 6	14.08	2.85

DECISION NO. WI83-2041

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Statewide		
Lineman	15.47	.65+9½%
Heavy Equipment Operator	13.92	.65+9½%
Equipment Operator	12.38	.65+9½%
Heavy - Groundman - Truck Driver	10.83	.65+9½%
Light - Groundman - Truck DRiver	10.06	.65+9½%
Groundman	8.51	.65+9½%
PAINTERS:		
Area 1		
Brush-Roller	13.85	.50
Spray-Sandblast-Water-blast-Power Tool or High Work above 50'	14.60	.50
Area 2		
Brush-Roller	13.00	.15+5%
Spray-Sandblast	13.50	.15+5%
Structural Steel	14.00	.15+5%
Area 3		
Brush-Roller	14.05	1.00
Spray-Sandblast-Structural Steel-Swing Stage	14.43	1.00
Area 4		
Brush-Roller	11.975	2.25
Swing Stage	12.175	2.25
Structural Steel	12.125	2.25
Spray	12.725	2.25
Area 5		
Brush-Roller	12.53	1.00
Structural Steel	12.80	1.00
Spray-Sandblast	13.22	1.00
Swing Stage	12.85	1.00
Area 6		
Brush-Roller	14.61	1.40
Structural Steel-Spray-Sandblast-Swing Stage	15.21	1.40
Area 7		
Brush-Roller	13.10	1.75
Swing Stage	13.55	1.75
Structural Steel-Bridges-Spray	14.10	1.75
Sandblast	13.35	1.75
Area 8		
Brush-Roller	11.90	
Booster Tanks-Steel Bridges	13.40	
Structural Steel-Steel Work-Swing Stage over 40'-Spray	12.40	
Sandblast	12.90	
PAINTERS: (Cont.)		
Area 9		
Brush-Roller	11.75	
Structural Steel	12.35	
Spray-Sandblast	12.75	
Swing Stage	14.00	
Area 10		
Brush-Roller	13.10	3.26
Sandblast-Spray(Toxic Materials)	13.85	3.26
Spray(Regular Materials)	13.60	3.26
Structural Steel-Bridge	13.45	3.26
Swing Stage(Less than 80')	13.25	3.26
Swing Stage(80' or more)	13.35	3.26
Area 11		
Brush-Roller	13.35	1.55
Spray w/out Air Hood	13.85	1.55
Spray w/Air Hood-Sandblast	14.10	1.55
High Work over 50'	13.85	1.55
Area 12		
Brush-Roller	12.70	2.15
Swing Stage	12.90	2.15
Structural Steel	12.85	2.15
Spray-Sandblast	13.45	2.15
Area 13		
Brush-Roller	10.30	1.60
Spray	10.80	1.60
Steeples-Stacks	10.80	1.60
Swing Stage over 30'	10.70	1.60
PLUMBERS:		
Area 1	16.60	2.75
Area 2	14.49	3.55
Area 3	14.97	3.09
Area 4	16.82	2.63
Area 5	17.25	2.21
Area 6	15.48	3.19
Area 7	17.00	2.10
Area 8	17.50	1.40
Area 9	16.54	1.95 + .003%
Area 10	14.53	2.92
Area 11	15.49	4.09
Area 12	15.65	3.02
Area 13	16.26	2.07
Area 14	15.51	3.50

DECISION NO. WI83-2041	Basic Hourly Rates	Fringe Benefits
LABORERS- HEAVY CONSTRUCTION:		
Area 1		
Group 1	10.63	3.49
Group 2	10.73	3.49
Group 3	10.78	3.49
Group 4	10.83	3.49
Group 5	10.88	3.49
Group 6	10.98	3.49
Group 7	11.03	3.49
Group 8	11.28	3.49
Area 2		
Group 1	10.75	2.43
Group 2	10.85	2.43
Group 3	10.90	2.43
Group 4	10.95	2.43
Group 5	11.00	2.43
Group 6	11.10	2.43
Group 7	11.15	2.43
Group 8	11.40	2.43
Group 9	11.50	2.43
Area 3		
Group 1	10.15	3.03
Group 2	10.25	3.03
Group 3	10.30	3.03
Group 4	10.35	3.03
Group 5	10.40	3.03
Group 6	10.50	3.03
Group 7	10.55	3.03
Group 8	10.80	3.03
Group 9	10.90	3.03
Area 4		
Group 1	10.80	1.53
Group 2	10.85	1.53
Group 3	10.90	1.53
Group 4	10.95	1.53
Group 5	11.00	1.53
Group 6	11.05	1.53
Group 7	11.25	1.53
Area 5		
Group 1	9.88	3.49
Group 2	9.93	3.49
Group 3	9.98	3.49
Group 4	10.03	3.49
Group 5	10.08	3.49
Group 6	10.13	3.49
Area 6		
Group 1	10.52	1.53
Group 2	10.57	1.53
Group 3	10.62	1.53
Group 4	10.67	1.53
Group 5	10.72	1.53
Group 6	10.77	1.53
Group 7	10.97	1.53

	Basic Hourly Rates	Fringe Benefits
LABORERS- SEWER, TUNNEL & WATER: (OPEN CUT):		
Areas 1 & 5		
Group 1	12.04	3.69
Group 2	12.16	3.69
Group 3	12.21	3.69
Group 4	12.58	3.69
Group 5	13.07	3.69
Group 6	13.23	3.69
LABORERS (TUNNEL-FREE AIR):		
Areas 1 & 5		
Group 1	12.16	3.69
Group 2	12.21	3.69
Group 3	12.58	3.69
Group 4	12.68	3.69
Group 5	13.07	3.69
Group 6	13.17	3.69
Group 7	13.23	3.69
LABORERS (TUNNEL-COMPRESSED AIR):		
Areas 1 & 5		
Group 1	12.16	3.69
Group 2	12.99	3.69
Group 3	13.08	3.69
Group 4	13.18	3.69
Group 5	13.57	3.69
Group 6	13.67	3.69
Group 7	13.73	3.69
POWER EQUIPMENT OPERATORS- HEAVY CONSTRUCTION:		
Statewide		
Group 1	14.02	2.60
Group 2	13.76	2.60
Group 3	13.67	2.60
Group 4	13.59	2.60
Group 5	13.51	2.60
Group 6	13.47	2.60
Group 7	13.38	2.60
Group 8	13.26	2.60
POWER EQUIPMENT OPERATORS- SEWER, TUNNEL & WATER:		
Area 1		
Group 1	15.12	3.20
Group 2	14.57	3.20
Group 3	14.21	3.20
Group 4	13.84	3.20
Group 5	13.40	3.20
Group 6	13.05	3.20

DECISION NO. WI83-2014	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS- SEWER, TUNNEL & WATER: (Cont.)		
Area 2		
Group 1	15.22	2.90
Group 2	14.92	2.90
Group 3	14.56	2.90
Group 4	14.44	2.90
Group 5	13.88	2.90
Group 6	13.41	2.90
TRUCK DRIVERS:		
Area 1		
Group 1	11.25	.35+a
Group 2	11.40	.35+a
Area 2		
Group 1	11.25	.35+b
Group 2	11.40	.35+b
Area 3		
Group 1	11.25	.35+c
Group 2	11.40	.35+c
WELL DRILLERS	13.47	2.20

FOOTNOTES:
a - $100.50 per week
b - $92.68 per week
c - $91.25 per week

LABORERS CLASSIFICATIONS
HEAVY CONSTRUCTION
AREAS 1,2, & 3

Group 1: Bituminous Workers (Shoveler, Loader, Utility Man); Demolition & Wrecking Laborer; Guard Rail & Fence Builder; Reinforcing Steel Setter (Pavement); Stone Handler; Tree Trimmer; Landscaper; Multiplate Culvert Assembler; Conduit Layer; Unskilled Laborer

Group 2: Bituminous Workers (Dumper, Ironer, Smoother, Tamper); Batch Truck Dumper or Cement Handler; Concrete Handler

Group 3: Chain Saw Operator; Demolition Buring Torch Laborer; Joint Sawer & Filler (Pavement); Vibrator or Tamper Operator (Mechanical - Hand Operated); (Areas 2 & 3 only - Pipelayer Crew (sewer, water) Topman)

Group 4: Air Tool Operator (Hand Operated)

Group 5: Strike Off Man

Group 6: Form Setter (Curb, Walk & Pavement); (Areas 2 & 3 only - Pipelayer Crew (sewer, water) Bottom Man)

Group 7: Bituminous Worker (Raker & Luteman)

Group 8: Powderman; Blaster

Group 9: Areas 2 & 3 only - Pipelayer Crew (sewer, water) Pipelayer

LABORERS CLASSIFICATIONS (Cont'd)
HEAVY CONSTRUCTION
AREA 4 & 6

Group 1: Bituminous Workers (Dumper, Ironer, Smoother, Tamper, Shoveler, Loader, Utility Man); Strike Off Man; Joint Sawer or Filler (Pavement); Concrete Handler; Demolition & Wrecking Laborer; Guard Rail Builder; Reinforcing Steel Setter (Pavement); Stone Handler; Landscaper; Multiplate Culvert Assembler; Conduit Layer; Unskilled Laborer

Group 2: Tree Trimmer

Group 3: Air Tool Operator (Hand Operated); Vibrator or Tamper Operator (Mechanical - Hand Operated); Batch Truck Dumper or Cement Handler; Pipelayer Crew (sewer, water) Topman

Group 4: Chain Saw Operator; Demolition Burning Torch Laborer; Form Setter (Curb, Walk & Pavement)

Group 5: Powderman; Blaster

Group 6: Bituminous Worker (Raker & Luteman); Pipelayer Crew (sewer, water) Bottom Man

Group 7: Pipelayer Crew (sewer, water) Pipelayer

AREA 5

Group 1: Bituminous Workers (Dumper, Ironer, Smoother, Tamper, Shoveler, Loader, Utility Man); Concrete Handler; Conduit Layer; Demolition & Wrecking Laborers; Guard Rail Builder; Joint Sawer or Filler (Pavement); Landscaper; Multiplate Culvert Assembler; Reinforcing Steel Setter (Pavement); Stone Handler; Strike Off Man; Unskilled Laborer

Group 2: Tree Trimmer

Group 3: Air Tool Operator (Hand Operated); Batch Truck Dumper or cement Handler; Vibrator or Tamper Operator (Mechanical - Hand Operated)

Group 4: Chain Saw Operator; Demolition Burning Torch Laborers; Formsetter (Curb, Walk & Pavement)

Group 5: Powderman; Blaster

Group 6: Bituminous Workers (Raker & Luteman)

LABORERS CLASSIFICATIONS
SEWER, TUNNEL & WATER MAIN CLASSIFICATIONS
OPEN CUT

Group 1: Paving Laborer

Group 2: General Laborer on Surface; Topman

Group 3: Mud Mixer

Group 4: Bottom Digger; Miscellaneous Bottom Man; Welder on Surface; Mucker; Form Stripper

Group 5: Concrete Manhole Builder; Caisson Worker; Miner; Pipelayer; Rock Driller; Joint Man; Timber Man; Concrete Brusher; Bracer in Trench Behind Machine; Tight Sheeting; Concrete Formsetter; Shoveler; Jack Hammer Operator

Group 6: Blaster

TUNNEL - FREE AIR

Group 1: Tower Man; General Laborer on Surface

Group 2: Saw Man; Top Man

Group 3: Form Stripper; Car Pusher

Group 4: Mucker; Dinkey; Welder (rate on Surface)

Group 5: Concrete Manhole Builder; Concrete Buster; Jack Hammer Operator; Caisson Worker; Pipelayer; Joint Man; Bracerman; Nozzle Man on Gunite; Timber Man; Concrete Brusher

Group 6: Mucking Machine; Miner; Mining Machine; Welder; Rock Driller

Group 7: Blaster

TUNNEL - COMPRESSED AIR

Group 1: General Laborer on Surface

Group 2: Lock Tender on Surface

Group 3: Form Stripper; Car Pusher

Group 4: Mucker; Dinkey

Group 5: Lock Tender in Tunnel; Concrete Buster; Jack Hammer Operator; Caisson Worker; Pipelayer; Joint Man; Bracerman; Nozzle Man on Gunite; Timber Man; Concrete Brusher

Group 6: Mucking Machine; Miner; Mining Machine; Welder; Rock Driller

Group 7: Blaster

DECISION NO. WI83-2014 (Cont'd)

CLASSIFICATIONS
POWER EQUIPMENT OPERATORS
HEAVY CONSTRUCTION

Group 1: Bituminous Paver or Plant; Concrete Breaker - Truck Mounted (heavy); Crane; Derrick; Dragline; Dredge; Piledriver; Power Shovel; Material Hoist; Mixer or Paver (21 c.f. or over); Roller (over 5 tons); Stabilizing Mixer (self-propelled); Trenching Machine; Tractor, Side Boom (heavy); Concrete Pavement Spreader - Heavy Duty (rubber tired); Hydraulic Backhoe; Asphalt Plant Engineer; Automatic Slipform Concrete Placer; Automatic Subgrader (concrete); Batch Mixer Portable; Caisson Rigs; Central Mixer Concrete; Dredge Engineer; Batch Plant Engineer (concrete); Central Mix Plant (concrete); Percussion or Rotary Drilling Machine; Grader or Motor Patrol; Loading Machine (conveyor); Mechanic or Welder; Heavy Duty Equipment; Tractor (Scraper, Dozer, Pusher, Loader); Tugger; Endloader; Asphalt Heater & Planer; Boatmen; Bump Cutter & Grooving Machine; Milling Machine; Shoulder Widener; Winches & A-Frames; Tube Finisher; Screed (Bituminous Paver)

Group 2: Mixer - Concrete (less than 21 c.f.); Pump - Concrete; Roller - Steel (5 tons or less)

Group 3: Shouldering Machine; Self-Propelled Chip Spreader

Group 4: Concrete Breaker & Tamper (light); Concrete Spreader; Finishing Machine; Mechanical Float; Curing Machine; Power Subgrader; Joint Sawer (multiple blade); Launch; Roller (pneumatic tired) - Self-Propelled; Tractor (mounted or towed compactors & light equipment); Tractor - Endloader (rubber-tired), light; Forklift; Belting Machine; Burlap Machine; Jeep Digger Mulcher; Texturing Machine

Group 5: Fireman; Environmental Burner

Group 6: Air Compressor; Drilling or Boring Machine (mechanical heavy); Greaser, Heavy Equipment, Leadman; Tank Car Heaters; Stump Chipper; Curb Machine Operator; Concrete Proportioning Plants; Generators; Mudjack

Group 7: Crusher or Screening Plant; Screed (Milling Machine); Automatic Belt Conveyor & Surge Bin; Pneumatic Tired Roller; Farm Tractor Towed; Pug Mill

Group 8: Oiler; Pump (over 3"); Surge Bin Drilling Machine Helper

DECISION NO. WI83-2014 (Cont'd)

CLASSIFICATIONS
POWER EQUIPMENT OPERATORS
SEWER, TUNNEL & WATER
AREAS 1 & 2

Group 1: Cranes; Shovel; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Piledrivers; Skid Rigs; Dredge Operators & Traveling Crane (bridge type); Concrete Paver (over 27E); Concrete Spreader & Distributor; Concrete Pumps(Area 1 only)

Group 2: Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor (over 40 h.p.); Bulldozer (over 40 h.p.); Endloader (over 40 h.p.); Forklift (25' or over); Motor Patrol; Scraper Operator; Sideboom, Straddle Carrier; Mechanic & Welder; Bituminous Plant & Paver Operator; Roller (over 5 tons); Percussion Drill Operator; Rotary Drill Operator; Blaster; Trencher (wheel type or chain type having over 8" bucket); Elevator; Milling Machine (Area 1 only)

Group 3: Backfiller; Concrete Auto Breaker (large); Concrete Finishing Machines (road types); Roller (rubber-tired); Concrete Batch Hopper, Concrete Conveyor Systems; Concrete Mixers (14S or over); Screw Type Pumps; Gypsum Pumps; Grout Pumps; Tractor; Bulldozer; Endloader (under 40 h.p.); Pumps (well points); Trencher (chain type having bucket 8" & under); Industrial Locomotives; Roller (under 5 tons); Fireman (piledrivers & derricks);Concrete Pump(Area 2)

Group 4: Hoists (automatic); Forklift (12' to 25'); Tampers-Compactors (riding types); Assistant Engineer; A-Frames & Winch Trucks; Concrete Auto Breakers; Hydrohammers (small); Brooms & Sweepers; Hoists (tuggers); Stump Chipper (large); Boats (tug, safety, work barges & launch)

Group 5: Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor; Post Hole Digger; Stone Crushers & Screening Plants; Fireman (asphalt plants); Air Compressor (400 CFM or over-Area 1); Augers (vertical & horizonal); Generators(150 KW & over - Area 1); Air. Electric, Hydraulic Jacks (slipform); Prestress Machines; Bobcats; Boiler Operators (temperary heat); Forklift (12' & under); Screed Operator-Milling Machine (Area 1 only); Compressor (300 CFM or over-Area 2)

Group 6: Generators (under 150 KW- Area 1 only);Combination Small Equipment Operators; Compressor (under 400 CFM- Area 1); Welding Machines; Heaters (mechanical); Pumps; Winches (small electric); Oiler & Greaser; Rotary Drill Helper; Conveyor; Generators (over 150 KW - Area 2 only); Compressor (under 300 CFM- Area 2)

TRUCK DRIVER CLASSIFICATIONS

Group 1: Truck Drivers-2 axle; Mechnics Helper - Truck

Group 2: Truck Drivers 3 or more axles; Euclids or Dumptor units; Mechanics - Truck

DECISION NO. WI81-2041 (Cont'd):

AREA DESCRIPTIONS

BRICKLAYERS & STONEMASONS

Area 1 - BARRON, BUFFALO, BURNETT (S½), CHIPPEWA, DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, RUSK, ST. CROIX, SAWYER, TREMPELEAU (S½) & WASHBURN (S½) COUNTIES

Area 2 - ADAMS, CLARK, FOREST, LANGLADE, LINCOLN, MARATHON, MENOMONIE, ONEIDA, PORTAGE, PRICE, SHAWANO (N½ - N of Townships of Wittenberg & Gresham), TAYLOR, VILAS & WOOD COUNTIES

Area 3 - BROWN, CALUMET, DOOR, FLORENCE, FOND DU LAC, GREEN LAKE, KEWAUNEE, MANITOWOC, MARINETTE, MARQUETTE, OCONTO, OUTAGAMIE, SHAWANO (Remainder of County), SHEBOYGAN, WAUPACA, WASHARA & WINNEBAGO COUNTIES

Area 4 - GREEN, LaFAYETTE & ROCK COUNTIES

Area 5 - KENOSHA, RACINE & WALWORTH COUNTIES

Area 6 - DANE, GRANT, IOWA & RICHLAND COUNTIES

Area 7 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 8 - COLUMBIA & SAUK COUNTIES

Area 9 - CRAWFORD, JACKSON, JUNEAU, LaCROSSE, MONROE, TREMPEALEAU (Remainder of County) & VERNON COUNTIES

Area 10- ASHLAND, BAYFIELD, BURNETT (Remainder of County), DOUGLAS, IRON & WASHBURN (Remainder of County) COUNTIES

Area 11- DODGE & JEFFERSON COUNTIES

CARPENTERS

Area 1 - ASHLAND, BAYFIELD (E. of Hwy 63 - a straight line from the City of Drummond to the Lake Superior Shore), & IRON (S 1/3 excluding Mercer) COUNTIES

Area 2 - GREEN, JEFFERSON (S. of I-94), RACINE (W. of Hwy 75), ROCK & WALWORTH COUNTIES

Area 3 - KENOSHA COUNTY

Area 4 - RACINE (Remainder of County) COUNTY

Area 5 - FLORENCE, IRON (Remainder of County) & MARINETTE (N.1/3) COUNTIES

Area 6 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 7 - BAYFIELD (Remainder of County) & DOUGLAS COUNTIES

DECISION NO. WI83-2041 (Cont'd)

CARPENTERS (Cont'd)

Area 8 - BURNETT (SW corner), PIERCE (NW corner), POLK (N½), & ST. CROIX (N½)

Area 9 - Remainder of Counties

CEMENT MASONS:

Area 1 - BAYFIELD, DOUGLAS, PRICE, SAWYER & WASHBURN COUNTIES

Area 2 - BARRON, BURNETT, CHIPPEWA, DUNN, POLK, RUSH & ST. CROIX COUNTIES

Area 3 - DANE, GREEN, IOWA, LaFAYETTE & ROCK COUNTIES

Area 4 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 5 - BUFFALO (S½), EAU CLAIRE, JACKSON (N½), PEPIN, PIERCE, TREMPELEAU (N½ including townships of Independence & Whitehall) COUNTIES

Area 6 - KENOSHA & RACINE COUNTIES

Area 7 - BUFFALO (S½), CRAWFORD, JACKSON (S½), JUNEAU, LA CROSSE, MONROE, RICHLAND, TREMPEAULEAU (S½) 7 VERNON COUNTIES

Area 8 - ADAMS, CLARK, FOREST, LANGLADE, LINCOLN, MARATHON, MENOMINEE, ONEIDA, PORTAGE, SHAWONA (NW panhandle), TAYLOR, VILAS & WOOD COUNTIES

Area 9 - BROWN, CALUMET, DOOR, FLORENCE, FOND DU LAC, GREEN LAKE, KEWAUNEE, MANITOWOC, MARINETTE, MARQUETTE, OCONTO, OUTAGAMIE, SHAWONA (Remainder of County), SHEBOYGAN, WAUPACA, WAUSHARA & WINNEBAGO COUNTIES

Area 10- DODGE & JEFFERSON COUNTIES

Area 11- COLUMBIA & SAUK COUNTIES

Area 12- WALWORTH COUNTY

Area 13- ASHLAND & IRON COUNTIES

Area 14- GRANT COUNTY

ELECTRICIANS:

Area 1 - CALUMET (except township of New Holstein), GREEN LAKE (township of Berline, Seneca & St. Marie), MARQUETTE (townships of Crystal Lake, Seshkoro, Newton & Springfield), OUTAGAMIE, WAUPACA, WAUSHARA & WINNEBAGO COUNTIES

DECISION NO. WI83-2041 (Cont'd)

ELECTRICIANS (Cont'd):

Area 2 - BARRON, BUFFALO (Maxville, Canton, Mondovi, Naples, Nelson, Modena, Gilmantown, Dover, Alma, Lincoln, Montana & Belvidere Townships), BURNETT (Grantsburg, Wood River, Daniels, Sire, LaFollette, Dewey, Anderson, Trade Lake & Roosevelt Townships), CHIPPEWA, CLARK (Thorp, Withee, Hixon, Hoard, Worden, Roseburg, Longwood, Green Grove, Butler, Mead, Warner, Beaver Foster, Hendren, Eaton, Loyal, Sief, Weston, York, Mentor, Hewett, Pine Valley, Grant, Dewhurst, Levis & Washburn Townships), DUNN, EAU CLAIRE, JACKSON (Garfield, Cleveland, Northfield, Gorden, Valley, Alma, Curron, Hixton Townships), PEPIN, PIERCE, POLK, PRICE (Flambeau, Worchester, Emery, Elk, Georgetown, Harmony, Hackett, Kennon, Catawba, Ogeman, Prentice, Knox, Hill, Spirt Townships), RUSK, ST.CROIX, SAWYER (Edgewater, Meteor, Wiergor, Meadow Brook Townships), TAYLOR, TREMPEALEAU (Albion, Unity, Sumner, Chimney, Rock, Hale, Burnside, Lincoln, Pigeon Townships), & WASHBURN (Evergreen, Spooner, Bashaw, Beaver Brook, Madge, Barronett, Sarona, Long Lake & Birchwood Townships) COUNTIES

Area 3 - FLORENCE (Townships of Aurara, Commonwealth, Fern, Florence & Homestead), MARINETTE (Niagura Township)

Area 4 - BROWN, DOOR, KEWAUNEE, MANITOWOC (except Township of Schleswig), OCONTO, MARINETTE (Peshberg, Athelstance, Beaver, Grover, Lake, Middle Inlet, Peshtigo, Porterfield, Pond, Silver Cliff, Stephenson, Wagner & Wausaukee Townships), MENOMINEE (that portion E. of a line 6 miles W. of the W. boundary of Oconto County), SHAWANO (Birnamwood, Richmond, Pella, Alman, Westcott, Belle Plain, Bartelme, Washington, Waukechon, Red Springs, Green Valley, Hartland, Wittenberg, Germania, Angelica, Morris, Fairbanks, Navarino, Seneca, Grant, Lessor, Herman & Maple Grove Townships)

Area 5 - ADAMS, CLARK (Remainder of County), FLORENCE (Remainder of County) FOREST, JUNEAU, LANGLADE, LINCOLN, MARATHON, MARINETTE (Remainder of County), MENOMINEE (Remainder of County), ONEIDA, PORTAGE, SHAWANO (Remainder of County, WOOD & VILAS COUNTIES

Area 6 - KENOSHA COUNTY

Area 7 - BUFFALO (Remainder of County), CRAWFORD, GRANT, JACKSON (Remainder of County) LA CROSSE, MONROE, RICHLAND, TREMPEALEAU (Remainder of County) & VERNON COUNTIES

Area 8 - DODGE (Watertown & Emmett Townships), GREEN, JEFFERSON, LaFAYETTE, RACINE (Burlington Townships - that portion 2½ miles E. of the W. boundary of Burlington Township & 1½ miles S. of the N. boundary to 3½ miles N. of the S. boundary of Burlington Township), ROCK & WALWORTH COUNTIES

DECISION NO. WI83-2041 (Cont'd)

ELECTRICIANS (Cont'd):

Area 9 - COLUMBIA, DANE, DODGE (Remainder of County), FOND DU LAC (Township of Waupun), GREEN LAKE (Remainder of County), IOWA, MARQUETTE (Remainder of County), & SAUK COUNTIES

Area 10- CALUMET (Township of New Holstein), FOND DU LAC (except Township of Waupun), MANITOWOC (Remainder of County), & SHEYBOYGAN COUNTIES

Area 11- ASHLAND, BAYFIELD, BURNETT (Remainder of County), DOUGLAS, IRON, PRICE (Remainder of County), SAWYER (Remainder of County) & WASHBURN (Remainder of County) COUNTIES

Area 12- RACINE (Remainder of County) COUNTY

Area 13- MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

IRONWORKERS:

Area 1 - GRANT (SW edge including Cassville & Dickeyville)

Area 2 - ASHLAND, BAYFIELD, BURNETT (NE 2/3 excluding Grantsburg), DOUGLAS, FLORENCE (NW¼), FOREST (NW¼), IRON, LINCOLN (NW 2/3), ONEIDA, PRICE, RUSK (NE¼), SAWYER, TAYLOR NE corner), VILAS & WASHBURN COUNTIES

Area 3 - BROWN, CALUMET, DODGE (E 1/3), DOOR, FLORENCE (Remainder of County), FOND DU LAC (E 2/3), FOREST (E½), KENOSHA, KEWAUNEE, MANITOWOC, MARINETTE, MENOMINEE (E½), MILWAUKEE, OCONTO (E 3/4), OUTAGAMIE (E 1/4), OZAUKEE, RACINE, SHAWANO (E 1/3), SHEBOYGAN, WALWORTH NE Corner), WASHINGTON, WAUKESHA & WINNEBAGO (E½) COUNTIES

Area 4 - GREEN (SE 1/3), ROCK (S 3/4) & WALWORTH (SW 2/3) COUNTIES

Area 5 - BARRON, BUFFALO, BURNETT (Remainder of County), CHIPPEWA, CLARK (NW¼), DUNN, EAU CLAIRE, JACKSON (NW¼), LA CROSSE NW corner), PEPIN, PIERCE, POLK, RUSK (Remainder of County), ST. CROIX, TAYLOR (Remainder of County) & TREMPEALEAU COUNTIES

Area 6 - Remainder of Counties

PAINTERS:

Area 1 - FLORENCE, FOREST, IRON, LANGLADE, LINCOLN, MARATHON, MENOMINEE, ONEIDA & VILAS COUNTIES

Area 2 - BARRON, BUFFALO, CHIPPEWA, DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, PRICE, RUSK, ST. CROIX, SAWYER, TREMPEALEAU & WASHBURN COUNTIES

DECISION NO. WI83-2041 (Cont'd)

PAINTERS (Cont'd):

Area 3 - BROWN, DOOR, KEWAUNEE, OCONTO & SHAWANO (E 1/3) COUNTIES

Area 4 - WALWORTH & KENOSHA COUNTIES

Area 5 - ADAMS, CLARK, CRAWFORD, JACKSON, JUNEAU, LA CROSSE, MONROE, PORTAGE, TAYLOR, VERNON & WOOD COUNTIES

Area 6 - ASHLAND, BAYFIELD, BURNETT & DOUGLAS COUNTIES

Area 7 - COLUMBIA, DANE, DODGE, GRANT, GREEN, IOWA, LaFAYETTE, RICHLAND, ROCK & SAUK COUNTIES

Area 8 - CALUMET (except that part that is in the City of Appleton & the village of Stockbridge)& MANITOWOC COUNTIES

Area 9 - MARINETTE COUNTY

Area 10- JEFFERSON, MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 11- CALUMET (Remainder of County), FOND DU LAC, GREEN LAKE, MARQUETTE, OUTAGAMIE, SHAWANO (Remainder of County), WAUPACA, WAUSHARA & WINNEBAGO COUNTIES

Area 12- RACINE COUNTY

Area 13- SHEBOYGAN COUNTY

PLUMBERS:

Area 1 - CALUMET (NW section - N. of city of Stockbridge & W. of Hwy. 57), MENOMINEE, OUTAGAMIE, SHAWANO, WAUPACA, WINNEBAGO (NE section - E. of Hwy. 45 as far S. as Ct. Trnk C.) COUNTIES

Area 2 - BARRON, BUFFALO (N 2/3), CHIPPEWA, CLARK, DUNN, EAU CLAIRE, JACKSON (N 1/3), PEPIN, PIERCE, POLK, PRICE, RUSK, ST. CROIX, TAYLOR & TREMPEALEAU (N¾) COUNTIES

Area 3 - ADAMS, CALUMET (S. portion - S. of a line drawn along County Hwy E from the lake to Manitowoc Co.), DODGE (except city of Watertown), FOND DU LAC, GREEN LAKE, MANITOWOC (City of Kiel only), SHEBOYGAN, WAUSHARA & WINNEBAGO (Remainder of County) COUNTIES

Area 4 - BROWN, CALUMET (Remainder of County), DOOR, KEWAUNEE, MANITOWOC (Remainder of County) & OCONTO COUNTIES

Area 5 - DODGE (City of Watertown), ROCK, GREENE, JEFFERSON & LaFAYETTE COUNTIES

Area 6 - KENOSHA & WALWORTH COUNTIES

DECISION NO. WI83-2041 (Cont'd)

PLUMBERS (Cont'd):

Area 7 - BUFFALO (Remainder of County), CRAWFORD, GRANT, JACKSON (Remainder of County), JUNEAU, LA CROSSE, MONROE, TREMPEALEAU (Remainder of County) & VERNON COUNTIES

Area 8 - FLORENCE, FOREST, LANGLADE, LINCOLN, MARATHON, ONEIDA & VILAS COUNTIES

Area 9 - COLUMBIA, DANE, IOWA, MARQUETTE, RICHLAND & SAUK COUNTIES

Area 10- MARINETTE COUNTY

Area 11- MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 12- RACINE COUNTY

Area 13- PORTAGE & WOOD COUNTIES

Area 14- ASHLAND, BAYFIELD, BURNETT, DOUGLAS, IRON, SAWYER & WASHBURN COUNTIES

LABORERS:

Area 1 - MILWAUKEE & WAUKESHA COUNTIES

Area 2 - RACINE COUNTY

Area 3 - KENOSHA COUNTY

Area 4 - DANE COUNTY

Area 5 - OZAUKEE & WASHINGTON COUNTIES

Area 6 - Remaining Counties

POWER EQUIPMENT OPERATORS:

Area 1 - KENOSHA, MILWAUKEE, OZAUKEE, RACINE, WASHINGTON & WAUKESHA COUNTIES

Area 2 - Remaining Counties

TRUCK DRIVERS:

Area 1 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES

Area 2 - RACINE & KENOSHA COUNTIES

Area 3 - Remaining Counties

[FR Doc. 83-12638 Filed 5-12-83; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
May 13, 1983

Part IV

Department of the Interior

Bureau of Land Management

Grazing Regulations; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

Amendments to the Grazing Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking to amend Title 43 Part 4100 of the Code of Federal Regulations follows publication of a notice of intent to propose regulations to further streamline Bureau procedures for managing grazing on the public lands, which appeared in the Federal Register on December 9, 1982 (47 FR 55402). The proposed rulemaking would revise and amend the existing regulations in implementation of a policy of regulatory reform which aims to minimize regulatory burdens on the public. It also responds to comments that were received as a result of the notice of intent to propose rulemaking. This proposed rulemaking further clarifies and streamlines existing regulations and simplifies and improves procedures. Some sections have been reorganized to make the regulations easier to understand.

DATE: Comments by July 12, 1983. Comments received after this date may not be considered as part of the decisionmaking process on a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 18th and C Streets NW., Washington, D.C. 20240.

Comments will be accepted on any provision under Part 4100 of Title 43 of the Code of Federal Regulations. Comments that are received will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Billy Templeton or Ronald Wenker, Division of Rangeland Resources (202) 653–9193.

SUPPLEMENTARY INFORMATION: A key goal of the President's Executive Order 12291, published February 17, 1981 (46 FR 13193), required the identification and removal of needless, burdensome and counterproductive regulations. The regulations for 43 CFR Part 4100 published on September 21, 1982 (47 FR 41702), eliminated many provisions which were unnecessary, obsolete, or excessively burdensome to the public. This proposed rulemaking is a continuation of the effort to make the regulations in 43 CFR Part 4100 as clear as possible. It also eliminates or revises additional provisions which have been identified as being cumbersome, burdensome, or difficult to understand.

Comments on 43 CFR Part 4100 were solicited from the general public and major rangeland interest groups by publication of a notice of intention to propose rulemaking which requested comments and suggestions for simplifying and improving the regulations.

Comments which were received were considered during the development of this proposed rulemaking.

This proposed rulemaking also makes a number of editorial changes to clarify the regulations or make then easier to read and understand. The following discussion summarizes the proposed amendments and provides an explanation of specific changes:

Section 4100.0–3 Authority.

Section 4100.0–3 as rewritten in the proposed rulemaking would streamline the existing regulations. Existing citations of authority would remain but descriptive language would be removed. This revision would make no change in the authority of the Bureau of Land Management to manage grazing on the public lands.

Section 4100.0–5 Definitions.

The proposed rulemaking would eliminate six definitions of terms which are in common use and are well understood by the general public. The proposed rulemaking would also revise 11 definitions, generally to clarify them.

Section 4100.2 Grazing preferences.

Section 4110.2 would be revised by the proposed rulemaking to more clearly indicate the priority for allocation of grazing preference among users, and would clarify responsibilities of all parties involved in a transfer of grazing preferences. The proposed amendment would also remove some redundant language and make minor editorial changes to the existing regulations. Section 4110.2–4 would be removed from the regulations and its provisions incorporated more appropriately in the BLM Manual.

Section 4110.3 Changes in available forage.

Section 4110.3–1 would be revised to clarify the criteria used in allocating additional forage available for livestock grazing. Specific procedural guidance is removed from §§ 4110.3–1 and 4110.3–2 for streamlining purposes and will be placed in the BLM Manual, which is the appropriate location for specific procedural guidance. Section 4110.3–2 would be reworded to reaffirm that monitoring would be used to collect adequate, reliable data prior to the initiation of a five year adjustment period. This recognizes that a one-point-in-time survey or forage inventory without monitoring support is not considered adequate, reliable data to serve as a basis for forage allocation decisions.

Because the provisions for implementing both increases and decreases in available forage over a 5—year period are identical, those provisions presently pertaining to implementation of increases or decreases in available forage found in §§ 4110.3–1 and 4110.3–2 have been consolidated and incorporated into a new section, § 4110.3–3, Implementation of changes in available forage. In order to better organize the existing regulations, § 4120.3, Temporary modifications and closures to livestock use, has also been incorporated into this new section.

Section 4110.4 Changes in public land acreage.

This section would be amended to provide for a two year notification whenever a grazing permit or lease is cancelled in whole or in part. Provisions relating to compensation for a permittee's or lessee's interest in authorized range improvements have been modified to be consistent with the Federal Land Policy and Management Act 43 U.S.C. 1701 *et seq.*)

Section 4110.5 Conflicting applications.

For improved organization, this section would be removed and incorporated in § 4130.1–1 which deals specifically with applications.

Section 4120.1 Allotments.

This section is duplicative of specific language in § 4120.2–1 and is more appropriately placed in the BLM Manual. A new revised section, § 4120.2–1, Cooperative management agreements, would be written into the regulations. The new section would provide for greater incentives for private investments in practices that will improve rangeland productivity.

Sections 4120.2, 4120.2–1 and 4120.2–2 Terms and conditions.

Sections 4120.2, 4120.2–1 and all of 4120.2–2 would be removed and placed in § 4130.6 for better organization. Paragraph (b) of § 4120.2–1 would be removed because it is redundant.

Paragraph (c) of 4120.2–1 would be revised to make it more consistent with language in Section 402(a) of the Federal Land Policy and Management Act. Paragraph (d) of § 4120.2–1 would be removed because it is not necessary to state that the Bureau of Land Management will modify permits or leases in accordance with law.

Section 4120.2–3, Allotment management plans, would be redesignated as § 4120.2, Allotment management plans. This section would also be revised to eliminate redundancy and to clarify that completed allotment management plans shall be incorporated into the terms and conditions of affected grazing permits and leases.

Section 4120.3 Temporary modification and closures to livestock use.

This section would be restructured for greater clarity and portions of it would be moved to § 4110.3–3 for better organization. Paragraphs which contain specific procedural guidance are removed because they would be more appropriately placed in the Bureau Manual.

Section 4120.4 Ownership and identification of livestock.

This section would be reorganized by moving paragraph (a) to § 4130.5, deleting paragraphs (b) and (c), and moving paragraph (d), with minor editorial revisions, to § 4130.5(c).

Section 4120.5 State livestock requirements.

This section would be placed in § 4130.5(b) for better organization.

Section 4120.6 Range improvements.

This section would be redesignated as § 4120.3, Range improvements. Section 4120.6–1 would be redesignated § 4120.3–1, Conditions for range improvements. Section 4120.6–2, Cooperative agreements, would be redesignated § 4120.3–2, Cooperative agreements, and revised to indicate that anyone may enter into a cooperative agreement with the Bureau of Land Management. Section 4120.6–3, Range improvement permits, would be redesignated § 4120.3–3, and redundant language would be removed.

Section 4120.6–4, Standards, design and stipulations, would be redesignated § 4120.3–4 and revised for clarity.

Section 4120.6–5, Assignment of range improvements, would be redesignated § 4120.3–5. Section 4120.6–6, Removal and compensation for loss of range improvements, would be redesignated § 4120.3–4, and paragraph (c) removed for more consistency with language in the Federal Land Policy and Management Act. Language in paragraph (d) would be revised for consistency with the language in the form used by the Bureau of Land Management to document a cooperative agreement.

Section 4120.6–7, Contributions, is redesignated as § 4120.3–7.

Section 4120.7 Cooperation in management.

This section is deleted because it is unnecessary to reiterate what is specifically expressed as general policy and guidance in the Federal Land Policy and Management Act.

Section 4120.8 Special rules.

This section would be redesignated as § 4120.4 for better organization.

Section 4130.1 Applications.

This section would be revised by adding new sections, § 4130.1–1, Changes in grazing use, and § 4130.1–2, Conflicting applications, which would provide specific criteria by which the authorized officer may make allocation of additional livestock forage or additional acreage which may become available, or when more than one qualified applicant applies for livestock grazing use.

Section 4130.2 Grazing permits or leases.

This section would be reorganized for greater clarity to remove redundant sections and to add a new paragraph (e) providing for issuance of permits or leases incorporating the percentage of public land livestock use or permits or leases which may include private land offered under exchange-of-use agreements.

Section 4130.3 Free-use grazing permits.

This section would be modified to make citations consistent with revisions in other sections of the regulations, and to remove redundant language.

Section 4130.4 Other grazing authorizations.

Paragraphs (b), (c) and (d) of § 4130.4–1 would be deleted because they are redundant to § 4130.4–1(a).

Section 4130.5 Fees.

This section would be redesignated as § 4130.7, Fees. Procedural guidance found at § 4130.5–1(a) would be removed. Other changes would be made to allow after-the-fact billings under cooperative management agreements. Guidance for billing procedures would be deleted and will be incorporated in the Bureau Manual.

A new section, § 4130.5(b), Ownership and identification of livestock, would be added and would incorporate § 4120.4, Ownership and identification of livestock. Section 4120.4(a) would be redesignated § 4130.5(a). Section 4120.5, State livestock requirements, would be redesignated as § 4130.5(b) and would retain its present title. Section 4120.4(d) would be redesignated § 4130.5(c).

Section 4130.5–2, Refunds, and § 4130.5–3, Service charge, are redesignated as §§ 4130.9–2 and 4130.9–3, respectively. This change is made to improve the organization of the regulations.

Section 4130.6 Changes in Grazing Use.

The provisions found in this section of the regulations would be moved to new § 4130.1–1, Changes in grazing use.

Section 4130.7 Pledge of permits or leases as security for loans.

This section would be redesignated as § 4130.8. No further changes would be made to this section.

Subpart 4140. Prohibited Acts.

Section 4140.1 Acts prohibited on public lands.

This section would be revised by modifying language at § 4140.1(a)(3) to allow supplemental feeding unless otherwise specified in permits or leases. A change will also be made by removing § 4140.1(b) (7) and (8). This change would show that grazing preferences should not be cancelled for violations of other Federal or State laws or regulations which are unrelated to these proposed regulations.

Section 4150.2 Notice and order to remove.

A change would be made in paragraph (c) of this secton to remove guidance concerning handling of unauthorized horse or burro use. Such guidance is procedural in nature and would be more appropriately placed in the Bureau of Land Management Manual.

Section 4150.3 Settlement.

This section is revised for greater clarity and to remove cumbersome language.

Section 4150.4 Impoundment and disposal.

Paragraph (c) of this section would be removed because it is procedural guidance which is more appropriately placed in the BLM Manual. Section 4150.4–3 would also be revised to

eliminate procedural guidance which will be placed in the BLM Manual.

Section 4160.1 Proposed decision.

This section would be revised to streamline the regulations and to place procedural guidance in the BLM Manual. The proposed rulemaking eliminates the provision which enables interests other than an applicant, permittee, or lessee to protest a proposed decision concerning alleged violations of the terms and conditions of a permit or lease or of these regulations. Additional changes would be made which conform citations to other citations in these proposed regulations.

Section 4160.3 Final decisions.

The requirement in paragraph (b) of this section that the authorized officer shall serve his final decision on any other known affected interest apart from the protestant or his agent would be removed.

Paragraphs (d) and (e) of this section would be removed by this proposed rulemaking. These paragraphs contain specific guidance concerning the implementation of final decisions regarding terms and conditions of grazing leases and permits. Such specific guidance is not appropriately placed in these regulations since it pertains to instructions and procedures which are directed primarily to BLM personnel responsible for implementing these regulations. Such guidance is more appropriately placed in the BLM Manual.

Section 4160.4 Appeals.

This section is revised to eliminate redundant language and to clarify that any person whose interest is adversely affected by a final decision of the authorized officer may appeal that decision before an administrative law judge under § 4.470 of this title.

Section 4170.1 Civil penalties

Section 4170.1–3, Federal or State laws or regulations, would be removed by this proposed rulemaking. The section to which this section refers, § 4140.1 (b)(8), also would be removed by this proposed rulemaking. Therefore, § 4170.1–3 is no longer necessary.

The primary author of this proposed rulemaking is Ronald Wenker, Division of Rangeland Resources, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The Department of the Interior has determined that this document is not a major rule within the meaning of Executive Order 12291.

The Department of the Interior has further determined that the proposed regulations will not have significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 801 et seq.). Any impacts on small entities as a result of this proposed rulemaking will be positive since the proposed regulations reduce the burden of complying with Federal regulations for use of the public lands for grazing livestock.

The information collection requirements contained in this rulemaking have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and have been assigned the following approval numbers:

Grazing Application 1004–0005, Range Improvement Permit 1004–0019; Exchange-of-Use Agreement 1004–0020; Grazing Preference Statement 1004–0041; Grazing Application—Perference Summary and Transfer 1004–0047; Grazing Application—Authorized Agent 1004–0049; Actual Grazing Use Record, 1004–0051; and Cooperative Agreement 1004–0068.

List of Subjects in 43 CFR Part 4100

Administrative practice and procedure, Grazing lands, Livestock, Penalities, Range management.

Under the authority of the Taylor Grazing Act of 1943 (43 U.S.C. 315 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.). and the Public Ranglands Improvement Act of 1978 (43 U.S.C. 1901 et seq.), it is proposed to amend subpart 4100, 4110, 4120, 4130, 4140, 4150, 4160, and 4170 of Part 4100, Group 4100, Subchapter D, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 4100—[AMENDED]

§ 4100.0–3 [Amended]

1. Section 4100.0–3 is amended by:

a. Revising paragraph (a) to read:

(a) The Taylor Grazing Act of June 28, 1934 as amended (43 U.S.C. 315, 315a–315r).;

* * * * *

b. Revising paragraph (b) to read:

* * * * *

(b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

* * * * *

c. Revising paragraph (d) to read:

* * * * *

(d) Section 4 of the O&C Act of August 28, 1937 (43 U.S.C. 118(d).; and

d. Redesignating paragraph (e) as paragraph (f) and inserting a new paragraph (e) to read:

* * * * *

(e) The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

§ 4100.0–5 [Amended]

2. Section 4100.0–5 is amended by:

a. Amending the definition of "affected interest" by removing the work "potentially" where is appears and by removing the word "or" after the words "proposed action" where it appears, inserting the word "and" and removing all of the sentences after the first sentence; and

b. Amending the definition of "allotment management plan" by removing the word "document" where it appears and replacing it with the word "documented" and removing the word "operations" where it appears and replacing it with the word "grazing";

c. Amending the definition of "cancellation" by removing the word "Cancellation" where it appears and replacing it with the words "Cancelled or cancellation";

d. Amending the term "certified actual use" by removing the word "Certified";

e. Removing the definition of "class of livestock" in its entirety;

f. Amending the definition of "consultation, cooperation and coordination" by inserting a period after the word "disputes" where it appears and deleting all thereafter;

g. Removing the definition of "contiguous land" in its entirety;

h. Revising the definition of "grazing fee year" to read:

" 'Grazing fee year' means the year, used for billing purposes, which begins on March 1, of a given year and ends on the last day of February of the following year";

i. Removing the definition of "indigenous animal" in its entirety;

j. Amending the definition of "land use plan" by removing the word "decision" where it appears and inserting the word "prepared" following the word "document", placing a period after the word "Act" and removing all thereafter;

k. Removing the definition of "livestock or kind of livestock" in its entirety;

l. Amending the definition of "livestock grazing capacity" by inserting the word "estimated" before the word "number" and by removing the phrase "on the public lands";

m. Removing the definition of "modification" in its entirety;

n. Removing the definition of "other lands under Bureau of Land Management control" in its entirety;

o. Amending the definition of "public lands" by removing the phrase "lands located on the Outer Continental Shelf" where it appears;

p. Amending the definition of "service area" by removing all after the first sentence;

r. Amending the definition of "supplemental feed" by removing the word "harvest" where it appears;

s. Removing the definition of "suspended preference" in its entirety; and

t. Revising the definition of "suspension" to read:

* * * * *

" 'Suspension' means temporarily withholding, in whole or in part, a grazing preference from active grazing use. The withholding may be done voluntarily by the permittee or lessee."

* * * * *

§ 4110.2-1 [Amended]

3. Section 4110.2-1 is amended by removing "§ 4100.0-5(g)" where it appears and replacing it with "§ 4100.0-5.".

§ 4110.2-2 [Amended]

4. Section 4110.2-2 is amended by inserting the word "existing" after the word "among" in paragraph (a).

§ 4110.2-3 [Amended]

5. Section 4110.2-3 is amended by:

a. Amending § 4110.2-3(a)(2) by removing the citation "§ 4120.6" where it appears and replacing it with the citation "§ 4120.3"; removing the citation "§ 4120.6-5" where it appears and replacing it with the citation "§ 4120.3-5"; inserting a period after the phrase "range improvement permits" and removing all thereafter;

b. Removing § 4110.2-3(d) in its entirety;

c. Redesignating § 4110.2-3(e) and 4110.2-3(f) as § 4110.2-3(d) and 4110.2-3(e), respectively; and

d. Redesignating § 4110.2-3(g) as § 4110.2-3(f) and revising it to read:

* * * * *

(f) Failure of either the transferee or the transferor to comply with the regulations of this section may result in rejection of the transfer application.

§ 4110.2-4 [Removed]

6. Section 4110.2-4 is revised by removing it in its entirety.

§ 4110.3-1 [Amended]

7. Section 4110.3-1 is amended by:

a. Amending § 4110.3-1(a) by removing the citation "§ 4130.6" where it appears and replacing it with the citation "§ 4130.1-1";

b. Amending § 4110.3-1(c) by removing the word "may" where it appears and replacing it with the word "shall"; removing the word "or" at the end of paragraph (c)(1); removing the word "or" at the end of paragraph (c)(2); and removing "§ 4110.5" in paragraph (c)(3) and replacing it with "§ 4130.1-1"; and

c. Removing § 4110.3-1(d) in its entirety.

§ 4110.3-2 [Amended]

6. Section 4110.3-2 is amended by:

a. Removing § 4110.3-2(c) in its entirety;

b. Removing § 4110.3-2(d) in its entirety; and

c. Removing § 4110.3-2(e) in its entirety.

7. A new section 4110.3-3 is added to read:

§ 4110.3-3 Implementation of changes in available forage.

(a) Permanent increases in the allocation of livestock forage (see (4110.3-1(b)) or suspensions of preference (see § 4110.3-2(b)) shall be implemented over a 5-year period, unless after consultation with the affected permittees or lessees and other affected interests, an agreement is reached to implement the increase or suspension in less than 5 years.

(b) Suspensions of preference shall be implemented through a documented agreement or by decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the agreement or decision and the balance taken in the third and fifth years following that effective date, except as provided in paragraph (a) of this section. If data acceptable to the authorized officer to support an initial reduction are not available, additional data will be collected through monitoring. Adjustments based on the additional data shall be implemented by agreement or decision that will initiate the 5-year implementation period.

(c) When the authorized officer determines that the soil, vegetation, or other resources on the public lands require temporary protection because of conditions such as drought, fire, flood, or insect infestation, after consultation with affected permittees or lessees and other affected interests, action shall be taken to close allotments or portions of allotments to grazing by any kind of livestock or to modify authorized grazing use. Notices of closure and decisions requiring modification of authorized grazing use shall be issued as final decisions which are placed in full force and effect under § 4160.3(c) of this title."

8. Section 4110.4 is amended by:

§ 4110.4-1 [Amended]

a. Amending § 4110.4-1 by removing "4110.5" where it appears and replacing it with "4130.1-2";

§ 4110.4-2 [Amended]

b. Amending § 4110.4-2(b) by removing the words "in whole" where they appear; removing the word "for" after the word "compensation" and replacing it with the phrase ", but not to exceed"; inserting a comma after the word "value" and removing "§ 4120.6-6" and replacing it with "§ 4120.3-6".

§ 4110.5 [Removed]

9. Section 4110.5 is amended by removing it in its entirety.

§ 4110.5 [Redesignated from § 4110.6]

10. Section 4110.6 is amended by redesignating it as section 4110.5.

§§ 4120.1, 4120.2, and 4120.2-1 [Removed]

11. Subpart 4120 is amended by:

a. Removing § 4120.1 in its entirety;

b. Removing § 4120.2 in its entirety; and

c. Removing § 4120.2-1 in its entirety.

§ 4120.2-2 [Removed]

12. Section 4120.2-2 is revised by removing it in its entirety and adding a new § 4120.1 to read as follows:

§ 4120.1 Cooperative management agreements.

The Bureau of Land Management (BLM) may enter into a cooperative management agreement with a permittee, lessee, or association when the BLM has determined that resource conditions in the allotment are compatible with the program objectives and the permittee, lessee or association has demonstrated good rangeland management practices. The cooperative management agreement shall specify that the permittee, lessee, or association may manage livestock grazing on the allotment as they determine appropriate to maintain or improve the resource conditions and to meet specific management objectives. The agreement shall provide for evaluations to

determine the effectiveness of the specific management objectives.

§ 4120.2-3 [Amended]

13. Section 4120.2-3, Allotment management plans, is amended by:

a. Redesignating § 4120.2-3 as § 4120.2;

b. Revising the introductory, text to read:

Livestock grazing management practices may be applied on allotments through the preparation of allotment management plans. When allotment management plans are developed, the following provisions apply:

* * * * *

c. Amending paragraph (a) by removing the second sentence;

d. Removing "§ 4120.2-1" from paragraph (a) and replacing it with "§ 4130.6";

e. Removing the phrase "prescribe a system of grazing designed" from the third sentence of paragraph (a) and replacing it with the phrase "describe the livestock grazing practices necessary";

f. Revising paragraph (b) to read:

* * * * *

b. Private and State lands shall be included in allotment management plans with the consent or at the request of the party(ies) who owns or controls those lands.;

* * * * *

g. Removing paragraph (c) in its entirety;

h. Redesignating paragraph (d) as paragraph (c) and revising it to read:

* * * * *

(c) Completed allotment management plans shall be incorporated into the terms and conditions of the affected grazing permits and leases.;

* * * * *

j. Removing paragraph (e) in its entirety; and

k. Removing paragraph (f) in its entirety.

§ 4120.3 [Amended]

14. Section 4120.3 is amended by removing it in its entirety and adding the following new §§ 4120.3, 4120.3-1, 4120.3-2, 4120.3-3, 4120.3-4, 4120.3-5, 4120.3-6, and 4120.3-7 to read as follows:

§ 4120.3 Range improvements.

§ 4120.3-1 Conditions for range improvements.

(a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management.

(b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative agreement with the Bureau of Land Management or must have an approved range improvement permit.

(c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under § 4130.6-2 of this title.;

(d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.

(e) A range improvement permit or cooperative agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.

§ 4120.3-2 Cooperative agreements.

Any person may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objective within a designated allotment. The cooperative ageement shall specify the division of costs or labor, or both, between the United States and cooperator(s). Title to structural or removable improvements shall be shared by the United States and cooperator(s) in proportion to the actual amount of the respective contribution to the initial construction. Title to nonstructural or nonremovable improvements shall be in the United States.

§ 4120.3-3 Range improvement permits.

(a) Any permittee or lessee may apply for a range improvement permit to install, use, maintain, and/or modify range improvements that are needed to achieve management objectives within his/her designated allotment. The permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance. Such range improvement permits are issued at the discretion of the authorized officer.

(b) The permittee or lessee shall have title to removable range improvement authorized under range improvement permits.

(c) The use by livestock of stock ponds or wells or wells authorized by a range improvement permit shall be controlled by the grazing permittee or lessee holding the range improvement permit.

§ 4120.3-4 Standards, design and stipulations.

Range improvement permits and cooperative agreements shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.

§ 4120.3-5 Assignment of range improvements.

The authorized officer shall not approve the transfer of a grazing preference under § 4110.2-3 of this title or approve use by the transferee of existing range improvements, unless the transferee has agreed to compensate the transferor for fair market value of his interest in the authorized improvements within the allotment as of the date of the transfer. If the parties are unable to agree as to the amount or manner of reasonable compensation, the matter shall be resolved by the authorized officer.

§ 4120.3-6 Removal and compensation for loss of range improvements.

(a) Range improvements shall not be removed from the public lands without authorization.

(b) The authorized officer may require permittees or lessees to remove range improvements which they own on the public lands if these improvements are no longer serving the purpose for which they were installed or if they fail to meet the criteria under section 4120.3-4 of this title.

(c) Whenever a grazing permit or lease is cancelled in order to devote the public lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of their interest in authorized permanent improvements placed or constructed by the permittee or lessee on the public lands covered by the cancelled permit or lease. The adjusted value is to be determined by the authorized officer. Compensation shall not exceed the fair market value of the terminated portion of the permittee's or lessees interest therein.

(d) Permittees or lessees shall be allowed 180 days from the date of cancellation of a range improvement permit or cooperative agreement to salvage material owned by them and perform rehabilitation measures necessitated by the removal.

§ 4120.3-7 Contributions.

The authorized officer may accept contributions of labor, material,

equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part.

15. Section 4120.4 is amended by removing it in its entirety and inserting a new section to read:

§ 4120.4 Special rules.

When a State Director determines that local conditions require a special rule to achieve improved administration consistent with the objectives of this part, the Director may approve such rules. The rules shall be subject to public review and comment, as appropriate, and upon approval, shall become effective when published in the Federal Register as final rules. Special rules shall be published in a local newspaper.

§§ 4120.5, 4120–6 through 4120.6–7, 4120.7 and 4120.8 [Removed]

16. Section 4120.5 is removed in its entirety.

17. Sections 4120.6 through 4120.6–7 are removed in their entirety.

18. Sections 4120.7 and 4120.8 are removed in their entirety.

19. Section 4130.1 is amended by removing the word "timely" where it appears;

20. Two new sections, 4130.1–1 and 4130.1–2 are added to supart 3140 to read:

§ 4130.1–1 Changes in grazing use.

(a) Applications for changes in grazing use should be filed with the authorized officer before the billing notices for the affecting grazing use have been issued. Applications for changes in grazing use filed after the billing notices for the affected grazing use have been issued and which required the issuance of a replacement or supplemental billing notice shall be subject to a service charge under § 4130.7–3 of this title.

(b) Changes in grazing use may be granted by the authorized officer.

§ 4130.1–2 Conflicting applications.

When more than one qualified applicant applies for livestock grazing use of the same public lands and/or where additional livestock forage or additional acreage becomes available, the authorized officer may allocate grazing use of such land or forage on the basis of §4110.3–1 of this title or on the basis of any of the following factors:

(a) Historical use of the public lands (see § 4130.2(1)(d));

(b) Proper range management and use of water for livestock;

(c) General needs of the applicants' livestock operations;

(d) Public ingress or egress across privately owned or controlled land to public lands;

(e) Topography; and

(f) Other land use requirements unique to the situation.

§ 4130.2 [Amended]

21. Section 4130.2 is amended by:

a. Removing paragraph (a) in its entirety;

b. Redesignating paragraph (b) as paragraph (a) and revising it to read:

(a) Grazing permits or leases shall be issued to authorize livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management. These grazing permits or leases shall specify terms and conditions as required by § 4130.6 of this title.;

* * * * *

c. Redesignating paragraph (c) as paragraph (b);

d. Redesignating paragraph (d)(1) as paragraph (c) and removing paragraphs (d) (2), (3) and (4);

(f) Redesignating paragraph (e) as paragraph (d), removing paragraph (d)(1) in its entirety, redesignating paragraph (d)(2) as paragraph (d)(1) and amending it by removing the word "his" where it appears and replacing it with the word "the", by removing paragraph (d)(3) in its entirety and by redesignating paragraph (d)(4) as paragraph (d)(2); and

g. Adding paragraph (e) to read:

* * * * *

(e) Permits or leases may incorporate the percentage of public land livestock use (see § 4130.6–2) or may include private land offered under exchange-of-use grazing agreements (see § 4130.4–1).

§ 4130.3 [Amended]

22. Section 4130.3 is amended by removing "§ 4110.5" where it appears and replacing it with § 4130.1–2".

§ 4130.4–1 [Amended]

23. Section 4130.4–1 is amended by removing paragraphs (b), (d), and (e) in their entirety and redesignating paragraph (c) as paragraph (b).

24. Section 4130.5 is amended by removing it in its entirety and adding a new section to read:

§ 4130.5 Ownership and identification of livestock.

(a) The permittee or lessee shall own or control and be responsible for the management of the livestock which graze the public land under a grazing permit or lease.

(b) Authorized users shall comply with the requirements of the State in which the public lands are located relating to branding of livestock, breed, grade, and number of bulls, and health and sanitation requirements; and

(c) The authorized officer may require counting and/or additional special marking or tagging of the authorized livestock in order to promote the orderly administration of the public lands.

25. Section 4130.6 is revised to read:

§ 4130.6 Terms and conditions.

Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management control identified in land use plans.

26. A new section, § 4130.6–1, Mandatory terms and conditions, is added to read:

§ 4130.6–1 Mandatory terms and conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall be limited or excluded to the extent necessary to achieve the objectives established for the allotment.

(b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

27. A new section § 4130.6–2, Other terms and conditions, is added to read:

§ 4130.6–2 Other terms and conditions.

The authorized officer may specify in grazing permits or leases other terms and conditions which will assists in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(a) The class of livestock that will graze on an allotment;

(b) The breed of livestock in allotments within which two or more permittees or lessees are authorized to graze;

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;

(e) The kinds of indigenous animals authorized to graze under specific terms and conditions;

(f) Provision for livestock grazing to be temporarily delayed, discontinued or modified to allow for the reproduction, establishment or restoration of vigor of plants, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth; and

(g) The percentage of public land use determined by the proportion of livestock forage available on public lands within the allotment compared to the total amount available from both public lands and those owned or controlled by the permittee or lessee.

§ 4130.8 [Redesignated from § 4130.7]

28. Section 4130.7 is amended by redesignating it as § 4130.8 and adding new §§ 4130.7, 4130.7–1, 4130.7–2 and 4130.7–3 to read as follows:

§ 4130.7 Fees.

§ 4130.7–1 Payment of fees.

(a) Grazing fees shall be established annually by the Secretary.

(b) Fees shall be charged for livestock grazing upon or crossing the public lands and other lands administered by the Bureau of Land Management at a specified rate per animal unit month.

(c) The full fee shall be charged for each paying animal unit which is defined as each animal six (6) months of age or over at the time of entering the public lands, for all weaned animals regardless of age, and for such animals as will become twelve (12) months of age during the authorized period of use. No charge will be made for animals under six (6) months of age at the time of entering the public lands, that are the natural progeny of animals upon which fees are paid, provided they will not become twelve (12) months of age during the authorized period of use, or for progeny born during that period.

(d) Fees are due upon issuance of the billing notice and shall be paid in full prior to grazing use except where an allotment management plan or cooperative mamagement agreement providing for later payment has been incorporated into a permit or lease.

§ 4130.7–2 Refunds.

(a) Grazing fees may be refunded where applications for change in grazing use and related refund are filed prior to the period of use for which the refund is requested.

(b) No refundes shall be made for failure to make grazing use, except during periods of range depletion due to drought, fire, or other natural causes, or in case of a general spread of disease amount the livestock that occurs during the term of a permit or lease. During these periods of range depletion the authorized officer may credit or refund fees in whole or in part, or postpone fee payment for as long as the emergency exists.

§ 4130.7–3 Service charge.

A service charge shall be assessed for each crossing permit, transfer of grazing preference and each replacement or supplemental billing notice except for actions initiated by the authorized officer. Pursuant to section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a), calculation of the Bureau service charge assessed shall reflect processing costs and shall be adjusted periodically as costs change. Notice of changes shall be published periodically in th Federal Register.

§ 4140.1 [Amended]

29. Section 4140.1 is amended by:

a. Amending paragraph (a)(3) by removing the words "without authorization" and inserting the words "in violation of the terms and conditions of the lease or permit";

b. Amending paragraph (b)(1) (iv) by removing § 4120.4(d)" and replacing it with § 4130.5(c)";

c. Removing paragraph (b)(7) in its entirety; and

d. Removing paragraph (b)(8) in its entirety and redesignating paragraphs (9) through (11) as paragraphs (7) through (9) respectively.

§ 4150.2 [Amended]

30. Section 4150.2 is amended by:

a. Amending paragraph (b) by removing "§ 4150.5" and replacing it with "§ 4150.4"; and

b. Removing paragraph (c) in its entirety.

31. Section 4150.3 is revised to read:

§ 4150.3 Settlement.

The authorized officer shall determine if the violation is nonwillful, repeated nonwillful, willful, or repeated willful. Where violations are repeated nonwillful, the authorized officer may take action under § 4170.1–1(a) of this title. Where violations are repeated willful the authorized officer shall take action under § 4170.1–1(b) of this title. The amount due for all settlements shall include: the full value for all damages to the public lands and other property of the United States; all expenses incurred by the United States including those incurred in gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under § 4150.4; and shall include the amount due the United States for unauthorized grazing use as described in paragraphs (a), (b) or (c) of this section.

(a) For nonwillful violations: The value of forage consumed as determined by the average monthly rate for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture.

(b) For repeated nonwillful violations: Twice the value of forage consumed as determined in paragraph (a) of this section.

(c) For willful and repeated willful violations: Three times the value of the forage consumed as determined in paragraph (a) of this section."; and

(d) Payment made under this section does not relieve the alleged violator of any criminal liability under Federal or State law.

(e) Violators shall not be authorized to make grazing use on the public lands administered by the Bureau of Land Management until any amount found to be due the United States under this section has been paid. The authorized officer may take action under § 4160.1–2 of this title to cancel or suspend grazing authorizations or to deny approval of applications for grazing use until such amounts have been paid. The proposed decision shall include a demand for payment.

§ 4150.4–1 [Amended]

32. Section 4150.4–1 is amended by removing paragraph (c) in its entirety.

§ 4150.4–2 [Amended]

33. Section 4150.4–2 is amended by removing "§ 4150.4–1(c)" where it appears.

§ 4150.4–3 [Amended]

34. Section 4150.4–3 is amended by removing the second, third, and fourth sentences.

§ 4160.1–1 [Amended]

35. Section 4160.1–1 is amended by deleting the word "The" at the beginning of the first sentence and replacing it with the phrase "In the absence of a documented agreement between the authorized officer and the permittee(s) or lessee(s), the", and by removing paragraphs (a), (b) and (c) in their entirety.

§ 4160.1–2 [Amended]

36. Section 4160.1–2 is amended by removing "§ 4130.5–1" where it appears and replacing it with "§ 4130.7–1".

§ 4160.2 [Amended]

37. Section 4160.2 is amended by removing the words "or other adversely

affected interests" from the first sentence.

§ 4160.3 [Amended]

38. Section 4160.3 is amended by:

a. Amending paragraph (b) by placing a period after the word "both" in the second sentence and deleting the remainder of the sentence;

b. Amending paragraph (c) by removing the last sentence in the paragraph and replacing it with the sentence "The authorized officer may place the final decision in full force and effect in an emergency to stop resource deterioration. Full force and effect decisions shall take effect on the date specified, regardless of an appeal."; and

c. Removing paragraphs (d) and (e) in their entirety.

§ 4160.4 [Amended]

39. Section 4160.4 is amended by removing the phrase "applicant, permittee, or any other".

§ 4170.1–3 [Removed]

40. Section 4170.1–3 is amended by removing it in its entirety.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

April 19, 1983.

[FR Doc. 83–12850 Filed 5–12–83; 8:45 am]

BILLING CODE 4110–84–M

federal register

Friday
May 13, 1983

Part V

Federal Emergency Management Agency

State Plan for Carrying Out Emergency Food and Shelter Program

FEDERAL EMERGENCY MANAGEMENT AGENCY

State Plan for Carrying Out Emergency Food and Shelter Program

May 6, 1983.

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice set out the text of a plan by which the Federal Emergency Management Agency will distribute $50,000,000 to States and Territories for the purpose of delivering emergency food and shelter to needy individuals, as provided for in Public Law 98–8.

The grants to States were awarded by April 22, 1983.

DATE: April 22, 1983.

FOR FURTHER INFORMATION CONTACT: Agnes Mravcak, Individual Assistance Division, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472.

Richard W. Krimm,

Assistant Associate Director, State and Local Programs and Support.

Foreword

This plan has been prepared to provide guidance to Federal, and State agencies and local entities involved in the distribution of funds for delivery of emergency food and shelter to needy individuals as authorized by Pub. L. 98–8.

The information, guidance and procedures contained in this plan pertains to the distribution of $50 million to States and eventually local entities in accordance with Pub. L. 98–8. A separate plan will be prepared for the distribution of funds through a National Board consisting of the United Way of America, the Salvation Army, the National Council of Churches, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross and FEMA. The representative from FEMA will chair the Board. All funds provided for emergency food and shelter under Pub. L. 98–8 are to be awarded within 30 days after enactment.

Any questions from State agencies or local entities should be directed to the appropriate FEMA Regional Director.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

1.0 *INTRODUCTION*

Public Law 98–8, signed by the President on March 24, 1983, provides for emergency expenditures that will meet urgent needs and protect and add to the national wealth by providing productive jobs, not make-work, for women and men; providing for the indigent and homeless through fiscal year 1983; and accomplishing other purposes. Under this law, the Federal Emergency Management Agency (FEMA) is responsible for carrying out an Emergency Food and Shelter Program.

A total of $100 million has been appropriated for this program. Half of this appropriation ($50 milion) is to be provided as a grant for use by a National Board, which will be chaired by FEMA and consist of representatives of the United Way of America; the National Conference of Catholic Charities; the Council of Jewish Federation, Inc.; the Salvation Army; the National Council of Churches; the American Red Cross; and FEMA. The remaining half ($50 million) will be used to provide food and shelter through grant to the States which will distribute funds to local recipients. All grants are to be awarded within 30 days after enactment of Pub. L. 98–8; all funds are to be expended by the end of Fiscal Year 1983.

1.1 *Purpose*

This plan sets forth responsibilities of the Federal and State agencies involved in the distribution of funds for delivery of and shelter to needy individuals under the Emergency Food and Shelter Program. This plan includes FEMA's policies and procedures for awarding grants to the States in administering this Emergency Food and Shelter Program.

1.2 *Scope*

This plan is applicable to the Federal, State and local organizations and personnel involved in State grant process under the Emergency Food and Shelter Program.

1.3 *Objectives*

A. Ensure that grants are awarded to States for the purposes of carrying out a program of shelter and food distribution within the States within the time period allotted under Pub. L. 98–8.

B. Structure orderly and responsible policies and procedures for awarding the grants to the States.

1.4 *Lead Agency Responsibility*

FEMA is responsible for carrying out an Emergency Food and Shelter Program as defined in Pub. L. 98–8.

2.0 *Concept of Operations*

2.1 Planning Assumptions

A. Funds will be distributed according to procedures set forth in Section 674 of Pub. L. 97–35, Omnibus Budget and Reconciliation Act of 1981, disregarding Subsection (B) of Section (a)(1).

B. Grants will be made in accordance with terms and conditions as established by FEMA in this Plan.

C. Administrative costs will be limited to 2% of the grant amounts. No more than half of these administrative costs will be used for State audit costs; the remainder will be used for administrative costs incurred by local recipients.

D. All grants will be awarded by FEMA by April 23, 1983 (within 30 days of enactment of Pub. L. 98–8).

E. All funds will be expended for food and shelter assistance by September 30, 1983.

2.2 *General Guidelines*

a. Grant Award Process: Funding for this portion of the program will be in the form of grants from FEMA to the States. Grants will be awarded through a document specifying the terms and conditions of the grant and signed by FEMA and the States.

B. Activities of Designated State Agency: As requested in the notification letter, a State agency is to be selected by the State to manage its Emergency Food and Shelter Program. This agency will be the focal point for management and administration of the Emergency Food and Shelter Program in the State. In administering the program, the State is expected to identify and select target areas for assistance; identify and select local recipient organizations; receive and disburse funds; monitor assistance provided; and coordinate and report on program activities.

The State agency shall identify selection criteria used and provide monthly progress reports. Further information on reporting is provided in Section 3 of this Plan.

In administering the Emergency Food and Shelter Program, the State, also is expected to adhere to the intent of the law in its selection of target areas as described in these guidelines. Likewise every effort should be made to identify local recipient organizations (such as United Way agencies, the Salvation Army, Community Action agencies and church organizations) in target areas which can deliver food and shelter assistance in an efficient and timely manner.

The designated State agency also is expected to coordinate its activities to the extent possible with the National Board activities. This coordination will help to ensure the emergency provision of food and shelter assistance reaches as many critical areas as possible.

C. State Designation of a State Representative: The Governor shall designate a State representative who will execute documents and coordinate emergency food and shelter assistance activities for the State. The representative will serve as the primary

State contact and official liaison with FEMA.

D. Designation of Target Areas: The areas designated to receive assistance under the Emergency Food and Shelter Program should be those in which it can be demonstrated that food and shelter needs are most urgent, based on the latest statistics on unemployment, poverty, etc. Areas of need may include areas where there is an increase of recently unemployed persons, areas with new pockets of poverty, areas of long-term unemployment (including areas where the long-term unemployed may not be reflected in unemployment statistics because the entitlement period has passed), and areas of existing poverty. Areas to receive assistance will be selected without discrimination.

E. Selection of Recipient Organizations: In distributing funds to local areas, States should select private, nonprofit voluntary organizations (including churches) which have an accounting system and are nondiscriminatory. Local units of governments also may be selected.

In selecting local recipient organizations consideration must be given to the demonstrated capability of the organization to provide food and shelter assistance, in a timely and efficient manner. Local organizations to receive and provide the assistance will be determined by the designated State agency.

Each local recipient organization should complete a certification verifying its intent to use the funding for food and sheltering purposes. A sample certification for this purpose is provided along with the grant award. (See Annex 2-5).

F. Determination of Grant Amounts: 1. Program Funds: The amount of the grant for each State will be determined through the procedure for determining allotments to States in Section 674 of Pub. L. 97-35, disregarding Subsection (B) of Section 674(a)(1). Each State's allotment is listed in Annex 1. In addition, the Indian set-aside portion available to certain States is a portion of each State's allotment determined by using the tribes who have directly applied to Department of Health and Human Services (HHS) for Office of Community Affairs funding, the incidence of rural Indian poverty, and the State's poverty population. For those States where there is no established set-aside, funds are nevertheless available to Indian tribes (see Subsection 2.4A.6 of this Plan). Additionally, the State also may award funds beyond the set-aside portion.

2. Administrative Costs: State and local administrative costs associated with the program are limited to 2% of the total State grant amount. No part of the appropriation shall be expended for the administrative costs of FEMA or any other Federal agency. No more than half of the 2% administrative cost will be available to the State. This amount will cover expenses associated with State audit of the Emergency Food and Shelter Program. The balance will be available to local recipient organizations for administrative costs associated with providing assistance under this program. Eligible administrative costs are covered in Subsection 2.3 of this Plan.

G. Audit Requirements: States shall complete an audit of the program within 45 days of the date that all funds are expended. This audit should follow General Accounting Office standards and principles and the report should be forwarded to the appropriate FEMA Regional Office for review. For further information see Annex 2-2, Paragraph 5A.

2.3 *Eligibility of Costs*

This appropriation is primarily intended for the purchase of food and provision of shelter; however, in supplementing current available resources, the following guidance is provided.

A. Eligible program costs include, but are not limited to,

1. purchase of food for mass feeding;

2. supplies incidental to feeding (such as utensils or pots and pans);

3. expenses associated with mass shelter (such as cots and blankets); and

4. emergency lodging costs (i.e., hotel or motel expenses) only if the local recipient provides emergency shelter by using a voucher or cash payment system and only where the need arises.

B. Eligible administrative costs include, but are not limited to,

1. printing and reproduction (to advertise program availability);

2. State audit services; and

3. operating expenses associated with expanded services (such as utilities or leasing costs).

C. Ineligible costs include, but are not limited to,

1. rent or mortgage subsidies, cash payments (except for emergency lodging costs as noted above), and real property and equipment purchase (land, building, or major equipment)

2. administrative costs such as procurement services, travel, personnel services (salaries, overtime, fringe benefits), budgeting and payroll preparation.

2.4 *Roles and Responsibilities*

A. State responsibilities include:

1. designation of a lead State agency and contact,

2. review and acceptance of grant program terms and conditions,

3. distribution of funds and program guidelines to local recipient organizations,

4. program status monitoring and submission of monthly program reports to the FEMA Regional Office,

5. coordination of assistance with the National Board, and other organizations as necessary, and

6. coordination with the Bureau of Indian Affairs or State Indian advisory sources to determine an equitable distribution of funds for those States which do not have an established set-aside.

B. FEMA responsibilities include the following:

1. *National Office*—

(a) development of guidelines and criteria for implementation and administration of the Emergency Food and Shelter Program,

(b) policy direction and interpretation of the provision of the law regarding State implementation,

(c) technical guidance to Regional Offices,

(d) award of grants to the States,

(e) review of monthly State program reports and preparation of final program summary report,

(f) audit oversight, and

(g) coordination with the Office of Community Services (HHS) and other agencies as appropriate.

2. *Regional Offices*—

(a) issuance of notification of the Emergency Food and Shelter Program to Governors,

(b) liaison with the designated State contacts,

(c) delivery of grant award documents to States,

(d) assistance to the States in expediting completion of the grant award package and transmittal of the completed package to FEMA National Office,

(e) oversight of State implementation of the program,

(f) compilation and analysis of monthly program reports submitted by the States,

(g) submittal of monthly State program reports to FEMA National Office, and

(h) coordination with States and Regional Inspector General for Audit on audit procedures and findings.

3.0 *PROGRAM MONITORING REQUIREMENTS*

3.1 *Reporting*

The State is expected to provide monthly program status reports to the appropriate Regional Office so that it can monitor the timeliness of program delivery in the State. Reports should

include information on funds disbursed and names and locations of local recipient organizations. A suggested report format with instructions is provided in Annex 2–4.

3.2 *Recordkeeping*

In order to facilitate audits and enable reporting to the Congress, the State is expected to establish and maintain records on how each target area was selected to receive assistance. These records should include the type and source of information used in making each selection, the amount of grant monies allocated to each area, and the local organization chosen to deliver the assistance.

BILLING CODE 6718-01-M

Annex L

$50,000,000 FEMA Supplemental Appropriation Using CSBG Formula March 16, 1983

CODE NO.	STATES	Total Appropriation	Indian Set-aside	Net to States					
	TOTAL	$50,000,000	$302,103	$49,697,897					
01	ALABAMA	960,375	5,901	954,474					
02	ALASKA	157,107	36,215	120,892					
04	ARIZONA	490,530	79,891	410,639					
05	ARKANSAS	708,215		708,215					
06	CALIFORNIA	4,642,305	3,732	4,638,573					
08	COLORADO	453,100	552	452,548					
09	CONNECTICUT	628,430		628,430					
10	DELAWARE	125,000		125,000					
11	DIST. OF COLUMBIA	854,980		854,980					
12	FLORIDA	1,512,960		1,512,960					
13	GEORGIA	1,400,670		1,400,670					
15	HAWAII	217,192		217,192					
16	IDAHO	134,452	2,557	131,895					
17	ILLINOIS	2,459,052		2,459,052					
18	INDIANA	757,957		757,957					
19	IOWA	563,420		563,420					
20	KANSAS	424,535	516	424,019					
21	KENTUCKY	878,127		878,127					
22	LOUISIANA	1,222,385	3,331	1,219,054					
23	MAINE	273,830	451	273,379					
24	MARYLAND	714,125		714,125					
25	MASSACHUSETTS	1,297,737	400	1,297,337					
26	MICHIGAN	1,928,630	1,755	1,926,875					
27	MINNESOTA	626,460		626,460					
28	MISSISSIPPI	827,892	1,696	826,196					
29	MISSOURI	1,440,562		1,440,562					
30	MONTANA	187,643	12,994	174,649					
31	NEBRASKA	362,973	1,371	361,602					
32	NEVADA	125,000	1,913	123,087					
33	NEW HAMPSHIRE	140,855		140,855					
34	NEW JERSEY	1,426,280		1,426,280					
35	NEW MEXICO	333,915	49,408	284,507					
36	NEW YORK	4,518,688	1,717	4,516,971					
37	NORTH CAROLINA	1,385,895	24,918	1,360,977					
38	NORTH DAKOTA	125,000	7,850	117,150					
39	OHIO	2,029,100		2,029,100					
40	OKLAHOMA	665,368	15,856	649,512					
41	OREGON	417,148	353	416,795					
42	PENNSYLVANIA	2,204,430		2,204,430					
44	RHODE ISLAND	290,083		290,083					
	Puerto Rico	2,193,102		2,193,102					
45	SOUTH CAROLINA	800,805	629	800,176					
46	SOUTH DAKOTA	161,540	24,899	136,641					
47	TENNESSEE	1,025,878		1,025,878					
48	TEXAS	2,506,825		2,506,825					
49	UTAH	202,910	4,941	197,969					
50	VERMONT	145,780		145,780					
51	VIRGINIA	833,310		833,310					
53	WASHINGTON	625,968	17,340	608,628					
54	WEST VIRGINIA	582,628		582,628					
55	WISCONSIN	633,848	917	632,931					
56	WYOMING	125,000		125,000					
60	AMERICA SAMOA	29,862		29,862					
66	GUAM	28,263		28,263					
72	~~PUERTO RICO~~								
78	VIRGIN ISLANDS	39,040		39,040					
99	Trust Territories	135,130		135,130					
69	No. Mariana Is.	17,705		17,705					

CSA Form 0-213a (Formerly OEO Form 0-213a) April 80 STATE WORKSHEET (Alphabetical)

Annex 2-1 S-A-M-P-L-E

FEDERAL EMERGENCY MANAGEMENT AGENCY
ASSISTANCE AWARD/AMENDMENT FOR COMPREHENSIVE COOPERATIVE AGREEMENT

1. AGREEMENT NO.	2. RECIPIENT NO.	3. TYPE OF ACTION	4. AMENDMENT NO.
	N/A	☒ AWARD ☐ AMENDMENT	N/A

5. RECIPIENT AND ADDRESS	6. ISSUING FEMA OFFICE AND ADDRESS
State Department of Community Action 5 State Street, Suite 201 Wasington, D.C. 20906	State & Local Programs & Support Directorate Office of Disaster Assistance Programs 500 C Street, SW Washington, DC 20472

7. NAME OF RECIPIENT PROJECT MANAGER	PHONE NO.	8. NAME OF FEMA PROJECT COORDINATOR	PHONE NO.
John Jones	301-946-3316	Dennis Kwiatkowski	202-287-0550

9. EFFECTIVE DATE OF THIS ACTION	10. METHOD OF PAYMENT
April 5, 1983	☒ LETTER OF CREDIT, LOC NO. 58-00-_____ ☐ REIMBURSEMENT BY TREASURY CHECK ☐ ADVANCE CHECK

11. DESCRIPTION OF ACTION

a. *(Indicate funding data for awards or financial changes)*

PROGRAM NAME ABBREVIATION	ACCOUNTING DATA (FARS CODE) XX-X-XXXX-XXXX-X-XXXX	MAXIMUM FEMA FUNDING	CUMULATIVE OBLIGATION BEFORE THIS ACTION	AMOUNT FOR THIS ACTION OBLI/(DEOBL)	NET CUMULATIVE OBLIGATION AFTER THIS ACTION	CUMULATIVE NON-FEDERAL COMMITMENT
EFS	83-0-4100-4100-2-3100	$100,000	-0-	$100,000	-0-	-0-

b. *(Describe changes other than funding data or financial changes)*

Award of funds is based on the State's compliance with guidelines and terms and conditions in the FEMA Emergency Food and Shelter Plan.

12. RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO THE FEMA REGIONAL OFFICE IN BLOCK 6.
☒ YES ☐ NO

13. RECIPIENT SIGNATORY OFFICIAL *(Name and Title)* DATE
State Official authorized to apply for award. Self explanatory

14. FEMA SIGNATORY OFFICIAL *(Name and Title)* DATE

BILLING CODE 6718-01-C

Annex 2-2—Financial Terms and Conditions

GENARAL PROVISIONS FOR COOPERATIVE AGREEMENTS

1. *Definitions:*

a. The term "Recipient" refers to the State.

b. The term "Instrument" refers to the grant agreement.

c. The term "Assistance Officer" (AO) refers to the individual delegated the authority by FEMA to execute and/or administer this instrument.

2. *Amendments:*

This instrument may be amended at any time by a written modification. Amendments which reflect the rights and obligations of either party shall be executed by both the Government and the recipient. Administrative amendments such as changes in appropriation data may be issued unilaterally by the AO.

3. *Cash Depositories:*

a. Any money advanced to the recipient under the terms of this instrument must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage and the balance exceeding the FDIC coverage must be collaterally secured.

b. Consistent with the national goal of expanding the opportunities for minority business enterprises, the recipient and its subreciepients are encouraged to use minority banks (a bank which is owned at least 50 percent by minority group members). A list of minority owned banks can be obtained from the Office of Minority Business Enterprises, Department of Commerce, Washington, D.C. 20230.

4. *Retention and Custodial Requirements for Records:*

a. Financial records, supporting documents, statistical records, and all other records pertinent to this instrument shall be retained for a period of three years, with the following exceptions:

(1) If any litigation, claim or audit is started before the expiration of the three-year period, the records shall be retained until all litigation claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property, if any, acquired with Federal funds shall be retained for three years after its final disposition.

(3) When records are tansferred to or maintained by FEMA, the three-year retention requirement is not applicable to the recipient.

b. The retention period starts from the date of the submission of the recipient of the final expenditure report.

c. FEMA will request transfer of certain records to its custody from the recipient rating party when it determines that the records possess long-term retention value. The recipient shall make such transfers as are requested. However, In order to avoid duplicate recordkeeping, FEMA may make arrangements with the recipient to retain records at the point of use, for those that are continuously needed during the progress of work.

d. The Director of FEMA and the Controller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient, and its subgrantees, to make audits, examinations, excerpts and transcripts.

5. Financial Management Systems:

The recipient shall maintain a financial management system that provides for the following:

a. Accurate, current and complete discolsures of the financial results of this instrument in accordance with General Provision 6 entitled "Financial reporting Requirements."

b. Records that identify adequately the source and application of funds for Federally supported activities. These reports shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays and incomes.

c. Effective control over and accountability for all funds, property and other assets.

d. A comparison of acutal outlays with budgeted amounts and the relationship of specific performance and costs incurred.

e. Procedures to minimize the time elapsing between the transfer of funds to the recipient and disbursement by the recipient when advances of letters-of-credit are used.

f. Procedures for determining reasonableness, allowability and allocability of costs in accordance with the provisions of the FEMA Emergency Food and Shelter Plan.

g. Accounting records that are supported by source documentation.

h. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

The recipient shall require its recipients to adopt the standards above except for the requirements in paragraph (e) regarding the use of the latters-of-credit method and that part of subparagraph (a) regarding reporting forms and frequencies prescribed in General Provision 6.

5A. *Audit Requirements:*

a. State governments shall use their own procedures to arrange for independent audits, and to prescribe the scope of audits.

b. The provisions hereunder do not limit the authority of Federal agencies to make audits of recipient organizations. However, if independent audits arranged for by recipients meet the General Accounting Office (GAO) and standard, the FEMA Inspector General shall rely on them, and any additional audit work shall build upon the work already done.

c. Audits shall be made in accordance with the GAO Standards for Audits of Governmental Organizations, Programs, Activities and Functions, the guidelines for Financial and Compliance Audits of Federally Assisted Programs, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

d. The State shall complete an audit of the program within 45 days of the date that all funds are expended.

e. The auditor shall promptly notify the cognizant agency and recipient management officials above the level of involvement of any irregularities include discovered. Irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.

f. Work papers and reports shall be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by FEMA of the need to extend the retention period. The audit workpapers shall be made available upon request to FEMA or its designees and the General Accounting Office or its designees.

5B. *Letter of Credit:*

a. To finance the operations of the recipient under this instrument.

b. Cash advances to the recipient shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advance shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs and the proportionate share of any allowable indirect costs.

c. Letter-of credit will be established by FEMA.

d. The letter-of-credit is irrevocable (the equivalent of cash available to the recipient organization) to the extent the recipient organization has obligated

funds in good faith thereunder in executing this agreement.

e. The recipient commits itself to:

(1) Initiating cash drawdowns only when actually needed for its disbursements;

(2) Timely reporting of cash disbursements and balances; and

f. Procedures for establishment and operation of a letter-of-credit are contained in FEMA Manual 2700.1, Letter of Credit Policies AND Procedures. A copy of this manual can be obtained by writing the following address: Federal Emergency Management Agency, Office of the Comptroller, Accounting Division, 500 C. Street SW., Washington, DC 20472.

6. *Financial Reporting Requirements:*

a. Recipient shall submit an original and two copies of a final Financial Status Report (Standard Form 269) within 90 calendar days after the end date of the grant.

b. The recipient shall submit an original and two copies of a Federal Cash Transaction Report (Standard Form 272) 15 working days following the end of each monthly reporting period.

5B. *Letter of Credit:*

a. To finance the operations of the recipient under this instrument.

b. Cash advances to the recipient shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advance shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program costs and the proportionate share of any allowable indirect costs.

c. Letter-of-credit will be established by FEMA.

d. The letter-of-credit is irrevocable (the equivalent of cash available to the recipient organization) to the extent the recipient organization has obligated funds in good faith thereunder in executing this agreement.

e. The recipient commits itself to:

(1) Initiating cash drawdowns only when actually needed for its disbursements;

(2) Timely reporting of cash disbursements and balances; and

f. Procedures for establishment and operation of a letter-of-credit are contained in FEMA Manual 2700.1, Letter of Credit Policies and Procedures. A copy of this manual can be obtained by writing the following address:

Federal Emergency Management Agency, Office of the Comptroller, Accounting Division, 500 C. Street SW., Washington, DC 20472.

6. *Financial Reporting Requirements:*

a. Recipient shall submit an original and two copies of a final Financial Status Report (Standard Form 269) within 90 calendar days after the end date of the grant.

b. The recipient shall submit an original and two copies of a Federal Cash Transaction Report (Standard Form 272) 15 working days following the end of each monthly reporting period.

7. *Closeout Procedures:*

a. The following definitions shall apply:

(1) Closeout—the closeout of this instrument is the process by which FEMA determines that all applicable administrative actions and all required work of the instrument have been completed by the recipient and FEMA.

(2) Date of completion—the date on which all work under the instrument is completed or the date in the award document, or any supplement or amendment thereto (including termination notices subject to the clause entitled Suspension and Termination Procedures), on which Federal assistance ends.

(3) Disallowed costs—disallowed costs are those charges to the instrument that the AO determines to be unallowable in accordance with the applicable Federal cost principles or other conditions contained in the instrument.

b. The parties shall close out this instrument in accordance with the following procedures:

(1) The recipient shall immediately refund any balance of unobligated (unencumbered) funds that FEMA has advanced or paid and that is not authorized by FEMA to be retained by the recipient for use in other instruments.

(2) The recipient shall submit to AO within 90 days after completion of this instrument all financial and other data required by the AO to closeout the instrument. The AO may grant extensions when requested by the recipient.

(3) In the event a final audit has not been performed prior to the close out of the instrument, FEMA shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

8. *Suspension and Termination Procedures:*

a. The following definitions shall apply:

(1) Termination—termination of this instrument means the cancellation of Federal assistance, in whole or in part, under the instrument at any time prior to the date of completion.

(2) Suspension—the suspension of this instrument is an action by the AO that temporarily suspends Federal assistance under the instrument pending corrective action by the recipient or pending a decision to terminate the instrument by FEMA.

9. *Subgrant.* As FEMA's grantee, the State has responsibility for assuring the proper administration of subgrants to include:

(1) Proper conduct of the financial affairs of a subgrantee insofar as they relate to a project for which grant funds have been made available; and

(2) Default in which the State may be held accountable for improper use of grant funds.

(3) As subgrant applications are approved by the State, subgrantees will receive formal statements of award evidencing such action and indicating the amount of the subgrant and any special conditions of the grant.

(4) Recipients of subgrants will make all applications for Federal funds to the State. Such applications will be in accordance with the subgrant regulations and procedures of the State.

(5) All subgrants made by the State are subject to the conditions of this instrument.

Annex 2-4—Emergency Food and Shelter Program Monthly Report

Report No.: _____
State: _____
Report Date: _____
Amount of State Grant $ _____
Total funds disbursed $ _____
Grant funds remaining $ _____

RECIPIENT ORGANIZATION DATA

	Name	Location of organization	Grant dollars this report	Cumulative dollars received
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
Total				$—

Comments: _____

Instructions: The completed report shall be submitted to appropriate FEMA Regional Office within 10 days of the end of the month. Make the report cumulative by adding entries as new awards are made. Add extra pages as appropriate, retaining the item numbers as first reported.

Annex 2–5—Recipient Organization Certification (Sample)

This document certifies our organization meets the requirements of a local recipient organization. It is non-profit, has an accounting system and practices non-discrimination. Furthermore, we certify funds received from the (State) Emergency Food and Shelter Program fund will be expended in accordance with guidelines established for such purposes.

Organization Name

Signature of Certifying Official

Date

[FR Doc. 83-12888 Filed 5-12-83; 8:45 am]

BILLING CODE 6718-01-M

federal register

Friday
May 13, 1983

Part VI

Department of Health and Human Services

Public Health Service

National Demonstrations of Adolescent Family Life Programs; Announcement of Availability of Grants

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Announcement of Availability of Grants for National Demonstrations of Adolescent Family Life Programs

AGENCY: Office of Adolescent Pregnancy Programs, PHS, HHS.

ACTION: Notice.

SUMMARY: This is to announce the availability of grant funds for National Demonstrations of Adolescent Family Life Programs. These grants are for demonstration projects which test new approaches to providing care services for pregnant adolescents and adolescent parents, prevention services to reach adolescents before they become sexually active, or a combination of care and prevention services as authorized by Title XX of the Public Health Service Act (42 U.S.C. 300z, *et seq.*). The demonstration projects must be national in scope, include a number of sites or test areas in different States and Regions and permit systematic comparisons.

DATE: Applications must be postmarked or received at the above address on June 14, 1983 by 4:30 p.m.

ADDRESS: Application kits may be obtained from and applications must be submitted to: Grants Management Office, Office of Adolescent Pregnancy Programs, Room 702, 300 7th Street, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Donald Underwood, (202) 472–5588 or (202) 245–7473.

SUPPLEMENTARY INFORMATION: Title XX of the Public Health Service Act, 42 U.S.C. 300z *et seq.*, authorizes the Secretary of Health and Human Services to award grants for demonstration projects to provide services to pregnant and nonpregnant adolescents, adolescent parents and their families. This notice announces the availability of approximately $750,000 in funding for national demonstration projects. It is anticipated that up to 4 projects can be funded with the largest being about $400,000. We summarize below the statutory background of the grant program and describe the procedures for applying for grants pursuant to this notice.

Statutory Background

Title XX authorizes grants for three types of demonstration projects: (1) projects which provide "care services" only (i.e., services for the provision of care to pregnant adolescents and adolescent parents); (2) projects which provide "prevention services" only (i.e., services to prevent adolescent sexual relations), and (3) projects which provide a combination of care and prevention services. The specific services (termed "necessary services") which may be funded under Title XX are the following:

(1) Pregnancy testing and maternity counseling;

(2) Adoption counseling and referral services which present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency;

(3) Primary and preventive health services including prenatal and postnatal care;

(4) Nutrition information and counseling;

(5) Referral for screening and treatment of venereal disease;

(6) Referral to appropriate pediatric care;

(7) Educational services relating to family life and problems associated with adolescent premarital sexual relations, including:

(a) Information about adopting;

(b) Education on the responsibilities of sexuality and parenting;

(c) The development of material to support the role of parents as the provider of sex education; and

(d) Assistance to parents, schools, youth agencies, and health providers to educate adolescents and preadolescents concering self-discipline and responsibility in human sexuality;

(8) Appropriate educational and vocational services and referral to such services;

(9) Referral to licensed residential care or maternity home services;

(10) Mental health services and referral to mental health services and to other appropriate physical health services;

(11) Child care sufficient to enable the adolescent parent to continue education or to enter into employment;

(12) Consumer education and homemaking;

(13) Counseling for the immediate and extended family members of the eligible person;

(14) Transportation;

(15) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors; (and)

(16) Family planning services * * * (Sec. 2002(a)(4)[1]

Under the statute, the services described in subparagraphs (1), (4), (5), (7), (8), (13), (14), and (15) above are "prevention services". (Sec. 2002(a)(8)). Grantees which provide "care services" must provide those "necessary services" which are "core services". (Sec. 2002(a)(5)). In accordance with Sec. 2002(b), the regulations promulgated under Title VI of the Health Services and Centers Amendments of 1978 must presently be used to determine which of the above services are core services. Accordingly, the services described in subparagraphs (1), (2), (3), (4), (5), (6), and (7) above are core services. In addition, the referrals described by subparagraphs (8) and (10) are also core services. The services described in subparagraph (16) are core services when suitable and appropriate family planning services are not otherwise available in the community.

This announcement seeks applications from organizations which can develop and implement a national demonstration in sites throughout the country. These demonstrations will systematically test a model or models in a number of sites or test areas in different States and regions. Projects should use field experiments, quasi-experimental or experimental designs, or other innovative research methods in order to determine program effects, both short- and long-term in client populations. Applications should include:

(1) A description of the project objectives and a detailed explanation of how the program design will be suitable for testing the hyotheses chosen for examination.

(2) A description of sites and organizations to be involved in the implementation of the demonstration program. Evidence should be provided of the organization's ability to conduct the demonstration project in the designated sites and to provide rigorous evaluation of the data.

(3) an overall evaluation plan which tests the objectives of the demonstration project. This design should identify the critical issues to be examined; define the relationships among key variables; and propose relevant hypotheses, outcome measures, associated data requirements, comparison/control group recruitment strategies, and statistical methods to be employed.

All projects must fulfill the applicable statutory requirements for care, prevention or combination projects.

Eligible Applicants

Any public or private nonprofit organization or agency which meets the

[1] Statutory citations are to Title XX of the Public Health Service Act.

requirements of section 2002(a)(3) is eligible to apply for a grant.

Application Requirements

Applications must be submitted on the forms supplied in the application kits available from the Office of Adolescent Pregnancy Program (OAPP). Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Applicants are required to submit an original application and two copies.

A copy of the legislation governing this program will be sent to applicants as part of the application kit package. Program requlations are presently being developed, and applicants will be expected to revise their applications to comply with any regulations issued. In the interim, applicants should use the legislation, and the proposed regulations which it is expected will be published shortly, to guide them in developing their applicants. All applicants should review and must comply with the requirements for applications in 2006(a). Awards will be made only to those applicants who have met all applicable statutory requirements.

Applicants may submit proposals that provide for demonstrations of care services only, prevention services only or a combination of care and prevention services. Applicants proposing to provide a combination of care and prevention services should submit budget requests that provide a clear delineation between funds allocated for prevention services and funds allocated for care services.

Section 2006(b)(1) requires each grantee to expend at least one percent but not more than 5 percent of the funds received under Tilte XX on evaluation of the project. While the statute allows waiver of the 5% limit on evaluation (see Section 2006(b)(1)), waivers are rarely granted. Therefore, applicants who anticipate evaluation costs in excess of the limit should exhaust all possible alternative sources of funds before considering requesting a waiver for an evaluation amount in excess of 5%.

Applicants for combination grants should include provision for evaluating both prevention and care components.

In addition to the above, applicants for grants must meet the following requirements:

(1) *Requirements for Review of an Application by the Governor.* Section 2006(e) of the Public Health Service Act requires that—

> Each applicant shall provide the Governor of the State in which the applicant is located a copy of each application submitted to the Secretary for a grant for a demonstration project for services under this Title.
>
> The Governor shall submit to the applicant comments on any such application within the period of sixty days beginning on the day when the Governor receives such copy. The applicant shall include the comments of the Governor with such application.

An applicant may comply with this requirement by submitting a copy of the grant application to the Governors of the States in which the proposed sites are located at the same time the application is submitted to OAPP. To inform the Governors' offices of the reason for the submission, a copy of this notice should be attached to the application. The Governors have sixty days in which to provide comments to the applicant.

The applicant must provide a copy of the comments or verification that there were no comments to the above address by August 29, 1983.

(2) *Circular A–95 Notification Process.* In order to comply with the Office of Management and Budget Circular No. A–95 Revised (interim procedures at 41 FR 316, July 29, 1976), applicants for grant support must, prior to submitting the application to OAPP, notify both the State and Areawide A–95 Clearinghouses of their intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to State Clearinghouses. Some State and Areawide Clearinghouses provide their own forms on which this information is to be submitted.

Applicants are advised to contact the appropriate State Clearinghouses (listed at 42 FR 210, January 10, 1977) for detailed information on meeting the A–95 requirements. It is strongly recommended that the Clearinghouses be notified as soon as a decision is made to apply for a grant. The application can be submitted to the Clearinghouses concurrently with the submission to OAPP. Clearinghouse comments or verification that no comments were made within the period available can be submitted to OAPP no later than August 29, 1983.

(3) *Health Systems Agency (HSA) Review.* In order to comply with the HSA review requirements under section 1513(e) of the Public Health Service Act, 42 U.S.C. 3001–2(e), as amended, applicants must contact the HSA's responsible for the areas to be served by the proposed project to determine whether or not the HSA desires to review the application. If so, a copy of the apllication must be submitted to each HSA for review no later than June 14, 1983. Applicants are advised to contact the local HSA's as soon as a decision is made to apply for a grant for detailed information on meeting this review requirement. Applications will not receive a formal review by OAPP without satisfying this requirement.

Application Consideration and Assessment

Applications which are judged to be late or which do not conform to the applicable statutory requirements will not be accepted for review in this grant cycle. Applicants will be so notified, and the applications will be returned. All other applications will be subjected to competitive review and assessment.

Eligible applications will be reviewed and assessed to determine which applications best meet the applicable statutory requirements, come within the statutory priorities, and promote the purpses of the act. When final funding decisions have been made, all applicants will be notified by letter of the outcome of their applications.

Dated: May 9, 1983.

Marjory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 83–12905 Filed 5–12–83; 8:45 am]

BILLING CODE 4160–17–M

federal register

Friday
May 13, 1983

Part VII

Department of Health and Human Services

Public Health Service

Family Planning Services Delivery Improvement Research; Announcement of Availability of Grants

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Grants for Family Planning Services Delivery Improvement Research

AGENCY: Office of Family Planning, PHS, HHS.

ACTION: Notice.

The Office of Family Planning (OFP) of the Public Health Service invites research grant applications on a range of topics about which greater knowledge is needed as a basis for improving the delivery of family planning services. Section 1004(a) of Title X of the Public Health Service Act authorizes grants to public or non-profit private entities for research projects in the field of program implementation related to family planning services (Catalogue of Federal Domestic Assistance No. 13.974).

This request for applications is for a single competition with a specified deadline (June 20, 1983) for receipt of applications. Proposals will be reviewed by a specially convened group of scientific peer reviewers under the auspices of the Division of Research Grants, National Institutes of Health. Proposals review and award decisions will take place during the Summer, 1983. The earliest start date for grants would be October 1, 1983, and proposals should be written with that date in mind.

In this RFA, several areas of research have been identified where current knowledge is inadequate from the viewpoint of delivery of family planning services. These research areas are the portion of the FY 1983 service delivery improvement research agenda that is especially suitable for field-initiated research studies. Other areas are suitable for directed activities which will be commissioned through Requests for Proposals or conducted through interagency agreements.

I. Research Areas

The specific areas identified for research in this RFA cover a broad range of topics of interest to those concerned with the improvement of family planning service delivery. Imaginative, rigorous research on any of these topics should yield results that will contribute to the goal of better family planning service delivery.

The topic areas identified for service delivery improvement research by this RFP are as follows:

1. What are the particular family planning needs of underserved subgroups of the low-income population? What are the personal, cultural, and institutional factors which influence whether or not individuals in these groups obtain needed family planning services from the public or private sector? What efforts are currently being made by family planning clinics to address the problems related to these factors?

2. What factors influence family planning clinic patients still desiring family planning to "drop out" of clinics? What are the socioeconomic, demographic, and ethnic characteristic of clients associated with clinic discontinuance? What are the clinic characteristics and procedures associated with discontinuance? What happens to the individuals still desiring family planning who do not return for further clinic services? What is being done to improve the continued use of family planning clinics by poor women who discontinue for clinic-associated reasons? What assistance do family planning clinics provide clients to promote their continuation of effective contraception, if still desired, after clinic attendance ceases?

3. What are the managerial and organizational factors involved in the provision of effective and efficient services to poor women in a family planning program and its clinics? What differences exist in these managerial and organizational factors by such variables as type of low-income client served, effectiveness, cost, quality, and location in which services are delivered?

4. What various configurations of staff are associated with optimal provision of family planning services for poor women in different clinic settings? What are the problems that family planning clinics experience in establishing and maintaining optimal staffing patterns, including the provision of continuing professional education for staff?

5. What are the different types of counseling available through family planning clinics? What cost variations exist with regard to the different types of counseling approaches? Are there variations in counseling approaches and costs according to client characteristics? How successful are the different counseling approaches in assisting clinic clients to plan their families?

6. What are the costs of providing services at family planning clinics? How do these costs differ by the kinds of services provided, the differences in the characteristics of the clients, and variations in the types and locations of the clinics? What has been done to reduce these costs while still maintaining the quality of services provided to poor women?

7. What is the role of the private physician in the provision of family planning services to poor women? What are the types and costs of family planning services obtained by poor women from private physicians? Why do some poor women go to private physicians for family planning services while others go to family planning clinics? Under what circumstances do some of these women change from one type of provider to another?

8. What is the current nature of infertility problems among poor women? What factors are associated with this condition? What type and amount of infertility services do poor women receive in the public and private sectors? What are the costs and outcomes associated with the treatment of each infertility problem category? How does each of the above vary by individual characteristics?

9. What have been the most effective ways of involving males in family planning in the public and private sectors? What are the costs of different modes of male family planning involvement and what are associated differences in outcomes, including the male's influence on his partner's effective use of contraceptives?

When addressing the subject of poor women in the research areas above, every effort should be made to distinguish between those individuals below 100 percent of poverty and those between 100 and 150 percent of poverty.

II Research Scope

This RFA encourages a variety of social science and other scholarly approaches and methodologies in the study of the research questions posed above. A program goal is to develop a broad research base, but limited available funds may preclude funding in all nine areas. The program is committed to funding only proposals that excel in meeting the review criteria enumerated in Section V below and that show substantial promise of producing results that will have relevance for policy-makers and service providers.

Applications should include a well-organized statement of the problem to be addressed, the research design, the conceptual framework within which the design has been developed, the methodology to be employed, the evidence upon which the analysis will rely, and the manner in which the evidence will be analyzed. The question of how findings from the study sample can be generalized to larger populations served by family planning services programs should be addressed.

In order to make data available to other interested scholars and policy-makers as quickly and broadly as

possible, copies of data sets and accompanying documentation produced with funds granted through this RFA will be deposited with a public use data archive, such as the Data Archive on Adolescent Pregnancy and Pregnancy Prevention or the Inter-University Consortium for Political and Social Research; alternatively, data sets may be deposited with OFP. Data sets will be deposited only after: (1) appropriate deletions have been made to protect the personal privacy of subjects and (2) the grantee has had a reasonable length of time, not to exceed 18 months after the final budget period, to complete the study and report its results. The cost of making such data available should be budgeted in the proposal, and applications should include a plan for making the data-sets available to a public use data archive or the Office of Family Planning.

III. Mechanism of Support

Research grants are authorized under Section 1004(a) of the Public Health Service Act (42 U.S.C. 300a–2(a)). Because a variety of approaches would represent valid responses to this RFA, it is anticipated that direct costs will range from approximately $10,000 to $100,000 per award year. While all applications in that cost range will be considered equally on their scientific merits, OFP wishes to encourage applications with total direct costs below $20,000 as a way of stimulating (1) participation by new investigators, (2) test applications of innovative research techniques, and (3) creative use of existing data sets or ongoing data collection systems. A program goal will be to fund projects both above and below $20,000 direct costs so that a variety of approaches is supported. Applicants should specify whether cost sharing will be accomplished through Institutional Agreement or negotiated prior to award. Grant policies of the Public Health Service will prevail. As much as $0.7 million dollars may be available for grants in fiscal year 1983 under this announcement, and as many as 7–14 research grants may be awarded.

IV. Eligibility

This competition is open to any public or non-profit private institution or agency. Salary information for all project personnel should be included in the original application but may be omitted from copies. Confidential business information in applications will be protected from disclosure under provisions of the Freedom of Information Act.

V. Review Criteria

The review of applications is governed by Title 42 CFR Part 52. Review criteria include:

(1) Scientific merit and significance of the project;

(2) Competency of proposed staff in relation to the type of research involved;

(3) Feasibility of the project;

(4) Reasonableness of proposed budget period in relation to the proposed research;

(5) Amount of grant funds necessary for completion, and adequacy of applicant's resources available for project;

(6) Adequacy of methodology proposed to carry out the research; and,

(7) The adequacy of the proposed means for protecting against adverse effects upon humans, animals, or the environment, where an application involves activities which could have such effects.

VI. Method of Applying

Applications should be submitted on Form PHS–398. This form may be obtained from university offices of sponsored research or from the Division of Research Grants, NIH (address below). The instructions in the application kit should be followed.

No review is required under OMB Circular A–95, or by a Health Planning Agency.

An original and 25 copies of the application must be received before 4:30 p.m. Eastern time, on June 20, 1983. Applications should be sent or delivered to Division of Research Grants, National Institutes of Health (NIH), Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20205. Type across the top of the face page: THIS APPLICATION IS SUBMITTED IN RESPONSE TO THE RFA ENTITLED "FAMILY PLANNING SERVICES DELIVERY IMPROVEMENT RESEARCH." A copy of the full proposal should be sent to: Donald Underwood, Office of Grants Management, Office of Population Affairs, Reporters Building, Room 612, 300 7th Street, SW., Washington, D.C. 20201.

If you have questions regarding this RFA, please contact Dr. Patricia Thompson, OFP, at 202/472–7916.

Dated: May 9, 1983.

Marjory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc 83–12908 Filed 5–12–83; 8:45 am]

BILLING CODE 4160–17–M

federal register

Friday
May 13, 1983

Part VIII

Department of Health and Human Services

Public Health Service

Research on Adolescent Family Life; Announcement of Availability of Grants

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Grants for Research on Adolescent Family Life

AGENCY: Office of Adolescent Pregnancy Programs, PHS, HHS.
ACTION: Notice.

The Office of Adolescent Pregnancy Programs (OAPP) of the Public Health Service invites research grant applications for investigations of adolescent premarital sexual relations and adoption.

Title XX of the Public Health Service Act authorizes research concerning adolescent premarital sexual relations, contraceptive use, pregnancy, and childrearing. This RFA addresses that portion of the research agenda appropriate to field-initiated research studies. The RFA identifies the scope of OAPP interest in these questions but does not require that proposals conform to narrowly specified research requirements.

This request for applications is for a single competition with a specified deadline (June 20, 1983) for receipt of applications. Proposals will be reviewed by a specially convened group of scientific peer reviewers under the auspices of the Division of Research Grants, National Institutes of Health. Proposal review and award decisions will take place during the Summer, 1983. The earliest start date for grants would be October 1, 1983; and proposals should be written with that date in mind.

I. Background

The Adolescent Family Life Demonstration Projects Act (Title XX, Public Health Service Act) widened the concern of the Federal Government with adolescent pregnancy and parenting. The Act provides for research concerning the societal causes and consequences of adolescent premarital sexual relations, contraceptive use, pregnancy, and childrearing.

The research areas outlined in this RFA are: (1) family, peer, and institutional influences on adolescent premarital sexual relations; and (2) factors affecting trends and differentials in the proportion of adolescent mothers who place their babies for adoption.

II. Research Areas

A. *Family, Peer and Institutional Influences on Adolescent Premarital Sexual Relations.* Little is known about the family, peer and institutional influences on the initiation and continuation of adolescent premarital sexual relations or differences in those influences by ethnicity, sex, age, socio-economic status or other variables. There is also inadequate understanding of these influences on youth today as compared to those in the past. Accordingly, the RFA seeks proposals for research on these questions:

1. *What information and values do families, peers, and institutions convey about adolescent premarital sexual relations and how are they conveyed?*

Adolescents learn about sexuality from many sources. Of these, parents, peers, and institutions appear to be among the most important. Yet little systematic information is available on the transmission of information and values through families, peers, and institutions. Studies should focus on the process by which families, peers, and institutions convey sexual information and values as well as on their content.

2. *How important is each influence on adolescent premarital sexual relations, and how do these influences interact?*

Research should examine the effects of family, peer, and institutional influences on adolescent decisions to delay, engage in, or discontinue sexual relations. In particular, we should examine which influences are most important when adolescents are faced with conflicting information and pressures about sexual values and behavior. Studies should focus on links among family, peer, and institutional influences, and which of these influences have the greatest effect on the initiation and continuation of adolescent premarital sexual relations, taking into account adolescent cognitive, emotional, and moral development.

B. *Adoption.* The proportion of pregnant adolescents who choose to make an adoption plan for their babies is low. Many explanations have been offered, including the acceptability of single parenting, the availability of welfare services, and the rise in abortion. While these factors may have had an impact, there is evidence it is a more complex phenomenon. For example, some recent research suggests that the availability of adoption-related services (such as maternity homes) has been declining for a number of years. Further, a study of school-based services for pregnant adolescents reveals that some officials do not see it as their responsibility to offer adolescents counseling on adoption.

Research in the area of adolescent pregnancy and adoption is limited. We know little about the rate of adoption of children born to adolescents in the past. The lack of research on adoption and adolescents, and on differences in adoption practices by ethnicity, socio-economic status and demographic factors, limits our ability to develop better programs and policy. Accordingly, OAPP requests applications for research on factors affecting trends and differentials in the proportion of adolescent mothers who place their children for adoption. The proposed research should attempt to answer one or more questions of the following types.

1. What are the characteristices of the adoption service delivery system? What are the number and types of adoption service providers (such as, public agency, private agency, or independent agents) and how are they related to one another? How has the service delivery system changed over time?

2. How many and what kinds of persons want to adopt children, considering such factors as education, income, ethnicity, marital history, and fertility history? What factors affect their decision to adopt? How do they enter the adoption service delivery system, and what is their experience in the system?

3. What characteristics of adolescent mothers are related to their decision about making an adoption plan? Does the proportion who make an adoption plan vary among major population subgroups? If so, does such variation reflect different attitudes toward adoption or different access to adoption services? How do career plans and life-goals affect the adoption decisionmaking process of these young mothers? What beliefs do they have about adoption and how did they acquire them? How do their beliefs about adoption affect their decision-making about adoption?

III. Research Scope

This RFA encourages all applicable social science and other scholarly approaches to the study of the research questions it poses. Applications should include a well-organized statement of the problem to be addressed, the research design, the conceptual framework within which the design has been developed, the methodology to be employed, the evidence upon which the analysis will rely, and the manner in which the evidence will be analyzed. Proposals should indicate how data and analysis from such activities will advance scientific understanding of the larger research questions. Also, applications should discuss implications of the proposed study for current issues of policy and program management: to what issues is the study relevant? How might it clarify those issues? How could

the study findings be communicated effectively to policy-makers and program managers? Could findings from the study sample be generalized to the larger populations affected by policy and served by programs? It is the goal of the program to develop a research base in all research areas and subareas described in the RFA. An attempt will be made to fund an array of proposals so that the program goal is achieved.

In order to make data available to other interested scholars and policy-makers as quickly and broadly as possible, copies of data sets and accompanying documentation produced with funds granted through this RFA will be deposited with a public use data archive, such as the Data Archive on Adolescent Pregnancy and Pregnancy Prevention or the Inter-University Consortium for Political and Social Research; alternatively, data sets may be deposited with OAPP. Data sets will be deposited only after: (1) Appropriate deletions have been made to protect the personal privacy of subjects, and (2) the grantee has had a reasonable length of time, not to exceed 18 months after the final budget period, to complete the study and report its results. The cost of making such data available should be budgeted in the proposal and applications should include a plan for making the data sets available to a public use data archive or OAPP.

IV. Mechanism of Support

This program will award research grants under Title XX, Public Health Service Act (Adolescent Family Life Demonstration Project Act, 42 U.S.C. 3002, *Catalog of Federal Domestic Assistance*, 13.111). Because a variety of approaches would represent valid responses to this RFA, it is anticipated that direct costs will range from approximately $10,000 to $100,000 per award year. While all applications in that cost range will be considered equally on their scientific merits, OAPP especially seeks applications with total direct cost below $20,000 in order to encourage (1) Participation by new investigators, (2) application of innovative research techniques, and (3) creative use of existing data sets or ongoing data collection systems. An attempt will be made to fund projects both above and below $20,000 direct cost so that the goal of diversity in research approaches is achieved. Under Title XX, no project may incur direct costs beyond $100,000 unless OAPP obtains a special waiver from the Secretary of Health and Human Services, and only if the Secretary determines that: "(A) Exceptional circumstances warrant such waiver and that the project will have national impact; or (B) additional amounts are necessary for the direct costs of conducting limited demonstration projects for the provision of necessary services in order to provide data for research carried out under this title." Sec. 2008(a)(3).

By statute, the total project period of the proposal must not exceed 5 years and no project will receive an initial award for more than a year. Applicants should specify whether cost sharing will be accomplished through Institutional Agreement or negotiated prior to award. Grant policies of the Public Health Service will prevail. As much as $0.6 million may be available for grants in Fiscal Year 1983 under this announcement, and as many as 10–15 research grants may be awarded.

V. Eligibility

This competition is open to any corporation, public or private institution or agency, including corporations operated for profit. Salary information for all project personnel should be included in the original application but may be omitted from copies. Confidential business information in applications will be protected from disclosure under provisions of the Freedom of Information Act.

VI. Review Criteria

The review of applications is governed by Title 42 CFR Parts 52 and 52h. Under those regulations, the following review criteria will be taken into consideration: "(a) The significance and originality from a scientific or technical standpoint of the goals of the proposed research; (b) the adequacy of the methodology proposed to carry out the research; (c) the qualification and experience of the principal investigator and proposed staff; (d) the reasonable availability of resources necessary to the research; (e) the reasonableness of the proposed budget and duration in relation to the proposed research; (f) where an application involves activities which could have an adverse effect upon humans, animals or the environment, the adequacy of the proposed means for protecting against or minimizing such effects." (Title 42 CFR, 52h.8)

VII. Method of Applying

Applications should be submitted on Form PHS–398. This form may be obtained from university offices of sponsored research or from the Division of Research Grants, NIH (address below). The instructions in the application kit should be followed. No review is required under OMB Circular A–95, nor by a Health Planning Agency, unless the proposed research would establish a demonstration project for purposes of collecting data.

An original and 25 copies of the applications must be postmarked before 4:30 p.m. Eastern time, on June 20, 1983. Applications should be sent or delivered to: Division of Research Grants, National Institutes of Health, Westwood Building, Room 240, 5333 Westbard Avenue, Bethesda, Maryland 20205.

Type across the top of the face page: THIS APPLICATION IS SUBMITTED IN RESPONSE TO THE RFA ENTITLED "ADOLESCENT FAMILY LIFE." A copy of the full proposal should be sent to Donald Underwood, Office of Grants Management, Office of Population Affairs, Reporters Building, Room 612, 300 7th Street SW., Washington, D.C. 20201. If you have questions regarding this RFA please contact Dr. Gerry Hendershot, OAPP, at (202) 472–7916.

Dated: May 9, 1983.

Majory E. Mecklenburg,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 83–12907 Filed 5–12–83; 8:45 am]

BILLING CODE 4160–17–M

federal register

Friday
May 13, 1983

Part IX

Department of Education

Expected Family Contribution for the Pell Grant Program; Final Regulations and Expected Family Contribution Schedule for the Self-Help Grant Program; Republication of Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 690

Expected Family Contribution for the Pell Grant Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations for determining a student's expected family contribution under the Pell Grant Program for the 1984–85 award year. These regulations are authorized by section 482 (b) and (c) of the Higher Education Act of 1965, as amended (HEA) and section 6 of the Student Financial Assistance Technical Amendments Act of 1982, Pub. L. 97–301. The expected family contribution schedule is used to determine the amount of a student's Pell Grant award.

EFFECTIVE DATE: These regulations are expected to take effect on June 15, 1983. If you want to know the effective date of these rules, call or write the contact person listed below. It should be noted, however, that these regulations apply only to Pell Grants to be made for the period of July 1, 1984 through June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan, Chief, Pell Grant Policy Section, or Deborah Cohen, Pell Grant Program Specialist, Office of Student Financial Assistance, U.S. Department of Education [Room 4318, ROB–3] 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 472–4300.

SUPPLEMENTARY INFORMATION:

General Background

On March 21, 1983 (48 FR 11910) the Secretary published in the **Federal Register** a Notice of Proposed Rulemaking setting forth alternative regulations for determining the expected family contribution under the Self-help Grant Program (Alternative A) and under the Pell Grant Program (Alternative B). The legislation to authorize the Self-help Grant Program and provide for the implementation of Alternative A was submitted to Congress on March 17, 1983. Congress has not yet acted upon this legislation. Alternative B is published as the final regulation because Alternative A is not statutorily authorized at this time. If Congress provides legislation to authorize the proposed Self-help Grant Program, the Secretary will promptly publish Alternative A as the final regulation. However, until that time, these proposed rules are republished in this issue of the **Federal Register** for information purposes.

The Secretary urges Congress to enact the enabling legislation for the Self-help Grant Program which will provide grants to needy undergraduate students and will restore the traditional responsibility of the student and parent in meeting educational costs. The Self-help Grant proposal incorporates a reduction of data elements in determining need so that funds will be distributed more accurately and will be preserved for those who are truly qualified. The Self-help Grant Program is designed to assure equity by targeting awards to the most economically disadvantaged students, by relating the level of awards directly to the family's ability to contribute to educational costs, and by making awards more sensitive to the cost of education.

By improving award accuracy and by distributing funds more equitably, a $3,000 maximum grant can be provided under the President's budget request of $2.7 billion.

In the 1983–84 award year Congress appropriated $2.4 billion to provide a maximum grant of $1800 which could meet up to 50 percent of the cost of education. Without changes to the existing law, Alternative B, here published as the final regulation, would cost $3.4 billion to provide the authorized maximum grant of $2,500 and meet up to 65 percent of the cost of education. The regulation is based on the need analysis provisions found in paragraphs (a), (b), and (c) of Section 482 of the Higher Education Act of 1965, as amended, and on sections 4 and 6 of Pub. L. 97–301.

The Education Amendments of 1980 (Pub. L. 97–374) made substantial changes in the statutory language of the formula that determines the expected family contribution for the Pell Grant Program. Many of these changes, such as the exclusion of home equity, and the use of State and local taxes, apply to the 1984–85 award year even though they were not incorporated in the 1982–83 and 1983–84 Family Contribution Schedules because Congress mandated an alternative formula for those award years.

The items described below are changes in the formula from the 1983–84 Pell Grant Family Contribution Schedules.

Changes to Income Assessment

I. Treatment of Dependent Student Income

For 1983–84, the contribution from a dependent student's income was based on the income he or she received during the calendar year prior to the first calendar year of the award year (i.e., income for 1982 for the 1983–84 award year). This is called base year income. However, in those cases where the student estimated that his or her income for the school year would not exceed 60 percent of the actual income reported for the base year, the Pell Grant formula automatically used the student's estimated income in the computation of the student's eligibility. The income was assessed, after an offset had been subtracted, at the rate of 75 percent for single students and 25 percent for married students.

For 1984–85, the Secretary will add dependent student income to parental income and that total income will then have the appropriate family size offset applied to it that would otherwise have been applied only to the parental income. The offset for the student's basic living cost is already included in the family's household size offset. The dependent student income offset that has been used in the past will be eliminated. All dependent student income will now be assessed, although, at a lower rate. This change reflects the Secretary's interest in promoting the concept of a self-help contribution from students who apply for financial assistance. Most students will now contribute a portion of their income to meet educational expenses.

In the 1984–85 award year, estimated dependent student income will not be used in determining the student's eligibility when the student estimates that his or her income during the school year will not exceed 60 percent of the actual income reported for the base year.

II. Multiple Assessment Rates for Family Income

The Secretary is required to set a series of rates for discretionary income. Discretionary income is the income that remains after income taxes and all of the other offsets are subtracted from the total income of the family. For 1983–84, the first $5,000 was assessed at 11 percent, the second $5,000 was assessed at 13 percent, the third $5,000 was assessed at 18 percent, and discretionary income above $15,000 was assessed at 25 percent. For 1984–85 the first $15,000 of discretionary income will be divided into three amounts. The first $5,000 is assessed at 18 percent, the second $5,000 is assessed at 20 percent and the third $5,000 is assessed at 25 percent. These same assessment rates will apply to married independent students and unmarried independent students with dependents. Single independent students with no dependent

children will have their incomes assessed at 75 percent.

III. Updating of the Family Size Offsets To Account for Inflation

The provisions of section 6(c) of Pub. L. 97-301 requires that the family size offsets for the 1984-85 award year shall be based upon the offsets used in the 1983-84 award year, adjusted by a percentage change equal to the percentage increase or decrease in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, rounded to the nearest $100. The percentage change must be the percentage difference between the arithmetic mean for the period of October 1, 1981, through September 30, 1982, and the arithmetic mean for the period of October 1, 1982, through September 30, 1983. Public Law 97-301 directs the Secretary to publish the family size offset tables for 1984-85 immediately after the Secretary of Labor publishes the Consumer Price Index for September, 1983. Therefore, the family size offsets will be published in the Federal Register at that time.

IV. Social Security Educational Benefits

In 1983-84, Social Security educational benefits were not considered in determining a student's eligibility for a Pell Grant as a result of Section 5 of Pub. L. 97-301. For the 1984-85 award year, the Secretary is required by section 482(b)(3) of the HEA to assess all Social Security educational benefits received during the 1984-85 award year as income in determining a student's expected family contribution.

V. Use of Income Taxes as an Offset Against Income

The Education Amendments of 1980 amended section 482(b) of the HEA to require that "Federal, State and local taxes paid or payable with respect to * * * income" be considered. Thus, State and local income taxes as well as Federal income taxes are subtracted from income. In 1983-84, only Federal income taxes were subtracted.

Changes in Asset Assessment

I. Asset Treatment for Dependent Students

For 1983-84, the Family Contribution Schedule provided an asset reserve of up to $25,000 against the parent's principal place of residence, $25,000 against other personal assets, and $80,000 against farm and/or business assets. However, the total asset reserve for a family was limited to $100,000 against all of their assets. Section 482(b)(5) of the HEA requires that home equity shall be excluded from assets, so there is no longer a need for an asset reserve against the parent's principal place of residence. For 1984-85, the parents of dependent children will have an asset reserve of $10,000 against personal assets and $80,000 against farm and/or business assets with remaining assets above these asset reserve amounts to be assessed at five percent.

The treatment of assets specified in the current law for the 1984-85 award year applies to the assets of both the student and the parents. Thus, an asset reserve would be applied against the combined assets of the parents and the student. However, since parental assets will be assessed at five percent and the student's assets at 33 percent, the asset reserve of $10,000 will be applied first against the parental assets. If the parents do not have $10,000 of net assets, they will not need the entire asset reserve. In that case, the amount of asset reserve that they do not need will be applied against the student's assets. Dependent students will only rarely own farms or business of their own. Thus, there is not a parallel treatment of farm and business assets for dependent students. Rather, the farm and business asset reserve of $80,000 will be applied only to the parental assets.

II. Asset Treatment for Independent Students

Married independent students and independent students with dependents will have an asset reserve of $10,000 against personal assets and $80,000 against farm and/or business assets with remaining assets above this reserve amount to be assessed at five percent. As in the past, there will be no asset reserve for single independent students. The assets of a single independent student will be assessed at 33 percent.

Definition of an Independent Student. The definition of an independent student has been removed from the Family Contribution Schedule. A new definition, which will be more stringent for most undergraduate students, will be published as a Notice of Proposed Rulemaking (NPRM) in the Student Assistance General Provisions regulations. The new definition that results from the NPRM will become effective in the 1984-85 award year.

Campus-based Programs Need Analysis Systems. Section 4 of Public Law 97-301 authorizes the Secretary to continue approving separate systems of need analysis for the Supplemental Educational Opportunity Grant, College Work-Study and National Direct Student Loan Programs in the 1984-85 award year.

Comments and Responses. Many comments were received by the Department of Education in response to the proposed rules regarding the new Self-Help Grant Program, which was published as Alternative A in the March 21, 1983 Notice of Proposed Rulemaking (NPRM). Since Alternative A will not be published as a final regulation at this time, the Secretary is only responding to comments that pertain to Alternative B. If the Self-Help Grant Program is enacted by Congress, the Secretary will respond to the comments on Alternative A, at the time a final regulation is published for that program. The following is a summary of the comments received for Alternative B and the Secretary's responses to these comments.

Comment

Several commenters requested information about the appropriation for the Pell Grant Program under Alternative B and the maximum award for Pell Grants under this Alternative.

Response

The Administration has only submitted legislative and budget proposals for the Self-Help Grant Program, which will encompass and extend the goals of the Pell Grant and other student financial assistance grant programs. The proposed funding level for the Self-Help Grant Program is $2.7 billion. No Administration proposals regarding the funding level for the Pell Grant Program have been submitted. While these final regulations only address the determination of the expected family contribution for a student who applies for a Pell Grant, and do not establish the maximum award for that program, the Higher Education Act of 1965, as amended specifies that the maximum award will be $2,500, and that awards can cover up to 65 percent of the cost of attendance. If the Pell Grant Program is fully funded under those provisions, and under these final regulations, it would cost $3.4 billion.

Comment

Several commenters inquired about the data elements that are included in Alternative B of the NPRM, which is the alternative published in this final regulation.

Response

The same data elements that were used in the 1983-84 award year expected family contribution schedules will also apply to the 1984-85 award year expected family contribution

schedules with the following exceptions: home equity and the income to be earned by the dependent student and spouse during the award year have been deleted; state and local taxes and the student's Social Security educational benefits have been added.

Comment

Many commenters objected to the increase in assessment rates on discretionary income for parents, and students who are married or who have other dependents. Two commenters suggested the increase was being used as a rationing device for distributing Pell Grant funds. Other commenters were concerned that these higher assessment rates would exclude from eligibility many students from middle income families.

Response

The Secretary believes that this increase in assessment rates is in keeping with the Administration's new emphasis upon self-help. Most students who will be ineligible because of the increase would have received small awards or would be more likely to have access to alternative sources of financial assistance. Although some students from middle income families will not be eligible, many students in this category may still qualify. For example, a dependent student from a family of four with one family member in college and assets below the asset reserve level will have an expected family contribution of $1600 if the family income is approximately $21,000.

Comment

A few commenters objected to including a student's Social Security educational benefits as income in determining the expected family contribution. These commenters stated that by the 1984–85 award year, these benefits will only represent 25 percent of the amount provided in August 1981 and only a small percentage of students will still qualify for these benefits, which are being phased out. They also pointed out that the treatment of these benefits has changed several times within the past few years.

Response

Section 482(b)(3) of the Higher Education Act of 1965, as amended, requires the Secretary to take into account any amount paid under the Social Security Act. These benefits were not included in 1983–84 award year because Public Law 97–301 required the Secretary to use the same family contribution schedules for that year that were used in the 1982–83 award year, the year for which Public Law 97–92 mandated that such benefits be treated outside of the Pell Grant expected family contribution formula.

Comment

Two commenters objected to the reduction in the asset reserves. One of these commenters was concerned about the effect of this reduction on farm families.

Response

The final regulation has been changed in response to those comments. For the 1983–84 award year, all equity above $25,000 in the family principal place of residence was assessed. For the 1984–85 award year, home equity is completely excluded. The farm and business asset reserve will be $80,000 with a five percent assessment rate applied to net assets above the reserve figure. And, there will also be a $10,000 reserve against personal assets.

Comment

A few commenters objected to the change in the treatment of dependent student income. One commenter favored retaining the method used in the 1983–84 award year for assessing dependent student income. Other commenters suggested that the additional offset for dependent student income should not be eliminated. Another commenter suggested that the incomes of all family members enrolled in postsecondary education should be combined.

Response

The treatment of dependent student income, as proposed in the NPRM has not been changed. Dependent student income will be added to parental income and that total income will then have the appropriate family size offset applied to it that would otherwise have been applied only to the parental income. The elimination of the additional offset for student income reflects the Secretary's interest in promoting the concept of a self-help contribution from students who apply for financial assistance. While in the past, the income of some dependent students was completely protected by a separate offset, most students will now contribute a portion of their income to meet educational expenses.

The suggestion that the income of a student's siblings who are in college should be included has not been adopted because the income earned by siblings is not usually available to the student. That income generally will be needed in its entirety by the siblings for their own expenses.

Comment

One commenter suggested that financial aid administrators should be allowed to develop their own budgets for determining a student's cost of attendance. Another commenter requested information about the cost of attendance levels for the Pell Grant Program for the 1984–85 award year.

Response

Section 3 of Public Law 97–301 states that the cost of attendance criteria used for Pell Grants in the 1983–84 and 1984–85 award years, shall be the same as those criteria in effect for the 1982–83 award year. Thus, the method of calculating the cost of attendance will remain the same.

Comment

A few commenters suggested that changes to the Pell Grant Program should be minimized, and one commenter suggested that the family contribution schedules used in the 1983–84 award year should be updated and applied to the 1984–85 award year.

Response

Some of the changes to the previous family contribution schedule, such as the elimination of home equity, and the use of State and local taxes reflect the requirements of the current law. Other changes, such as combining dependent student income with parental income, represent revisions which the Secretary believes will improve the assessment of the family's ability to pay for a student's educational expenses. It should be noted that relatively few modifications have been made to the 1983–84 family contribution schedules.

Comment

One commenter suggested that the incomes of both parents who have separated should be included unless there has been a legal separation.

Response

This suggestion has not been adopted. Requiring a legal separation would be unreasonable and unfair to many low income families who may not be able to afford the expenses of a legal proceeding and who are most in need of financial assistance. The separated parent who is no longer residing in the student's home is not more likely to support the student than is a legally separated parent.

Comment

A commenter has suggested that an exception should be made to the requirement that the spouse's income

must be included for refugee families when one spouse is not permitted to leave a foreign country.

Response

In a formula-based program, such as the Pell Grant Program, it is only possible to account for general trends or circumstances that affect a significantly large portion of the population. The separations that rise due to restrictions on emigration from a foreign country or immigration into the United States are more appropriately handled on a case-by-case basis, which is afforded to students who apply for the campus-based programs.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations establish the formula for determining student eligibility for financial assistance under the Pell Grant Program. They do not have an impact on small entities.

List of Subjects in 34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student Aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Numbers 84.063, Pell Grant Program)

Dated: May 10, 1983.

T. H. Bell,

Secretary of Education.

The Secretary amends Part 690 of Title 34 of the Code of Federal Regulations by revising Subparts C and D to read as follows:

PART 690—PELL GRANT PROGRAM

* * * * *

Subpart C—Expected Family Contribution for a Dependent Student

Sec.
690.31 Indicators of financial strength.
690.32 Special definitions.
690.33 Effective family income.
690.34 Computation of the expected family contribution from the effective family income.
690.35 Computation of the expected contribution from parental assets.
690.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.
690.37 Computation of the expected contribution from the assets of the dependent student (and spouse).
690.38 Computation of the total expected family contribution.
690.39 Extraordinary circumstances affecting the expected family contribution determination.

Subpart D—Expected Family Contribution for an Independent Student

690.41 Indicators of financial strength.
690.42 Special definitions.
690.43 Effective family income.
690.44 Computation of the expected family contribution from the effective family income.
690.45 Computation of the expected contribution from the assets of the independent student (and spouse).
690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of postsecondary education.
690.47 Extraordinary circumstances affecting the expected family contribution determination.

* * * * *

Authority: Section 482 (b), (c), of the Higher Education Act of 1965, as amended by Pub. L. 97-301, 20 U.S.C. 1089.

Subpart C—Expected Family Contribution for a Dependent Student

§ 690.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for a dependent student:

(a) The effective incomes of (1) the student and his or her spouse, and (2) the student's parent(s);

(b) The number of family members in the household of the student's parent(s);

(c) The number of family members in the household of the student's parent(s) who are enrolled in, on at least a half-time basis, a program of postsecondary education;

(d) The assets of (1) the student and his or her spouse, and (2) the student's parent(s);

(e) The unusual medical expenses of the student's parents;

(f) The additional expenses incurred when both parents of the student are employed or when a family is headed by a single parent who is employed, and

(g) The tuition paid by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school.

(20 U.S.C. 1089(b))

§ 690.32 Special definitions.

For purposes of this subpart:

"Assets" means cash on hand, including amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, real estate (except the student's or parent's single principal place of residence), income producing property, as well as business assets and farm assets as defined below in this section. However, for Native American students, the following shall not be considered as an asset of the student or his or her family in determining the expected family contribution:

(a) Any property received under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*),

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, and

(c) Any other property held in trust for the student or his or her family by the United States Government.

"Business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery and other equipment, patents, franchise rights, and copyrights.

"Dependent of the student's parents" means:

(a) The student;

(b) The student's spouse;

(c) Any of the student's dependent children;

(d) Dependent children of the student's parents including those children who are deemed to be dependent students when applying for title IV aid; and

(e) Other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents for the 1984–85 award year.

"Dependent student" means any student who does not qualify as an independent student as defined in 34 CFR 668.1a.

"Effective family income" is described in § 690.33.

"Employment expense offset" means an allowance to meet expenses related to employment when both parents are employed or when one parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Family-size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidential sales.

"Federal income tax" means—as indicated by the Secretary on an approved application for a Pell Grant—(a) the tax on income paid to the U.S. Government or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c) the comparable taxes paid to the central government of a foreign country.

"Legal guardian" means an individual who has been appointed by a court to be a legal guardian of a person and who is specifically required by the court to use his or her own financial resources to support that person.

"Local income tax" means the tax on income paid to a town, city, county, or other local municipality.

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code and that were paid in 1983 unless the student files an application with the Secretary under the provisions of § 690.39. In that case the expenses reported are those paid in 1984.

"Net assets" means the current market value at the time of application of the assets included in the definition of "assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother, father or legal guardian. An adoptive parent is considered to be the student's mother or father.

"State income tax" means the tax on income paid to one or more of the 50 States of the United States, or to the District of Columbia.

(20 U.S.C. 1089).

§ 690.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal, State, and local income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), (f), (g), and (h) of this section and § 690.39,

(1) The sum received in 1983 by the student, his or her spouse, and his or her parents from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of Title 38 of the United States Code;

(B) Social Security educational benefits received by or on account of the student; and

(C) Social Security educational benefits paid to the student's parents for the student's siblings that would not be paid if those siblings were not students;

(2) One-half of any veteran's benefits to be paid to the student for the 1984–85 award year under chapters 34 and 35 of Title 38 of the United States Code; and

(3) The Social Security educational benefits to be paid to the student, or to the student's parents for the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student, his or her spouse, or his or her parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*).

(d) For a student whose parents are divorced or separated the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Include only the income, as described in paragraph (b) of this section, of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(2) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(3) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(e) If either of the parents have died, the student shall include only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(f) The following rule applies if either a parent whose income is taken into account under paragraph (d) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (e) of this section, has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in either 1983 or 1984, the student—

(1) Has received or will receive financial assistance of more than $750 in either of those years from that spouse; or

(2) Has lived or will live for more than six weeks in either of those years in the home of the parent and that spouse.

(g) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

(h) The annual adjusted family income does not include any student financial assistance except those veterans or Social Security benefits cited in paragraphs (b) (2) and (3) of this section.

(20 U.S.C. 1089)

§ 690.34 Computation of the expected family contribution from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the parent's discretionary income by deducting the following offsets from the effective family income:

(1)(i) A family-size offset. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **FEDERAL REGISTER** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(ii) In determining the family-size the following rules apply—

(A) If the parents are not divorced or separated, family members include the

student's parents and the dependents of the student's parents.

(B) If the parents are divorced or separated and not remarried, family members include the parent whose income is included in computing the effective family income and that parent's dependents.

(C) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members include, in addition to those people referenced in paragraph (a)(1)(ii)(B) of this section, the new spouse and any dependents of the new spouse, if that spouse's income is included in determining the effective family income.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income. The expenses that may be reported are those expenses paid by the student, his or her spouse and his or her parents during 1983 unless the student files an application with the secretary under the provisions of § 690.39. In that case, the expenses reported will be those paid in 1984. The expenses of both parents are included only if the income of both are subject to inclusion in determining the effective family income. Similarly, a stepparent's expenses are included only if his or her income is subject to inclusion.

(3) An employment expense offset calculated as follows—

(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the reportable (according to § 690.32) income earned by work of the parent with the lesser earned income.

(ii) If a parent qualifies as a surviving spouse or head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her reportable earned income.

(iii) The earned income figure to be used in all cases is the figure for 1983 unless the student files an application with the Secretary under the provisions of § 690.39. In that case, the figure to be used is the one for 1984.

(4) An educational expense offset equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school. The tuition which may be reported is the tuition paid in 1983 unless the student an application with the Secretary under the provisions of § 690.39. In that case, the tuition reported will be that paid in 1984.

(b) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following chart. If the discretionary income is negative, there is no expected contribution from income.

Discretionary income	Expected contribution
$0 to $5,000	18% of discretionary income.
$5,001 to $10,000	$900 + 20% of amount over $5,000.
$10,001 and above	$1,900 + 25% of amount over $10,000.

(20 U.S.C. 1089; Public Law 97-301, section 6(c))

§ 690.35 Computation of the expected contribution from parental assets.

The expected contribution from parental assets is determined in the following manner:

(a) If the parental assets do not include farm or business assets, deduct $10,000 from the net value of parental assets.

(b) If the parental assets include farm or business assets, deduct: (1) $80,000 from the net value of the farm and business assets, and (2) $10,000 from the net value of non farm and non business assets.

(c) If the result obtained under paragraphs (a), (b)(1), or (b)(2) of this section is a negative amount, the expected contribution shall be zero.

(d) The expected contribution from parental assets equals five percent of the total of the results obtained in paragraphs (a) or (b) of this section.

(e) If the calculation of discretionary income required by § 690.34(a) produces a negative number, the expected contribution from parental assets, calculated under paragraph (d) of this section, shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(f)(1) If the student's parents are separated or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 690.33, the assets of that parent's spouse shall also be incuded.

(20 U.S.C. 1089)

§ 690.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from effective family income as determined in § 690.34 is added to the amount expected from parental assets as determined in § 690.35.

(b)(1) For each grant, the combined expectation determined under paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of post-secondary education during the award year for which Pell Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

Family members are those persons referenced in § 690.34(a)(1).

(20 U.S.C. 1089)

§ 690.37 Computation of the expected contribution from the assets of the dependent student (and spouse).

(a) The expected contribution from the assets of the dependent student (and spouse) is determined in the following manner:

(1) Determine the student's asset reserve by subtracting the amount of his or her parent's nonfarm and nonbusiness assets from $10,000. If the result is negative, it shall be changed to zero.

(2) Deduct the asset reserve calculated in paragraph (a)(1) of this section from the student's (and spouse's) net assets. If the result is negative, it shall be changed to zero.

(3) The expected contribution from the net assets of the dependent student (and spouse) equals 33 percent of the remainder obtained in paragraph (a)(2) of this section.

(b) If the married dependent student is separated, only his or her assets shall be considered.

(20 U.S.C. 1089)

§ 690.38 Computation of the total expected family contribution.

For each grant, the total expected family contribution is the sum of—

(a) The expected contribution from the effective family income and parental assets as determined under § 690.36, and

(b) The expected contribution from the student's (and spouse's) assets as determined under § 690.37.

(20 U.S.C. 1089)

§ 690.39 Extraordinary circumstances affecting the expected family contribution determination.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 (where 1983 income is usually requested) for effective family income, if—

(1) A parent or stepparent whose 1983 income from work must be reported under § 690.33 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g. a work-study job, that did not produce reportable income, would not be included.

(2) A parent or stepparent whose 1983 income from work must be reported under § 690.33 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability, or (ii) a natural disaster.

(3) A parent or stepparent whose income must be reported under § 690.33 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, and court ordered child support.

(4) The parent(s) of the student have become separated or divorced after the student submitted an application for 1984–85. The student may not use 1984 information based on his or her parents' divorce if the parents were already separated at the time of original filing. If such a separation or divorce is between a parent and a stepparent, the stepparent's income must have been reportable on the previous application under § 690.33 for this condition to apply, or

(5) A parent or stepparent whose 1983 income must be reported under § 690.33 has died after the student submitted an application for 1984–85. However, if the parent referred to in this paragraph is the last surviving parent with whom the student has or will have a dependency relationship according to 34 CFR 668.1a, the student must file an application under § 690.47(a)(7) if he or she wishes to use income data from 1984.

(b) For an application submitted under paragraph (a) of this section, the student's parent shall include the income specified in § 690.33(b)(1) (i), (ii), and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on a previously submitted application if the student or his or her family has suffered a loss of, or damage to, assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1089)

Subpart D—Expected Family Contribution for an Independent Student

§ 690.41 Indicators of financial strength.

"Expected family contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the expected family contribution for an independent student:

(a) The effective family income of the independent student and spouse;

(b) The number of family members in the household of the student and spouse;

(c) The number of family members in the household of the student and spouse who are enrolled in, on at least a half-time basis, a program of postsecondary education;

(d) The assets of the student and spouse;

(e) The unusual medical expenses of the student and spouse;

(f) The additional expenses incurred when both the student and spouse are employed or when the employed student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code; and

(g) The tuition paid by the student or spouse for dependent children who are enrolled in an elementary or secondary school.

(20 U.S.C. 1089)

§ 690.42 Special definitions.

The definitions of "assets", "business assets", "family size offset", "farm assets", "Federal income tax", "legal guardian", "local income tax", "medical expense", "net assets", "parent", and "State income tax" are set forth in § 690.32.

"Dependent of the student" means:

(a) The student's spouse (unless separated or divorced from the student);

(b) Any of the student's or spouse's children who are deemed to be dependent students (with respect to the student or spouse) when filing for title IV aid;

(c) Other dependent children of the student or spouse; and

(d) Other persons who live with and receive more than one-half of their support from the student or spouse and will continue to receive more than half of their support from the student or spouse for the 1984–85 award year.

"Effective family income" is described in § 690.43.

"Employment expense offset" means an allowance to meet expenses relating to employment when both the independent student and his or her spouse are employed or when the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Independent student" is a student who meets the definition set forth in 34 CFR 668.1a.

(20 U.S.C. 1089)

§ 690.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal, State and local income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), and (e) of this section and § 690.47,

(1) The sum received in 1983 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax is paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of title 38 of the United States Code; and

(B) Social Security educational benefits received by the student;

(2) One-half of any veterans benefits to be paid to the student for the 1984–85 award year under chapters 34 and 35 of title 38 of the United States Code; and

(3) The Social Security educational benefits to be paid to the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S. C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*).

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determinig the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial asssitance except those veterans and Social Security benefits cited in subparagraphs (b) (2) and (3) of this section.

(20 U.S.C. 1089)

§ 690.44 Computation of the expected family contribution from the effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting the following offsets from the effective family income.

(1)(i) A family size offset. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(ii) In detemining the family size, the following rules apply—

(A) Family members normally include the student and spouse and their dependents.

(B) However, if the student is divorced or separated, the spouse (exspouse) and his or her dependents are not counted in the family size.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student and spouse in 1983, unless the student files an application with the Secretary under the provisions of § 690.47. In that case, the expenses reported will be those paid in 1984. The expenses of both the student and spouse are included only if the incomes of both are subject to inclusion in determining the effective family income.

(3) An employment expense offset calculated as follows—

(i) If both the student and spouse were employed in the year for which their income is reported and both have their income reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the reportable (according to § 690.43) income earned by work of the person with the lesser earned income.

(ii) If a student qualifies as a surviving spouse or head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her reportable earned income.

(iii) The earned income figure to be used in all cases is that figure for 1983, unless the student files an application with the Secretary under the provisions of § 690.47. In that case, the figure to be used is the one for 1984.

(4) An educational expense offset equal to the tuition paid by the student and spouse for dependent children enrolled in elementary or secondary school. The tuition that may be reported is the tuition paid in 1983, unless the student files an application with the Secretary under the provisions of § 690.47. In that case the tuition reported will be that paid in 1984.

(b) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following charts. If the discretionary income is negative, there is no expected contribution from income.

(1) For a single independent student with no dependents—

Discretionary income	Expected contribution
Any positive amount	75% of that amount.

(2) For an independent student with dependents including a spouse—

Discretionary income	Expected contribution
$0 to $5,000	18% of discretionary income.
$5,001 to $10,000	$900 + 20% of amount over $5,000
$10,001 and above	$1,900 + 25% of amount over $10,000.

(20 U.S.C. 1089; Public Law 97–301, section 6(c))

§ 690.45 Computation of the expected contribution from the assets of the independent student (and spouse).

(a)(1) The expected contribution from the net assets of the single independent student with no dependents equals 33 percent of the amount of those assets.

(2) If the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's assets calculated under paragraph (a)(1) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(b) For an independent student with dependents, the expected contribution from the assets of the student (and spouse) is determined in the following manner:

(1) If the assets do not include farm or business assets, deduct $10,000 from the net value of those other assets.

(2) If the assets include farm or business assets, deduct: (i) $80,000 from the net value of the farm and business assets, and (ii) $10,000 from the net value of non farm and non business assets.

(3) If the result obtained under subparagraphs (b)(1), (b)(2)(i), or (b)(2)(ii) of this section is a negative amount, it shall be changed to zero.

(4) The expected contribution from the assets of the independent student with dependents equals five percent of the total of the results obtained in paragraphs (b)(1) or (b)(2) of this section.

(5) If the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(4) of this section shall be reduced by the amount of that negative discretionary income, but not to an amount below zero.

(6) If the married independent student with dependents is separated, only his or her assets shall be considered.

(20 U.S.C. 1089)

§ 690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in program of postsecondary education.

(a) For each grant, the amount expected from family income as determined in § 690.44 is added to the amount expected from assets as determined in § 690.45.

(b) For each grant, the combined expectation determined in paragarph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Pell Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

Family members are those persons referenced in § 690.44(a).

(20 U.S.C. 1089)

§ 690.47 Extraordinary circumstances affecting the expected family contribution determination.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 (where 1983 income is usually requested) if—

(1) The student was employed full-time in 1983 (at least 35 hours per week for a minimum of 30 weeks) in a job that produced reportable income, and is no longer employed full-time.

(2) A spouse whose 1983 income from work must be reported under § 690.43 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g., a work study job, that did not produce reportable income, would not be included.

(3) The student or spouse whose 1983 income from work must be reported under § 690.43 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability or (ii) a natural disaster.

(4) The student or spouse whose income must be reported under § 690.43 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare and court ordered child support.

(5) The student has become separated or divorced after he or she submitted an application for 1984–85. A student who divorces cannot apply under this condition if he or she already was separated at the time the original application was submitted.

(6) A spouse whose 1983 income must be reported under § 690.43 has died after he or she submitted an application for 1984–85, or

(7) The student's last surviving parent with whom the student has or will have a dependency relationship according to 34 CFR 668.1a, has died.

(b) For an application submitted under paragraph (a) of this section, the student shall include the income specified in § 690.43(b)(1) (i), (ii) and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the student or his or her spouse has suffered a loss of, or damage to, assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1089)

Note.—This appendix will not appear in the Code of Federal Regulations.

Appendix

Introduction

The Secretary is proposing several legislative amendments to the Higher Education Act of 1965, including the creation of a new Self-help Grant Program. The proposed rules for the Self-help Grant Program are republished in this issue of the **Federal Register** for information purposes.

Description of the New Self-help Grant Program

The Secretary is proposing legislation for a new Self-help Grant Program for the 1984–85 award year that will, if enacted, encompass and extend the goals of the Pell Grant, Supplemental Educational Opportunity Grant, and State Student Incentive Grant Programs.

The Self-help Grant Program is designed to provide grant aid as a supplement to the family's and student's self-help contributions toward educational costs at postsecondary institutions. The Administration's Fiscal Year 1984 budget request provides for full funding of awards of up to $3,000 for qualified students. As the cost of education increases, students will qualify for larger Self-help Grant awards and will also be asked to make a larger self-help contribution. Therefore, while restoring some of the responsibility for educational costs to the student and family, substantial grant aid is provided to ensure not only access *to* but a wider choice *of* institutions, particularly for low-income students.

There will be two elements for determining a student's financial eligibility for the Self-help Grant Program. The first element will be the expected family contribution as determined by this proposed regulation. The second element will be a self-help contribution from the student which will be included in the award calculation.

The expected family contribution will incorporate several legislative changes which will focus need analysis on the five most significant indicators of family income. The changes will therefore increase the accuracy of applicant reported data, and will allow for a more complete verification of such data.

The calculation used in determining the student's award will, in general, provide for a minimum self-help expectation of $800 or 40 percent of the cost of attendance. The expectation rises as the cost of attendance increases.

The calculation used to determine a student's grant under this new program will be the lesser of the following:

—Cost of attendance minus $800 minus expected family contribution;

—Cost of attendance minus 40 percent of cost of attendance minus expected family contribution;

—Maximum grant minus expected family contribution;

—$1,200 plus 25 percent of cost of attendance minus expected family contribution.

Cost of attendance not met by the family contribution or the grant represents the student's self-help contribution. The student's self-help contribution can be met either through work earnings, loans, or scholarships.

The allowable cost of attendance for the new program will be direct educational costs (tuition and fees) plus an allowance for indirect costs ($3,000 for students not living at home and $1,500 for students living at home). Except for these numerical changes in the indirect cost allowances, the cost of attendance regulations for the Self-help Grant Program will be identical to the current Pell Grant cost of attendance regulations. The cost of attendance regulations for the Self-help Grant will be published later in the year.

The Self-help Grant Program has a number of advantages over the existing Pell Grant Program. Under the new program all students will have a greater opportunity to attend the postsecondary institution of their choice because students will be able to qualify for larger awards at higher cost schools. Under current law, a low income student's Pell Grant would remain the same at any institution with a cost of attendance above $3,600, as its maximum award is $1,800. Under the new program, a student's Self-help Grant would continue to increase up to a cost of attendance of $7,200. The maximum Self-help Grant will be $3,000 for the 1984–85 award year.

Although the Supplemental Educational Opportunity Grant is currently available to some students to meet expenses at higher cost institutions, many postsecondary institutions that participate in the Pell Grant Program do not participate in the Supplemental Educational Opportunity Grant (SEOG) Program. Thus many low income students are currently denied access to higher cost institutions that do not participate in the SEOG Program, even though these same students are eligible to receive a Pell Grant. This restriction would not exist under the Self-help Grant Program. A similar problem of restricted access to certain postsecondary

institutions exists under the State Student Incentive Grant Program.

Another advantage to the new grant program is that it more equitably distributes federal financial assistance to students at a wider range of public and private institutions. Under the current Pell Grant Program the grant award for two students with the same expected family contribution is the same at any institution with any cost of attendance above $3,600. Under the new program these two students' grant awards can vary with cost of attendance up to $7,200. In the new Self-help Grant Program, the student's contribution requirement also varies depending upon the cost of attendance.

The Self-help Grant award calculations will reduce the grants of middle income students attending low cost schools as compared to other students at the same institutions who have a higher financial need. Under the existing program, two students attending the same low cost institution may receive the same award even though one student is from a low income family and another student is from a middle income family.

Proposed Statutory Changes to the Expected Family Contribution Schedule

To strengthen the integrity of the new grant program, the Secretary is proposing several legislative changes to the schedule of expected family contributions to improve the delivery system for the new program.

There is an urgent need to verify the accuracy of applicant data. This need is based upon the findings of several studies conducted by both GAO and the Department of Education. Most recently a Department of Education study calculated the rate of error in Pell Grant awards during the 1980–81 award year. These findings (based on a sample of 4,000 Pell Grant applications and award calculations by 305 financial aid officers) estimated that approximately $340 million in overpayments and $51 million in underpayments were made to students due to inaccurate information supplied by applicants. This error rate indicates an obvious need for radical changes in order to substantially reduce payment errors.

Simpler and more verifiable applicant data can be expected to reduce these large payment errors and increase program equity. Therefore, the Secretary is proposing to reduce the number of data elements that would be used to determine a student's award from 22 to 5. This reduction would leave those elements that are the most significant indicators of income, easiest to verify, and least prone to applicant error. The remaining five data elements are:

1. Adjusted Gross Income.
2. Federal taxes paid.
3. Household size (based on tax exemptions).
4. Non-taxable income.
5. Liquid assets.

The data elements that the Secretary proposes to delete include: business assets, farm assets, home assets, unusual medical expenses, tuition for elementary and secondary education, the number of family members enrolled in postsecondary education, and income of the dependent student.

The advantage of using the five retained data elements is that applicants are less likely to misreport data that require exact figures and that can be verified. It may be argued that the deleted elements in the existing formula are needed to develop an accurate picture of a student's true need. However, the accuracy of this information has been so unreliable that the use of this additional data has adversely affected the determination of need. For example, misreporting of home equity, household size and the number of family members enrolled in postsecondary education had an associated net dollar error of $85 million in the Department's study. The goal of attaining an accurate picture of a student's need comes into question when the use of additional data elements yields such unreliable figures.

Although the taxable income of the dependent student can be verified if the income that is included in the expected family contribution is from the base year, estimated income is often used instead because the income of a dependent student varies substantially from one year to the next. This problem has been resolved by eliminating dependent student income from the calculation of an expected family contribution. However, it should be noted that the income of the dependent's spouse will be included in the expected family contribution.

Dependent student income is taken into account by the student's self-help contribution, which can range from $800 to $4,200. In 1981–82, only 17 percent of the single dependent students received incomes above their $2,650 income offset. Dependent student income that is not taken into account by the self-help contribution will, in many cases, be considered under the student asset (savings) component of the expected family contribution.

The Department's study also indicates that those students who have been misreporting information overwhelmingly do so for their own benefit. Restricting the data elements to those which can be easily verified should improve the accuracy of reported financial information and result in a more equitable distribution of funds.

In addition to being easier to verify and less prone to error than the other data elements, the five retained data elements are the major indicators of wealth for a family. Thus, the use of only those five data elements will not affect the goal of assisting students from low-income families. A formula that requires additional data elements may reduce the expected family contribution of middle income families, but those additional data elements have little effect on families with discretionary incomes that are already very low. There will be some students from middle income families with unusual financial circumstances that are not taken into account by this simpler formula. However, institutions may take these circumstances into account in determining awards from the College Work-Study Program and the need for a Guaranteed or National Direct Student Loan.

[FR Doc. 83-13038 Filed 5-12-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 691

Expected Family Contribution Schedule for the Self-Help Grant Program

AGENCY: Department of Education.

ACTION: Republication of proposed rules.

SUMMARY: The Secretary of Education is reprinting the proposed rules for the Self-Help Grant Program published in the **Federal Register** on March 21, 1983 (48 FR 11913–11917). These regulations reflect proposed legislative changes to the schedule of expected family contribution for the Pell Grant Program. The proposed rules would improve the delivery system for the new program. The Secretary is also publishing final regulations for the Pell Grant Program in this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan, Chief, Pell Grant Policy Section, or Deborah Cohen, Pell Grant Program Specialist, Office of Student Financial Assistance, U.S. Department of Education (Room 4318, ROB–3) 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 472–4300.

List of Subjects in 34 CFR Part 691

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student aid.

Dated: May 11, 1983.

Gary L. Jones,

Under Secretary of Education.

The Secretary has proposed to amend Title 34 of the Code of Federal Regulations by adding a new Part 691 to read as follows:

PART 691—SELF-HELP GRANT PROGRAM

Alternative A

Subparts A–B—[Reserved]

Subpart C—Expected Family Contribution for a Dependent Student

Sec.

691.31 Indicators of financial strength.
691.32 Special definitions.
691.33 Effective family income.
691.34 Computation of the expected family contribution from the effective family income.
691.35 Computation of the expected contribution from parental liquid assets.
691.36 Computation of the expected contribution from the liquid assets of the dependent student (and spouse).
691.37 Computation of the total expected family contribution.
691.38 Extraordinary circumstances affecting the expected family contribution determination.

Subpart D—Expected Family Contribution for an Independent Student

691.41 Indicators of financial strength.
691.42 Special definitions.
691.43 Effective family income.
691.44 Computation of the expected family contribution from the effective family income.
691.45 Computation of the expected contribution from the liquid assets of the independent student (and spouse).
691.46 Computation of the total expected family contribution.
691.47 Extraordinary circumstances affecting the expected family contribution determination.

Subparts E–H [Reserved]

Alternative A

Subparts A and B [Reserved]

§ 691.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the expected family contribution for a dependent student:

(a) The effective incomes of the student's parents and the student's spouse;

(b) the number of family members in the household of the student's parents; and

(c) The liquid assets of (1) the student and his or her spouse, and (2) the student's parents.

(Pub. L. 98–)

§ 691.32 Special definitions.

For purposes of this subpart:

"Dependent of the student's parents" means the student, the student's spouse and other persons who have been claimed on a 1983 Federal income tax return as a dependent by the parents, the student and the student's spouse. If the parents have not filed a 1983 Federal income tax return at the time of application, "dependent of the student's parents" means the student, the student's spouse, and other persons who were eligible to be claimed in 1983 by the parents, the student, and student's spouse under the Internal Revenue Code of 1954.

"Dependent student" means any student who does not qualify as an independent student as defined in 34 CFR 668.1a.

"Effective family income" is described in § 691.33.

"Family-size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," developed by the Social Security Administration.

"Federal income tax" means (a) the tax on income paid to the U.S. Government under Subtitle A of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c) the comparable taxes paid to the central government of a foreign country.

"Legal guardian" means an individual who has been appointed by a court to be a legal guardian of a person and who is specifically required by the court to use his or her own financial resources to support that person.

"Liquid assets" means cash on hand including amounts in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, mutual funds and other securities.

"Net assets" means the current market value at the time of application of the assets included in the definition of "liquid assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother, father or legal guardian. An adoptive parent is considered to be the student's mother or father.

(Pub. L. 98–)

§ 691.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), (f), (g), and (h) of this section, and § 691.38.

(1) The sum received in 1983 by the student's parents and the student's spouse, if any, from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of title 38 of the United States Code;

(B) Social Security educational benefits received by or on account of the student; and

(C) Social Security educational benefits paid to the student's parents for the student's siblings that would not be paid if those siblings were not students.

(2) One-half of any veteran's benefits to be paid to the student for the 1984–85 award year under chapters 34 and 35 of title 38 of the United States Code.

(3) The Social Security educational benefits to be paid to the student, or to the student's parents for the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income received by the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*).

(d) For a student whose parents are divorced or separated the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Include only the income, as described in paragraph (b) of this section, of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(2) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(3) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(e) If either of the parents have died, the student shall include only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(f) The following rule applies if either a parent whose income is taken into account under paragraph (d) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (e) of this section, has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in 1983, the student—

(1) Has received financial assistance of more than $1,000 from that spouse; or

(2) Has lived for more than six weeks in the home of the parent and that spouse.

(g) The annual adjusted family income does not include any student financial assistance except those veterans and Social Security benefits cited in paragraphs (b) (2) and (3) of this section.

(Pub. L. 98 —)

§ 691.34 Computation of the expected family contribution for a dependent student from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the family's discretionary income by deducting a family size offset from the effective family income. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(b) Determine the family size by applying the following rules—

(1) If the parents are not divorced or separated, family members include the student's parents and the dependents of the student's parents.

(2) If the parents are divorced or separated and not remarried, family members include the parent whose income is included in computing the effective family income and the dependents of that parent. However, if both parents claimed the same person on a joint tax return, that person is dependent on the parent who will provide the greater portion of his or her support between July 1, 1984 and June 30, 1985.

(3) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members include, in addition to those people referenced in paragraph (b)(2) of this section, the new spouse and any dependents of the new spouse, if that spouse's income is included in determining the effective family income. Dependents of the new spouse are determined by the same criteria that apply to dependents of the student's parent in paragraph (b)(2) of this section.

(c) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following chart. If the discretionary income is negative, there is no expected contribution from income.

Discretionary income	Expected contribution
0 to $5,000	18 percent of discretionary income.
$5,001 to $10,000	$900 + 20 percent of amount over $5,000.
$10,001 and above	$1,900 + 25 percent of amount over $10,000.

(Pub. L. 98 —)

§ 691.35 Computation of the expected contribution from parental liquid assets.

The expected contribution from parental liquid assets is determined in the following manner:

(a) Deduct $10,000 from the net value of the parental liquid assets. If this subtraction produces a negative number, it shall be changed to zero.

(b) Multiply the result obtained in paragraph (a) of this section by ten percent.

(c) If the calculation of discretionary income required by § 691.34(a) produces a negative number, the expected contribution from parental assets, calculated under paragraph (b) of this section, shall be reduced by the amount of that negative discretionary income. If this substraction produces a negative number, the expected contribution shall be zero.

(d)(1) If the student's parents are separated or divorced and not remarried, only the liquid assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 691.33, the liquid assets of that parent's spouse shall also be included.

(Pub. L. 98 —)

§ 691.36 Computation of the expected contribution from the liquid assets of the dependent student (and spouse).

(a) The expected contribution from the net assets of a single dependent student or a married dependent student (and spouse) with no dependent children equals 33 percent of the amount of those net liquid assets.

(b) The expected contribution from the net liquid assets of the dependent student (and spouse) with dependent children is determined in the following manner.

(1) Deduct an asset reserve of $10,000 from the net liquid assets. If the result is negative, the expected contribution shall be zero.

(2) Multiply the remainder obtained in paragraph (b)(1) of this section by ten percent.

(c) If a married dependent student is separated, only his or her net liquid assets shall be considered.

(Pub. L. 98 —)

§ 691.37 Computation of the total expected family contribution.

For each grant, the total expected family contribution is the sum of—

(a) The expected contribution from effective family income as determined under § 691.34;

(b) The expected contribution from parental assets as determined under § 691.35; and

(c) The expected contribution from the student's (and spouse's) assets as determined under § 690.36.

(Pub. L. 98 —)

§ 691.38 Extraordinary circumstances affecting the expected family contribution determination.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 (where 1983 income is usually requested), if—

(1) A parent or stepparent whose 1983 income from work must be reported under § 691.33 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g., a work-study job, that did not produce reportable income, would not be included;

(2) A parent or stepparent whose 1983 income from work must be reported under § 691.33 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability, or (ii) a natural disaster;

(3) A parent or stepparent whose income must be reported under § 691.33 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, and court ordered child support;

(4) The parent(s) of the student have become separated or divorced after the student submitted an application for 1984–85. The student may not use 1984 information based on his or her parents' divorce if the parents were already separated at the time of original filing. If such a separation or divorce is between a parent and a stepparent, the stepparents' income must have been reportable on the previous application under section 691.33 for this condition to apply; or

(5) A parent or stepparent whose 1983 income must be reported under § 691.33 has died after the student submitted an application for 1984–85. However, if the parent referred to in this paragraph is the last surviving parent with whom the student has or will have a dependency relationship according to 34 CFR 668.1a, the student must file an application under § 691.47(a)(7) if he or she wishes to use income data from 1984.

(b) For an application submitted under paragraph (a) of this section, the student's parent and spouse shall include the income specified in § 691.33(b)(1) (i), (ii), and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(Pub. L. 98 —)

Subpart D—Expected Family Contribution for an Independent Student

§ 691.41 Indicators of financial strength.

"Expected family contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the expected family contribution for an independent student:

(a) The effective family income of the independent student and spouse;

(b) The number of family members in the household of the student and spouse; and

(c) The liquid assets of the student and spouse.

(Pub. L. 98 —)

§ 691.42 Special definitions.

The definitions of "family size offset", "Federal income tax", "legal guardian", "liquid assets", "net assets", and "parent", are set forth in § 691.32.

"Dependent of the student" means the student's spouse, and other persons who have been claimed on the 1983 Federal income tax return as a dependent by the student and student's spouse. If the student has not filed a 1983 Federal tax return at the time of application, "dependent of the student" means the student's spouse and other persons who were eligible to be claimed in 1983 by the student and student's spouse under the Internal Revenue Code of 1954.

"Effective family income" is described in § 691.43.

"Independent student" is a student who meets the definition set forth in 34 CFR 668.1a.

(Pub. L. 98 —)

§ 691.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d) and (e) of this section and § 691.47,

(1) The sum received in 1983 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax is paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support paymnents and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of title 38 of the United States Code; and

(B) Social Security educational benefits received by the student.

(2) One-half of any veteran's benefits to be paid to the student for the 1984–85 award year under Chapters 34 and 35 of title 38 of the United States Code; and

(3) The Social Security educational benefits to be paid to the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*)

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial assistance except those veteran's and social security benefits cited in paragraphs (b)(2) and (3) of this section.

(Pub. L. 98–)

§ 691.44 Computation of the expected family contribution from the effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting a family-size offset from the

effective family income. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the Federal Register setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(b) Determine the family-size by applying the following rules—

(1) Family members include the student, spouse and other persons who have been claimed or could have been claimed in 1983 as a dependent for Federal income tax purposes by the student and spouse.

(2) If the student is divorced or separated, (i) the spouse (ex-spouse) and his or her dependents are not counted in the family size, and

(ii) If both the student and spouse claimed the same person on a joint tax return, that person is dependent on the student rather than the spouse if the student will provide the greater portion of his or her support between July 1, 1984 and June 30, 1985.

(c) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following charts. If the discretionary income is negative, there is no expected contribution from income.

(1) For a single independent student with no dependent children—

Discretionary income	Expected contribution
Any positive amount	75 percent of that amount.

(2) For a married independent student with no dependent children—

Discretionary income	Expected contribution
Any positive amoung	50 percent of that amount.

(3) For an independent student with dependent children—

Discretionary income	Expected contribution
0 to $5,000	18 percent of discretionary income.
$5,001 to $10,000	$900 + 20 percent of amount over $5,000.
$10,001 and above	$1,900 + 25 percent of amount over $10,000.

(Pub. L. 98 —)

§ 691.45 Computation of the expected contribution from the liquid assets of the independent student (and spouse).

(a)(1) The expected contribution from the net assets of an independent student with no dependent children equals 33 percent of the amount of those net liquid assets.

(2) If the calculation of discretionary income required by § 691.44(a) produces a negative number, the expected contribution from the student's net liquid assets calculated under paragraph (a)(1) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(b) For an independent student with dependent children, the expected contribution from the net liquid assets of the student (and spouse) is determined in the following manner:

(1) Deduct $10,000 from the net value of liequid assets. If this subtraction produces a negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(2) Multiply the results obtained in paragraphs (b)(1) of this section by ten percent.

(3) If the calculation of discretionary income required by § 691.44(a) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(2) of this section shall be reduced by the amount of that negative number, the expected contribution shall be zero.

(c) If a married independent student with dependents is separated, only his or her liquid assets shall be considered.

(Pub. L. 98–)

§ 691.46 Computation of the total expected family contribution.

For each grant, the total expected family contribution is the sum of—

(a) The expected contribution from effective family income as determined under § 691.44 and

(b) The expected contribution from liquid assets as determined under § 691.45.

(Pub. L. 98–)

§ 691.47 Extraordinary circumstances affecting the expected family contribution determination.

(a) An independent student may submit an application to the Secretary for determination of his or expected family contribution using income data from 1984 (where 1983 income is usually requested) if—

(1) The student was employed full-time in 1983 (at least 35 hours per week for a minimum of 30 weeks during 1983) in a job that produced reportable income and is no longer employed full-time;

(2) A spouse whose 1983 income from work must be reported under § 691.43 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g., a work-study job, that did not produce reportable income, would not be included;

(3) The student or spouse whose 1983 income from work must be reported under § 691.43 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability or (ii) a natural disaster;

(4) The student or spouse whose income must be reported under § 691.43 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits.

A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, and court ordered child support;

(5) The student has become separated or divorced after he or she submitted an application for 1984–85. A student who divorces cannot apply under this section if he or she was already separated at the time of original filing;

(6) A spouse whose 1983 income must be reported under § 691.43 has died after he or she submitted an application for 1984–85; or

(7) The student's last surviving parent with whom the student has or will have a dependency relationship according to § 691.42 has died.

(b) For an application submitted under paragraph (a) of this section, the student shall include the income specified in § 691.43(b)(1)(i), (ii), and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(Pub. L. 98–)

Subparts E–H [Reserved]

[FR Doc. 83-13065 Filed 5-12-83; 8:45 am]
BILLING CODE 4000-01-M

federal register

Friday
May 13, 1983

Part X

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

May 1, 1983.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of May 1, 1983 of 20 rescission proposals and 74 deferrals contained in the first seven special messages of FY 1983. These messages were transmitted to the Congress on October 1, and December 7, and 16, 1982, and January 5, February 1, March 9, and April 21, 1983.

Rescissions (Table A and Attachment A)

Twenty rescission proposals totaling $1,554 million are currently pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of May 1, 1983, while Attachment A shows the history and status of each rescission proposed during FY 1983.

Deferrals (Table B and Attachment B)

As of May 1, 1983, $3,663.4 million in 1983 budget authority was being deferred from obligation and another $9.6 million in 1983 obligations was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1983.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Registers** listed below:

Vol. 47, FR p. 44524, Thursday, October 7, 1982

Vol. 47, FR p. 55602, Friday, December 10, 1982

Vol. 47, FR p. 57230, Wednesday, December 22, 1982

Vol. 48, FR p. 1266, Tuesday, January 11, 1983

Vol. 48, FR p. 5474, Friday, February 4, 1983

Vol. 48, FR p. 11244, Wednesday, March 16, 1983

Vol. 48, FR p. 18978, Tuesday, April 26, 1983

David A. Stockman,

Director.

TABLE A.—STATUS OF 1983 RESCISSIONS

	Amount (in millions of dollars)
Rescissions proposed by the President	$1,554.0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	[1] 1,554.0

[1] These rescission proposals are still considered to be pending before the Congress, even though the 45-day clock has expired.

TABLE B.—STATUS OF 1983 DEFERRALS

	Amount (in millions of dollars)
Deferrals proposed by the President	$13,454.2
Routine Executive releases (—$6,393.5 million) and adjustments ($579.8 million) through May 1, 1983	5,813.7
Overturned by the Congress	—3,967.8
Currently before the Congress	[1] 3,672.9

[1] This amount includes $9.6 million in outlays for a Department of the Treasury deferral (D83-168).

Attachments.

BILLING CODE 3110-01-M

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF MAY 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
Appalachian Regional Development Programs							
Appalachian Regional Development programs BA	R83- 2		15,133	2 1 83		15,133	4 13 83
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA			15,133			15,133	
DEPARTMENT OF AGRICULTURE							
Agricultural Research Service							
Buildings and facilities BA	R83- 3		1,927	2 1 83		1,927	4 13 83
Soil Conservation Service							
Watershed and flood prevention operations BA	R83- 4		68,995	2 1 83		68,995	4 13 83
Resource conservation and development BA	R83- 5		5,600	2 1 83		5,600	4 13 83
Agricultural Cooperative Service							
Salaries and expenses BA	R83- 6		779	2 1 83		779	4 13 83
DEPARTMENT OF AGRICULTURE TOTAL BA			77,301			77,301	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Construction BA	R83- 1		2,000	12 16 82		2,000	3 25 83
DEPARTMENT OF COMMERCE TOTAL BA			2,000			2,000	
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged BA	R83- 7		133,925	2 1 83		133,925	4 13 83
School assistance in federally affected areas BA	R83- 8		5,000	2 1 83		5,000	4 13 83
Special programs and populations BA	R83- 9		56,639	2 1 83		56,639	4 13 83
Indian education BA	R83- 10		16,128	2 1 83		16,128	4 13 83
Off of Bilingual Educ. & Minority Lang. Affairs							
Bilingual edustion BA	R83- 11		43,523	2 1 83		43,523	4 13 83
Office of Postsecondary Education							
Guaranteed student loans BA	R83- 12		900,000	2 1 83		900,000	4 13 83
Higher and continuing education BA	R83- 13		68,941	2 1 83		68,941	4 13 83

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF MAY 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Office of Educational Research and Improvement							
Educational research and statistics BA	R83- 14		6,225	2 1 83		6,225	4 13 83
DEPARTMENT OF EDUCATION TOTAL BA			1,230,381			1,230,381	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Payments for oper. of low income housing proj. BA	R83- 15		69,000	2 1 83		69,000	4 13 83
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA			69,000			69,000	
DEPARTMENT OF THE INTERIOR							
National Park Service							
Construction BA	R83- 16		63,600	2 1 83		63,600	4 13 83
DEPARTMENT OF THE INTERIOR TOTAL BA			63,600			63,600	
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Federal-aid highways (trust fund) BA	R83- 17		23,200	2 1 83		23,200	4 13 83
Coast Guard							
Nat l recreat boat. safety & facil. improv. BA	R83- 18		5,000	2 1 83		5,000	4 13 83
DEPARTMENT OF TRANSPORTATION TOTAL BA			28,200			28,200	
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund BA	R83- 19		45,000a	2 1 83			
OTHER INDEPENDENT AGENCIES TOTAL BA			45,000				
OFF-BUDGET FEDERAL ENTITIES							
Department of Agriculture							
Rural telephone bank BA	R83- 20		23,400	2 1 83		23,400	4 13 83
OFF-BUDGET FEDERAL ENTITIES TOTAL BA			23,400			23,400	
TOTAL BA			1,554,015			1,509,015	

a This is a rescission of FY 1985 funds

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY, BUREAU ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
FUNDS APPROPRIATED TO THE PRESIDENT								
Southeast Regional Development Programs								
Assistance regional development programs								
BA	DB3- 40	10,000		2 1 83				10,000
International Security Assistance								
Foreign military sales credit								
BA	DB3- 21	165,000		12 7 82				
BA	DB3 21A		1,010,000	2 1 83	-525,000			650,000
Economic support fund								
BA	DB3- 22	554,720		12 7 82				
BA	DB3 22A		1,347,130	2 1 83	-1,715,996		551,150	737,004
Military assistance								
BA	DB3 29	11,650		12 7 82	-			
BA	DB3- 29A		221,350	2 1 83	-207,650		14,650	40,000
International Development Assistance								
Functional development assistance programs								
BA	DB3 1	8,129		10 1 82	-8,129			
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		749,499	2,578,480		-2,456,775		565,800	1,437,004
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization & Conservation Service								
Dairy and beekeeper indemnity programs								
BA	DB3- 36	7,000		1 5 83		-7,000		
Soil Conservation Service								
Watershed and flood prevention operations								
BA	DB3 41	10,329		2 1 83				10,329
Animal and Plant Health Inspection Service								
Salaries and expenses								
BA	DB3- 34	2,134		12 16 82				
BA	DB3 34A		4,066	2 1 83				6,200
Forest Service								
National forest system								
BA	DB3- 32	108,035		2 1 83	-21,022			87,013
Timber salvage sales								
BA	DB3- 2	10,002		10 1 82				
BA	DB3- 2A		3,105	2 1 83				13,107
Expenses, brush disposal								
BA	DB3- 3	44,575		10 1 82	-10,042		1,229	35,762
DEPARTMENT OF AGRICULTURE TOTAL BA		182,075	7,171		-31,064	-7,000	1,229	152,411
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs								
BA	DB3- 43	181,900		2 1 83		-181,900		
Economic development revolving fund								
BA	DB3- 37	25,350		1 5 83	-25,350			
International Trade Administration								
Operations and administration								
BA	DB3- 44	20,100		2 1 83		-20,100		
Participation in U S expositions								
BA	DB3- 4	3,356		10 1 82	-571			2,785
National Oceanic and Atmospheric Administration								
Operations, research, and facilities								
BA	DB3- 7I	2,965		4 21 83				2,965
Construction								
BA	DB3- 45	3,000		2 1 83				3,000
Promote and develop fishery products and research								
BA	DB3- 5	30,619		10 1 82	-30,619			
National Bureau of Standards								
Grants for S technical research & services								
BA	DB3- 38	6,500		1 5 83				6,500

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY - BUREAU ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
DEPARTMENT OF COMMERCE								
TOTAL BA		273,790			-86,540	-202,000		15,250
DEPARTMENT OF DEFENSE-MILITARY								
Procurement								
Shipbuilding and conversion, Navy								
BA	D83- 16	2,400,000		2 1 83	-2,400,000			
Military Construction								
Military construction, all services								
BA	D83- 6	64,063		10 1 82				
BA	D83- 6A		1,166,415	12 7 82	-792,078			438,400
Family Housing, Defense								
Fam'l. housing, Defense								
BA	D83- 33	161,640		12 7 82	-58,370			103,270
DEPARTMENT OF DEFENSE-MILITARY								
TOTAL BA		2,625,703	1,166,415		-3,250,448			541,670
DEPARTMENT OF DEFENSE-CIVIL								
Corps of Engineers								
Construction, general								
BA	D83- 47	180,000		2 1 83				180,000
Wildlife Conservation, Military Reservations								
Wildlife conservation								
BA	D83- 7	1,061		10 1 82	-6		-50a	1,005
DEPARTMENT OF DEFENSE-CIVIL								
TOTAL BA		181,061			-6		-50	181,005
DEPARTMENT OF ENERGY								
Atomic Energy, Defense Activities								
Atomic energy, defense activities								
BA	D83- 70	50,000		3 9 83				50,000
Energy Programs								
Energy supply R&D operating expenses								
BA	D83- 72	15,226		4 21 83	-5,000a			10,226
Energy supply R&D plant and capital equip								
BA	D83- 48	91,107		2 1 83	-28,595			62,512
Fossil energy research and development								
BA	D83- 8	20,136		10 1 82				
BA	D83- 8A			b 2 1 83	-15,136			5,000
BA	D83- 73	8,750		4 21 83				8,750
Fossil power, construction								
BA	D83- 49	20,600		2 1 83				
BA	D83- 49A		6,000	4 21 83				26,000
Energy conservation								
BA	D83- 24	22,803		12 7 82	-22,803			
BA	D83- 71	4,500		4 21 83				4,500
Strategic Petroleum Reserve								
BA	D83- 50	57,400		2 1 83		-57,400		
Departmental Administration								
Depart. admin., operating expenses								
BA	D83- 51	21,767		2 1 83				21,767
Depart. admin., plant & capital equipment								

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY, BUREAU, ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
	BA	D83- 52	12,693		2 1 83				12,693
DEPARTMENT OF ENERGY									
TOTAL BA			324,382	6,000		-71,534	-57,400		201,448
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital	BA	D83- 9	9,714		10 1 82				9,714
Office of Assistant Secretary for Health									
Special foreign currency program	BA	D83- 10	6,420		10 1 82				6,420
Social Security Administration									
Limitation on administrative expenses	BA	D83- 53	9,633		2 1 83				9,633
DEPARTMENT OF HEALTH AND HUMAN SERVICES TOTAL BA			25,767						25,767
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Subsidized housing programs	BA	D83- 54	3,081,153		2 1 83		-3,081,153		
Payments for operation of low income housing	BA	D83- 30	150,000		12 7 82	-150,000			
Community Planning And Development									
Community development grants	BA	D83- 31	221,000		12 7 82	-221,000			
Urban development action grants	BA	D83- 32	234,000		12 7 82				
	BA	D83- 32A		10,000	1 5 83		-244,000		
Urban homesteading	BA	D83- 33	8,000		12 7 82	-8,000			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA			3,694,153	10,000		-379,000	-3,325,153		
DEPARTMENT OF THE INTERIOR									
Office of Water Research & Technology									
Salaries and expenses	BA	D83- 25	2,545		12 7 82	-2,545			
National Park Service									
Land acquisition and state assistance	BA	D83- 11	30,000		10 1 82				
	BA	D83- 11A		3,000	2 1 83				33,000
Bureau of Reclamation Service									
Payments from proceeds, sale of water	BA	D83- 39	48		1 5 83				48
Office of Territorial Affairs									
Administration of territories	BA	D83- 55	3,188		2 1 83				3,188
DEPARTMENT OF THE INTERIOR TOTAL BA			35,781	3,000		-2,545			36,236
DEPARTMENT OF JUSTICE									
Immigration Law Enforcement									
Organized crime drug enforcement	BA	D83- 56	13,656		2 1 83				13,656
Federal Prison System									
Buildings and facilities	BA	D83- 35	16,330		12 16 82				16,330

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS / AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
DEPARTMENT OF JUSTICE									
TOTAL BA			29,986						29,986
DEPARTMENT OF STATE									
International Organizations and Conferences									
Contributions to international organizations									
	BA	D83-57	8,111		2 1 83				8,111
Other									
Emergency refugee and migration assistance fund									
	BA	D83-12	37,692		10 1 82			-1,844c	35,848
U.S.-bilateral science and technology agreements									
	BA	D83-58	2,000		2 1 83				2,000
DEPARTMENT OF STATE									
TOTAL BA			47,803					-1,844	45,959
DEPARTMENT OF TRANSPORTATION									
Urban Mass Transportation Administration									
Urban mass capital fund									
	BA	D83-59	229,000		2 1 83		-229,000		
Federal Aviation Administration									
Construction, Metropolitan Washington Airports									
	BA	D83-59	500		2 1 83				500
Civil supersonic aircraft development termination									
	BA	D83-13	46		10 1 82				46
Facilities & equip. (Airport & airway trust fund)									
	BA	D83-14	158,485		10 1 82				*
	BA	D83-11A		566,751	2 1 83				725,236
Coast Guard									
National boat safety & facil. improv.									
	BA	D83-61	40,000		2 1 83				40,000
DEPARTMENT OF TRANSPORTATION									
TOTAL BA			428,031	566,751			-229,000		765,782
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
State and local government fiscal assistance fund									
	BA	D83-15	106,474		10 1 82				
	BA	D83-15A		309	12 7 82	-2,372		273	104,680
	O	D83-16	7,909		10 1 82				
	O	D83-16A		6,537	12 7 82				
	O	D83-16B		1,498	3 9 83	-20,761		14,378	9,561
Federal law enforcement training center									
Construction									
	BA	D83-17	3,078		10 1 82				3,078
DEPARTMENT OF THE TREASURY									
TOTAL BA			109,552	309		-2,372		273	107,758
TOTAL O			7,909	8,035		-20,761		14,378	9,561
NATIONAL AERONAUTICS & SPACE ADMINISTRATION									
Research and development									
	BA	D83-26	34,500		12 7 82				34,500

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AGENCY, BUREAU, ACCOUNT (AMOUNTS IN THOUSANDS OF DOLLARS)	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 5-1-83
VETERANS ADMINISTRATION								
Construction, major projects								
BA	D83- 27	4,000		12 7 82				4,000
OTHER INDEPENDENT AGENCIES								
District of Columbia								
Loan to DC for capital investment								
BA	D83- 18	38,832		10 1 82	-38,832			
Interstate Commission on the Potomac River Basin								
Contrib. to Interst. Comm. on Potomac Riv. Basin								
BA	D83- 28	12		12 7 82	-12			
Pennsylvania Avenue Development Corporation								
Land acquisition and development fund								
BA	D83- 19	17,949		10 1 82				
BA	D83- 19A		4,409	12 16 82				22,358
Railroad Retirement Board								
Milwaukee railroad restructuring, administration								
BA	D83- 20	240		10 1 82				
BA	D83- 20A		250	2 1 83				490
Small Business Administration								
Business loan and investment fund								
BA	D83- 62	143,000		2 1 83		-143,000		
Small business guarantees revolving fund								
BA	D83- 63	3,000		2 1 83		-3,000		
Small rural equip. contract guar. revolv								
BA	D83- 64	1,000		2 1 83		-1,000		
Water Carrier Ratemaking Study, Commission								
Salaries and expenses								
BA	D83- 65	282		2 1 83				282
Tennessee Valley Authority								
Tennessee Valley Authority fund								
BA	D83- 66	47,271		2 1 83				47,271
United States Information Agency								
Salaries and expenses (spec. for curr. prog.)								
BA	D83- 67	1,344		2 1 83				1,344
Acquis. and construction of radio facilities								
BA	D83- 68	12,437		2 1 83				12,437
United States Railway Association *								
Payment for purchase of Conrail securities								
BA	D83- 69	84,000		2 1 83	-83,600			400
OTHER INDEPENDENT AGENCIES								
TOTAL BA		349,367	4,659		-122,444	-147,000		84,562
TOTAL BA		9,095,450	4,342,781		-6,372,728	-3,967,553	565,408	3,663,398
TOTAL O		7,909	8,035		-20,761		14,378	9,561

* This amount was released prior to transmittal of the special message reporting the withholding of $15,226,000.

† This revision is a technical adjustment that did not increase the amount deferred.

‡ This adjustment is being made to reflect actual unobligated balances available on October 1, 1982. All unobligated balances are being withheld from obligation.

[FR Doc. 83-13074 Filed 5-12-83; 8:45 am]

BILLING CODE 3110-01-C

Reader Aids

Federal Register

Vol. 48, No. 94

Friday, May 13, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
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, MAY

19693-19866.....2
19867-20032.....3
20033-20216.....4
20217-20402.....5
20403-20680.....6
20681-20890.....9
20891-21108.....10
21109-21296.....11
21297-21522.....12
21523-21876.....13

CFR PARTS AFFECTED DURING MAY

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.....20417

3 CFR

Executive Orders:
11157 (Amended by EO 12420).....21525
11735 (Amended by EO 12418).....20891
12123 (Amended by EO 12418).....20891
12155 (Amended by EO 12417).....20035
12316 (Amended by EO 12418).....20891
12417.....20035
12418.....20891
12419.....20893
12420.....21525
Proclamations:
5057.....20033
5058.....21297
5059.....21299
5060.....21523

5 CFR

1320.....21109
2470.....19693
2471.....19693
2472.....19694

7 CFR

2.....20403, 21301
55.....20681
56.....20681
59.....20681
70.....20681
210.....20895, 20896
215.....20895, 20896
220.....20895, 20896
225.....20896
226.....20896, 21527
235.....20896
245.....20896
272.....20403
273.....20403
319.....20403
360.....20037
729.....20403
907.....20217, 21301
910.....20403, 21530
918.....21531
967.....21532
979.....20898
1049.....19696
1131.....19699
1446.....21533
1464.....21109
1701.....20404, 21547
1942.....20217
Proposed Rules:
Ch. XVIII.....20425
21.....19884
27.....20715
28.....19721
29.....20720
52.....19884
226.....21587
989.....21147, 21339
1001.....20920
1040.....20418
1065.....20424
1099.....20425
1125.....20058
1133.....20058
1136.....20925
1139.....20929
1446.....21152

8 CFR

100.....20684
103.....20221
204.....20221
205.....20221
208.....20684
212.....20221, 20684
214.....19867, 20221, 20684
231.....21548
234.....20684
238.....20898
245.....20684
Proposed Rules:
214.....21593

9 CFR

92.....19867-19872, 21549
318.....20221
Proposed Rules:
319.....19722

10 CFR

Proposed Rules:
Ch. II.....20866
20.....20721, 20723
40.....19722
50.....20426
150.....20723
790.....20000
1017.....20091

11 CFR

110.....21553

12 CFR

556.....21554
563.....21302
571.....21302
590.....21554
591.....21554
Proposed Rules:
205.....20723
226.....20724

304.....20092
309.....20092
337.....20240
556.....20930
561.....19723
563.....19723, 20930
614.....20426
615.....20426
619.....20426

13 CFR

Proposed Rules:
101.....19872
116.....20933
120.....21110
121.....20560

14 CFR

39.....19700, 20685, 21305, 21307
71.....20222, 20686–20688
91.....21308
97.....20222
249.....21310

Proposed Rules:
21.....19727, 19733
39.....20727
71.....19736–19740, 20241, 20728, 20729
75.....20241
121.....21339
135.....21339
159.....19838

15 CFR

4a.....20040
369.....20043
370.....20043
371.....20899
375.....20043
379.....20899
385.....20899
388.....20043
390.....20043, 20225
399.....20899
903.....20688

Proposed Rules:
50.....20432
939.....20730
981.....21154

16 CFR

5.....20044
13.....20046, 20047
305.....20047
1610.....21310
1615.....21310
1616.....21310

Proposed Rules:
13.....20093, 20730, 21156
444.....20096
1201.....20762

17 CFR

1.....20900
200.....19873, 21112
229.....19873
230.....19873
239.....19873
240.....19873
249.....19873

Proposed Rules:
1.....20097
240.....20097
270.....19887

18 CFR

Proposed Rules:
4.....20934
11.....20934
35.....21161
271.....20432
410.....19893

19 CFR

201.....20225
210.....20225, 21112, 21115
211.....20225

Proposed Rules:
12.....20242
111.....21343

20 CFR

Proposed Rules:
Ch. V.....21594

21 CFR

444.....21563
448.....21563
455.....21563
510.....20901, 21564
520.....21565, 21566
522.....21567
524.....21566
540.....20901
558.....20902, 21564
660.....20405

Proposed Rules:
131.....20433
148.....21595
158.....20935
610.....20433
640.....19897
660.....20433

22 CFR

11.....19701

23 CFR

Ch. I.....20022, 21317

24 CFR

0.....21567
8.....20638, 20902
108.....20903
200.....19877
201.....21569
203.....19877, 21570
205.....21570
207.....21570
213.....21570
220.....21570
221.....21570
232.....21570
233.....19877
234.....19877, 21570
235.....21570
236.....21570
237.....19877
241.....21570
242.....21570
244.....21570
426.....19878
880.....20227
881.....20227
883.....20227
884.....20227
886.....20227

26 CFR

1.....20047, 20244, 20938
5f.....21115
401.....19878

Proposed Rules:
1.....21166
20.....21167
301.....21167

29 CFR

1.....20408
5.....20408
2619.....21573

Proposed Rules:
XXVI.....20247
1613.....19705
1952.....20434
2616.....19710

30 CFR

250.....20227
700.....20392
701.....20392
716.....21446
779.....21446
783.....21446
785.....20392, 21446
816.....20392
817.....20392
823.....21446
827.....20392
904.....19710
917.....21574
936.....20049

Proposed Rules:
905.....20939
914.....20763
925.....20764

32 CFR

294.....20228
983.....20408
984.....20408

33 CFR

100.....19712
117.....19713, 20229, 21325
165.....20230, 21325
401.....20690

Proposed Rules:
117.....19741
161.....20248
207.....20249
320.....21466
322.....21466
323.....21466
325.....21466
327.....21466
328.....21466
330.....21466

34 CFR

510.....20692
690.....21852

Proposed Rules:
691.....21862

36 CFR

Ch. I.....21121
901.....20903

Proposed Rules:
61.....19742
211.....20765

38 CFR

17.....19714, 19878

Proposed Rules:
3.....21595
21.....20939

39 CFR

10.....21131
601.....20408
3002.....19878

Proposed Rules:
10.....20949
447.....21343
956.....21343

40 CFR

52.....19715, 19716, 19878, 20051, 20231, 20233, 21326, 21579
60.....20693
61.....20693
145.....19717
180.....20052–20055, 21131–21133
712.....21294
720.....21722

Proposed Rules:
52.....19748, 19750, 19898, 19900, 20766
124.....21098
180.....20950
192.....20768
228.....20440
264.....20440, 21101
265.....20440
267.....20440
270.....21098–21103
320.....21598
721.....20668

41 CFR

Ch. 1.....21580
Ch. 101.....21327
3–3.....20904
4–2.....19718
14–1.....21133
51–4.....21328
101.....20056

Proposed Rules:
44–17.....20441
101–41.....21351
114–50.....20768

42 CFR

57.....20214
405.....21254

43 CFR

Proposed Rules:
426.....19900, 20768
1600.....20364
4100.....21593
8370.....20630

44 CFR

64.....20234, 20236, 20910, 21580, 21582
65.....20694–20701
67.....20409, 20912
70.....20701–20713

Proposed Rules:
67.....20443, 20444, 20769, 20770, 20950, 21351

45 CFR

303 20237
650 19860

Proposed Rules:

1626 19750

46 CFR

Proposed Rules:

10 20770
30 19755
67 20249
151 19755
153 19755
157 20770

47 CFR

22 21329
73 ..... 19879, 19882, 20918, 20919, 21478
74 21478
81 21583

Proposed Rules:

Ch. I 20771, 21351
2 21354
21 19759
22 ..... 19759, 20952, 21354
23 19759
61 21356
73 ..... 19917, 20252, 20953–20966
74 19759
78 19759
81 19759
83 21599
87 19759
90 19759
94 19759
150 19759

49 CFR

Ch. X 20919
25 20714
172 19719
175 19719
571 20237
1033 20409
1039 20412

Proposed Rules:

100–179 (Ch. I) 20255, 20780
229 20257
571 ..... 19760, 20259
574 19761
1309 20780
1310 20780

50 CFR

18 20614
216 20614
403 20614
611 21336
661 21135
642 20415
675 21336

Proposed Rules:

17 ..... 20450, 21169, 21604
32 20100
227 20098
260 20261
628 20102
646 21607

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

Listing of Public Laws

Last Listing May 6, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

H.R. 2600 / Pub. L. 98–28 To dedicate the Golden Gate National Recreation Area to Congressman Phillip Burton. (May 10, 1983; 97 Stat. 188) Price: $1.75.

Slip Laws

Subscriptions Now Being Accepted

98th Congress, 1st Session, 1983

Separate prints of Public Laws, published immediately after enactment, with marginal annotations, legislative history references, and future Statutes volume page numbers.

Subscription Price: **$150.00 per session**

(Individual laws also may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Prices vary. See Reminder Section of the Federal Register for announcements of newly enacted laws and prices).

SUBSCRIPTION ORDER FORM
ENTER MY SUBSCRIPTION TO: PUBLIC LAWS. [P9801-File Code 1L]

☐ $150.00 Domestic, ☐ $187.50 Foreign.

MAIL ORDER FORM TO:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

COMPANY OR PERSONAL NAME

ADDITIONAL ADDRESS/ATTENTION LINE

STREET ADDRESS

CITY STATE ZIP CODE

(OR) COUNTRY

☐ REMITTANCE ENCLOSED. (MAKE CHECKS PAYABLE TO SUPERINTENDENT OF DOCUMENTS.)

☐ CHARGE TO BY DEPOSIT ACCOUNT NO.

PLEASE PRINT OR TYPE

Customer's Telephone No.'s
Area Code Home Area Code Office

MasterCard and VISA accepted.

Credit Cards Orders Only
Total charges $_____
Fill in the boxes below.

Credit Card No.

Expiration Date Month/Year