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federal register

Friday
June 3, 1983

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Civil Aeronautics Board

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Environmental Protection Agency

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

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Presidential Documents

Title 3—

The President

Proclamation 5066 of June 1, 1983

Father's Day, 1983

By the President of the United States of America

A Proclamation

Each year this Nation sets aside a day on which to honor fathers for their many contributions to the well-being of their children, their families, and our society.

Traditionally, Americans have looked to fathers to provide leadership and stability for their families. Fathers play a vital role in providing sustenance, protection, and guidance for their families and the community at large. We owe them our high esteem, for their presence and gift of love as role models, providers, and defenders of the Nation. They not only play an invaluable part in transmitting the values and traditions of our society, but are instrumental in encouraging the self-confidence of our youngsters in facing the future.

Fatherhood is both a great responsibility and one of the most rewarding and pleasurable experiences life has to offer. Father's Day presents a special opportunity to appreciate our fathers—to consider all they have done, and all they continue to do, in fostering children's physical and emotional growth, encouraging success, easing failure, maintaining family life, contributing vitally to the economy, and serving their communities. The quality and scope of their activities, as well as their overriding concern for the well-being of their families and our country, inspire and strengthen us as individuals and as a Nation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in accordance with the joint resolution of the Congress (36 U.S.C. 142a), do hereby proclaim Sunday, June 19, 1983, as Father's Day. I invite the States and communities and the people of the United States to observe that day with appropriate ceremonies as a mark of gratitude and abiding affection for their fathers. I direct government officials to display the flag of the United States on all Federal government buildings, and I urge all citizens to display the flag at their homes and other suitable places on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of June, 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. 83-15117
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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule; technical amendment.

SUMMARY: The Office of Personnel Management is issuing a technical amendment removing from Title 5 of the Code of Federal Regulations the Schedule A excepted appointing authority covering positions as needed implementing the Young Adult Conservation Corps program. This amendment is needed because the authority has expired by its own terms.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: The Young Adult Conservation Corps was originally funded under Title VIII of the Comprehensive Employment and Training Act of 1973, as amended, and was subsequently included in other appropriations acts, with funding for the program authorized through Fiscal Year 1982. However, no funding for the program was appropriated for Fiscal Year 1983, nor is any such funding proposed for FY 1984. In line with the availability of appropriated funds, the appointing authority contained in Schedule A § 213.310(hh) provided that no one could serve under the authority after September 30, 1982. As this employment limit has passed and the YACC program is no longer authorized, the Schedule A authority has expired by its own terms.

Pursuant to sections 553(b)(B) and 553(d)(3) of title 5, United States Code, I find that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days. The regulation is being made effective immediately because it does not change the substance of the regulations issued in part 213, but merely removes from the regulations a paragraph which is no longer current.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it merely updates information on authorities use to appoint certain employees in Federal agencies.

List of Subjects in CFR Part 213

Government employees.

Office of Personnel Management.
Donald J. Devine,
Director.

PART 213—[AMENDED]

Accordingly, the U.S. Ofice of Personnel Management is amending 5 CFR Part 213 by removing and reserving § 213.3102(hh):

§ 213.3102 Entire executive civil service.

* * * * *

(hh) [Reserved]

* * * * *

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 83-14903 Filed 6-2-83; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

United States Standards for Rough Rice and Brown Rice for Processing; Revision of the United States Standards for Milled Rice

AGENCY: Federal Grain Inspection Service,[1] USDA.

ACTION: Final rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice. FGIS has determined that no changes are to be made to the U.S. Standards for Rough Rice and the U.S. Standards for Brown Rice for Processing. The U.S. Standards for Milled Rice are revised to amend the definitions of milled and of coated milled rice.

EFFECTIVE DATE: July 5, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Regulations and Directives Unit, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: The U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice were established under the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*; the Act). Pursuant to Section 203(c) of the Act (7 U.S.C. 1622(c)), the Administrator is authorized to develop and improve standards for all assigned agricultural commodities.

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation as established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant impact on a substantial number of small entities because most users of rice inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

[1] Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof, has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

Standards Review

In conformance with the requirements for the periodic review of existing regulations, FGIS reviewed the U.S. Standards for Rough Rice, Brown Rice for Processing, and Milled Rice. This review included a determination of the continued need for the standards; and a determination of the potential for improving the standards and their application through the incorporation of grading factors or tests which better indicate quality attributes. The objective was to assure that the standards continue to serve the needs of the market to the greatest extent.

In the October 15, 1982 **Federal Register** (47 FR 46094), FGIS proposed that the U.S. Standards for Rough Rice remain as currently written and changes be made to the U.S. Standards for Brown Rice for Processing and Milled Rice. A March 31, 1981 prenotice (46 FR 19699) had requested public comment on specific issues with respect to the standards for rice.

U.S. Standards for Rough Rice

In August, 1980, milling yield appraisal methods were revised for California grown short and medium grain rough rice. Because changes were made for California Rough Rice milling yield methods, input was solicited for the purpose of determining whether revised methods were needed for southern long, medium, and short grain rice milling yield appraisals. No comments were received on the prenotice of March 31, 1981. However, further information from and discussions with the rice industry indicated that the current procedures were considered a fair evaluation of the expected quality of the rice and that further revision of milling yield appraisal methods would not be necessary at this time. It was proposed that the standards for rough rice remain as presently written.

Four comments were received on the proposal. One comment was in favor of the proposal for no change. Three comments requested that a final decision be delayed because of concerns with milling yield appraisal methods currently in use for California rough rice. FGIS has determined that it can address these recent concerns with milling yields in California without delaying final action on the rough rice standards since milling yield determinations are a part of rice inspection procedures, and not a part of the standards. Accordingly, no changes are being made to the U.S. Standards for Rough Rice at this time.

U.S. Standards for Brown Rice for Processing

As a result of the March 31, 1981 prenotice, four comments were received supporting a revision of the brown rice for processing standards so that grade factors are determined on a milled portion of the sample. No comments were received opposing the concept.

Determining the percentages of red rice, damaged kernels, chalky kernels and other types on a milled rice basis would provide more accurate information on the quality to be expected following processing of brown rice to milled rice. Accordingly, FGIS proposed a change to § 68.253 *Basis of Determination* so that these factors would be determined on a milled rice portion of the brown rice sample along with other determinations currently made on the milled portion. However, the factors of paddy kernels, seeds, objectionable seeds, broken kernels removed by a 6 plate or 6½ inch sieve and well-milled kernels, as proposed, would continue to be determined on a brown rice basis because they are indicators of the extent of processing that may be necessary prior to milling the rice.

Further, FGIS proposed to amend § 68.261 *Grade and grade requirements for the classes of Brown Rice for Processing*, so that the limits for red rice, damaged kernels, chalky kernels, and other types are the same as the limits currently in the U.S. Standards for Rough Rice. These grade factors in the rough rice standards are currently determined on a milled rice basis. The rough rice grade factor tolerances have been accepted and understood by the rice industry as having a good correlation with milled rice quality.

It was also proposed that § 68.252(k), the definition of red rice be amended to reflect the determination of this factor on a milled rice basis. The proposed wording of the amended definition coincides with the definition of red rice in the rough rice and milled rice standards. Red rice in these standards is currently determined on a milled rice basis.

Four comments were received on the proposed changes to the brown rice for processing standards. One comment was in complete agreement with the proposed revision. Two comments requested that FGIS postpone final action on the proposal for the purposes of further study and consideration. One comment supported the proposed change in the basis of determination, but objected to changes in the grade limits for the grade factors involved.

After reviewing these comments and the results of a limited study by FGIS supporting the appropriateness of the proposed grade limits, FGIS decided to conduct additional studies to further verify the proposed grade tolerances and to provide further information to interested parties concerning these proposals. FGIS, therefore, is postponing action on all of the proposed changes to the U.S. Standards for Brown Rice for Processing until such studies can be completed. In the interim, the brown rice for processing standards and § 68.261 Grade and grade requirements for the classes of brown rice for processing are to remain as currently written.

U.S. Standards for Milled Rice

As a result of the March 31, 1981 prenotice, three comments were received in favor of the establishment of related and unrelated foreign material grade limits in milled rice. One comment opposed any change in the foreign material grade limits as it could lower the quality of U.S. rice. Establishing grade limits for related and unrelated foreign material would allow rice with a small amount of related foreign material (e.g., up to 0.4 percent in U.S. No. 6 milled rice) to retain its grade rather than being graded U.S. Sample grade as it would currently for exceeding 0.1 percent total foreign material. FGIS determined that this would not significantly reduce the quality of milled rice, and therefore proposed the establishment of such grade limits and specific definitions for related and unrelated foreign material.

FGIS proposed that the embryo (germ) and bran of the rice be defined as related material. Embryo and bran material dislodge in handling milled rice; are edible material; and are presently grade limiting as described above, particularly in rice shipments milled to reasonably well milled and lightly milled degree. In these lower milling degrees the likelihood of bran and germ material dislodging from rice kernels increases and loose bran and germ are more difficult to separate. Thus, grade tolerances for related material were proposed to allow increasing amounts of related material for decreasing degrees of milling.

In the proposal, rice hulls, awns, straw, dirt and other extraneous matter were considered unrelated material. Grade limits for unrelated material were proposed at a reasonably strict level as this material is inedible and more easily removed in processing milled rice.

It was proposed to revise § 68.302(f), the definition of foreign material, to define related and unrelated foreign

material. It was also proposed to amend § 68.310, Grades and grade requirements for the classes Long-Grain Milled Rice, Medium-Grain Milled Rice, Short-Grain Milled Rice, and Mixed Milled Rice, § 68.311, Grades and grade requirements for the class Second Head Milled Rice, § 68.312, Grades and grade requirements for the class Screenings Milled Rice, and § 68.313, Grades and grade requirements for the class Brewers Milled Rice, to provide for the inclusion of the related and unrelated material and total foreign material grade limits. Also it was proposed that a format change be made to the table in § 68.310 for clarification and uniformity considerations.

As a result of the proposal, three comments were received in favor of all the proposed changes. One comment was received which objected to the proposed establishment of related and unrelated foreign material and the grade limit provisions.

The objecting commenter represented the brewing industry and expressed concern that an increase in related foreign material could adversely affect beer quality. Related foreign material, as defined in the proposal, would be composed of embryo and bran layers that have dislodged from the rice kernels. Rice bran and embryo (germ) contain oil which has a detrimental effect on the flavor and shelf life of beer. The commenter also felt that the problem shipments that had prompted the development of the proposal were of an isolated nature, unique to a particular location and crop year. The commenter did not feel these occurrences were sufficient justification to warrant revision of the standards.

Based on these comments FGIS has decided not to change the milled rice standards concerning related and unrelated foreign material. Further, the conforming changes proposed to § 68.310, § 68.311, § 68.312, and § 68.313 together with format changes to § 68.310 will not be made in view of the above.

As a result of the March 31, 1981 prenotice, two comments received recommended that a revision be made to the definition for coated milled rice. The current definition (§ 68.315) specifically refers to coated milled rice as rice that has been coated all or in part with glucose and talc. There is concern in the rice industry about the restriction of coated rice to be rice which is coated with glucose and talc. Other commercially available substances may be safe and suitable in accordance with commercially accepted practices and the Federal Food, Drug and Cosmetic Act and other Federal laws. Therefore, FGIS proposed that the definition be revised to generally describe coated milled rice rather than specifically mention additives used for coating.

The proposal also includes revision to the definition of milled rice (§ 68.301). A portion of § 68.301, Definition of Milled Rice, specifically the words "and a part of the germs", was temporarily suspended from the definition on August 1, 1980 for a period of one year. This action was announced in the July 9, 1980 **Federal Register** (45 FR 46332). The reason for the suspension was to allow FGIS to conduct a study to ascertain the effects of changing the milled rice definition. The suspension was extended on August 4, 1981 (46 FR 39608). The current suspension action does not expire until final revisions are made to the definition of milled rice.

The purpose of the initial suspension action was to facilitate the marketing of the lower milling degrees of milled rice. The requirement that a part of the germ must be removed from the milled rice was grade limiting in U.S. Nos. 5 and 6 grades. The germ requirement caused rice millers to mill rice more severely than the grade requirement for milling degree. This resulted in added milling costs to rice millers. FGIS determined from its study that the suspension action allowed rice millers to more effectively mill and market U.S. Nos. 5 and 6 grades, and that a uniform, accurate, and efficient determination of milled rice may be made without a requirement that a part of germs be removed from the rice kernels. Therefore, it was proposed that the definition of milled rice be amended to delete the words, "and a part of the germs".

Both the proposed revisions to the definition for coated milled rice and to the definition of milled rice were supported in the comments received. Therefore, the proposed changes to § 68.301 and § 68.315 are being made final in this rulemaking.

List of Subjects in 7 CFR Part 68

Administrative practices and procedures—FGIS, Agricultural commodities, and Export.

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Accordingly, Subpart C—United States Standards for Rough Rice are not amended and remain as currently written; Subpart D—United States Standards for Brown Rice for Processing are not amended and remain as currently written; Subpart E—United States Standards for Milled Rice are amended by revising § 68.301 and removing footnote 2; by revising § 68.315 paragraph (a) to read as follows:

Subpart E—United States Standards for Milled Rice [1] Terms Defined

§ 68.301 Definition of milled rice.

Whole or broken kernels of rice (*Oryza sativa* L.) from which the hulls and at least the outer bran layers have been removed and which contain not more than 10.0 percent of seeds, paddy kernels, or foreign material, either singly or combined.

Special Grades, Special Grade Requirements, and Special Grade Designations

§ 68.315 Special grades and special grade requirements.

* * * * *

(a) Coated Milled Rice. Coated milled rice shall be rice which is coated, in whole or in part, with substances that are safe and suitable [2] according to commercially accepted practice.

* * * * *

(Secs. 203, 205, 60 Stat. 1087, 1090 as Amended; 7 U.S.C. 1622, 1624)

Dated: May 23, 1983.

Kenneth A. Gilles,

Administrator.

[FR Doc. 83-14871 Filed 6-2-83; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 414]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation established the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 5–11, 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: June 5, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch,

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or other Federal laws.

[2] Compliance with the provisions of the standards does not excuse failure to comply with provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal Laws. Safe and suitable is defined in the regulation issued pursuant to the Federal Food, Drug and Cosmetic Act at 21 CFR 130.3(d).

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 31, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

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 910.714 is added as follows:

§ 910.714 Lemon regulation 414.

The quantity of lemons grown in California and Arizona which may be handled during the period June 5, 1983, through June 11, 1983, is established at 310,000 cartons.

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

Dated: June 2, 1983.

D. S. Kuryloski,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-15120 Filed 6-2-83; 11:15 am]

BILLING CODE 3410-02-M

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7 CFR Parts 915 and 944

[Florida Avocado Reg. 27; Avocado Import Reg. 33]

Avocados Grown in South Florida and Imported Avocados; Grade and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule establishes minimum grade and maturity requirements for shipments of fresh avocados grown in south Florida, and for avocados imported into the United States. Such action is necessary to assure the shipment of ample supplies of mature avocados of acceptable quality in the interest of producers and consumers.

DATES: Section 915.327 becomes effective June 3, 1983 and § 944.25 becomes effective June 6, 1983. Comments which are received by August 2, 1983, will be considered prior to issuance of a final rule to become effective on August 29, 1983.

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

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

SUPPLEMENTARY INFORMATION: This interim 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 Florida avocado crop and of imported avocados for the benefit of producers and consumers, and will not substantially affect costs for the persons directly regulated.

The Florida avocado regulation is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in south Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The avocado import regulation is issued under section 8e (7 U.S.C. 608e–1) of the Act. The grade and maturity requirements applicable to Florida avocado shipments were recommended by the Avocado Administrative Committee, which locally administers this marketing order program.

Both regulations establish U.S. No. 3 as the minimum grade, and prescribe minimum weights or diameters by specified dates as the maturity requirements for the various varieties of avocados. Minimum weights or diameters and picking dates are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process. Skin color is also authorized as a method of determining maturity for certain varieties which turn red or purple when mature. The grade and maturity requirements are designed to assure that the various varieties of avocados will be of suitable quality and maturity so they provide consumer satisfaction essential for the successful marketing of the crop. These requirements are also designed to provide the trade and consumers with an adequate supply of mature avocados of acceptable quality in the interest of producers and consumers. It is hereby found that this action will tend to effectuate the declared policy of the Act.

Section 8e of the Act requires that when specified domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements.

The Avocado Administrative Committee estimates 1983–84 season fresh Florida avocado shipments at 1,150,000 bushels (55 pounds), 13 percent less than the estimated 1,325,310 bushels shipped fresh in 1982–83, but 15 percent more than the 976,872 bushels shipped

fresh in 1981–82. California fresh avocado shipments were 5,470,531 bushels for the 12-month period ending March 31, 1983. Avocados are imported into the United States in relatively small amounts, mostly from the Dominican Republic. The 1983–84 season Florida avocado crop is expected to begin with light shipments of early varieties in late May, with substantial shipments beginning in late June or early July.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this final rule 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 policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation of 1983–84 season Florida avocados at an open meeting, at which the committee without opposition recommended implementation of the requirements for Florida avocados specified in this final rule. It is necessary to effectuate the declared purposes of the Act to make this final rule effective as specified, and Florida avocado handlers have been apprised of the provisions and effective date of the Florida avocado regulation. The avocado import requirements are mandatory under section 8e of the Act, and the required 3 days notice is provided.

List of Subjects

7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

7 CFR Part 944

Food grades and standards, Imports, Avocados.

Therefore, new §§ 915.327 and 944.25 are added to read as follows: (Sections 915.327 and 944.25 expire August 28, 1983, and will not be published in the annual Code of Federal Regulations).

PART 915—[AMENDED]

§ 915.327 Florida Avocado Regulation 27.

(a) During the period June 3, 1983 through August 28, 1983, no handler shall handle any variety of avocados grown in the production area unless:

(1) Such avocados grade at least U.S. No. 3, except for avocados handled within the production area in containers other than those authorized in § 915.305.

(2) Such avocados have any portion of the skin of the individual fruit changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of red or purple when mature, except for the Linda variety.

(3) Such avocados, except as provided in paragraph (a)(2) of this section, meet the minimum weight or diameter requirements for the specified effective periods for each variety listed in the following Table 1: *Provided,* That avocados may not be handled prior to the earliest date specified in column 2 of such table for the respective variety: *Provided further,* That up to a total of 10 percent, by count of the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: *Provided further,* That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE I

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
Kosel	6-3-83	6-5-83	16	
	6-6-83	6-19-83	13	
Arue	6-3-83	6-5-83	16	
	6-6-83	7-10-83	14	3 3/16
Fuchs	6-13-83	6-26-83	14	3 3/16
	6-27-83	7-10-83	12	3
Dr. Dupuis #2	6-6-83	6-19-83	16	3 3/16
	6-20-83	7-10-83	14	3 1/16
	7-11-83	7-24-83	12	3 5/16
K-5	6-20-83	7-3-83	18	3 5/16
	7-4-83	7-17-83	14	3 3/16
West Indian Seedling [1]	6-27-83	7-24-83	18	
	7-25-83	8-28-83	16	
	8-29-83	9-25-83	14	
Pollock	6-27-83	7-10-83	18	3 11/16
	7-11-83	7-24-83	16	3 7/16
	7-25-83	8-7-83	14	3 5/16
Simmonds	6-27-83	7-10-83	16	3 5/16
	7-11-83	7-24-83	14	3 3/16
	7-25-83	8-7-83	12	3 1/16
Hardee	6-20-83	6-26-83	18	3 5/16
	6-27-83	7-3-83	16	3 3/16
	7-4-83	7-24-83	14	2 15/16
Nadir	6-27-83	7-3-83	14	3 3/16
	7-4-83	7-10-83	12	3 1/16
	7-11-83	7-24-83	10	2 15/16
Donnie	7-4-83	7-17-83	16	3 5/16
	7-18-83	8-14-83	14	3 3/16
Dawn	7-11-83	7-24-83	12	3 3/16
	7-25-83	8-7-83	10	3
Webb-2	7-11-83	7-24-83	18	
	7-25-83	8-7-83	16	
Ruehle	7-11-83	7-17-83	18	3 11/16
	7-18-83	7-24-83	16	3 5/16
	7-25-83	8-7-83	14	3 1/16
	8-8-83	8-14-83	12	3 3/16
	8-15-83	8-21-83	10	3 3/16
Peterson	7-18-83	7-24-83	14	3 5/16
	7-25-83	7-31-83	12	3 3/16
	8-1-83	8-14-83	10	3 3/16
Biondo	7-18-83	8-21-83	13	
Bernecker	7-25-83	8-21-83	18	3 5/16
232	7-25-83	8-7-83	14	
	8-8-83	8-21-83	12	
Pinelli	7-25-83	8-7-83	18	3 13/16
	8-8-83	8-21-83	16	3 13/16

TABLE I—Continued

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
Trapp	7-25-83	8-7-83	14	3 13/16
	8-8-83	8-21-83	12	3 5/16
Miguel (P)	7-25-83	8-7-83	22	3 15/16
	8-8-83	8-21-83	20	3 15/16
	8-22-83	9-4-83	18	3 13/16
Nesbitt	7-25-83	8-7-83	22	3 15/16
	8-8-83	8-14-83	16	3 5/16
	8-15-83	8-28-83	14	3 3/16
Beta	8-8-83	8-14-83	18	3 5/16
	8-15-83	9-4-83	16	3 5/16
K-9	8-8-83	8-28-83	16	
Gorham	8-8-83	8-21-83	29	4 5/16
	8-22-83	9-4-83	27	4 1/16
Tower 2	8-8-83	8-21-83	14	3 3/16
	8-22-83	9-11-83	12	3 1/16
Christina	8-8-83	8-28-83	11	2 15/16
Tonnage	8-8-83	8-21-83	16	3 5/16
	8-22-83	8-28-83	14	3 1/16
	8-29-83	9-4-83	12	3
Waldin	8-8-83	8-21-83	16	3 5/16
	8-22-83	9-4-83	14	3 1/16
	9-5-83	9-18-83	12	3 5/16
Annie Ruth	8-8-83	8-28-83	21	3 15/16
Lisa (P)	8-15-83	8-21-83	12	3 5/16
	8-22-83	8-28-83	11	3
Days	8-15-83	9-5-83	14	3 3/16
Catalina	8-22-83	9-4-83	24	
	9-5-83	9-25-83	22	
Fairchild	8-22-83	9-4-83	16	3 13/16
	9-5-83	9-18-83	14	3 1/16
	9-19-83	9-25-83	12	3 1/16
Loretta	8-22-83	10-2-83	26	4 1/16
Blair	9-5-83	9-18-83	16	3 5/16
	9-19-83	10-9-83	14	3 3/16
Black Prince	8-22-83	9-4-83	28	4 1/16
	9-5-83	9-18-83	23	3 15/16
	9-19-83	10-9-83	16	3 5/16
Booth 8	9-5-83	9-25-83	16	3 5/16
	9-26-83	10-9-83	14	3 5/16
	10-10-83	10-23-83	10	3 1/16
Booth 7	9-5-83	9-18-83	18	3 13/16
	9-19-83	10-2-83	16	3 15/16
	10-3-83	10-16-83	14	3 5/16
Booth 5	9-12-83	9-25-83	14	3 5/16
	9-26-83	10-9-83	12	3 5/16
Guatemalan Seedling [2]	9-12-83	10-9-83	15	
	10-10-83	12-11-83	13	
Marcus	9-12-83	9-25-83	32	4 13/16
	9-26-83	11-6-83	24	4 5/16
Brooks 1978	9-12-83	9-18-83	12	3 1/16
	9-19-83	9-25-83	10	3 1/16
	9-26-83	10-16-83	8	2 15/16
Collinson	9-19-83	10-16-83	16	3 15/16
Rue	9-19-83	9-25-83	30	4 5/16
	9-26-83	10-9-83	24	3 15/16
	10-10-83	10-23-83	18	3 5/16
Hickson	9-19-83	10-2-83	12	3 1/16
	10-3-83	10-16-83	10	3
Simpson	9-26-83	10-16-83	16	3 5/16
Choquette	9-26-83	10-9-83	24	4 1/16
	10-10-83	10-23-83	20	3 15/16
	10-24-83	11-6-83	16	3 5/16
Winslowson	10-3-83	10-23-83	18	3 15/16
Booth 10	10-3-83	10-30-83	16	3 15/16
Booth 11	10-3-83	10-23-83	16	3 15/16
Leona	10-3-83	10-16-83	18	3 15/16
Hall	10-3-83	10-16-83	26	3 15/16
	10-17-83	10-30-83	20	3 5/16
	10-31-83	11-13-83	18	3 5/16
Herman	10-10-83	10-23-83	16	3 5/16
	10-24-83	11-6-83	14	3 5/16
Lula	10-10-83	10-23-83	18	3 13/16
	10-24-83	11-6-83	14	3 5/16
	11-7-83	11-20-83	12	3 5/16
Ajax (B-7)	10-17-83	11-6-83	18	3 13/16
Taylor	10-17-83	10-30-83	14	3 5/16
	10-31-83	11-13-83	12	3 5/16
Booth 3	10-17-83	10-23-83	16	3 5/16
	10-24-83	11-6-83	14	3 5/16
Byars	11-7-83	11-27-83	16	3 13/16
Linda	11-7-83	11-27-83	18	3 15/16
Monroe	11-7-83	11-20-83	24	4 1/16
	11-21-83	12-4-83	20	3 13/16
	12-5-83	12-18-83	16	3 5/16

TABLE I—Continued

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
Booth 1	11-14-83	11-27-83	16	3 15/16
	11-28-83	12-11-83	12	3 5/16
Zio (P)	11-21-83	12-4-83	12	3 1/16
	12-5-83	12-18-83	10	2 14/16
Wagner	11-28-83	12-11-83	12	3 5/16
	12-12-83	12-25-83	10	3 1/16
Brookslate	12-12-83	12-25-83	18	3 13/16
	12-26-83	1-15-84	14	3 5/16
	1-16-84	1-29-84	12	3 1/16
	1-30-84	2-12-84	10	
Meya (P)	12-19-83	1-1-84	13	3 5/16
	1-2-84	1-15-84	11	3

[1] Avocados of the West Indian type varieties and the West Indian type seedling not listed elsewhere in Table. I.
[2] Avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings not listed elsewhere in Table I.

(b) The term "diameter" means the greatest dimension measured at a right angle to a straight line from the stem to the blossom end of the fruit, and the term "U.S. No. 3" means the same as in the U.S. Standards for Grades of Florida Avocados (7 CFR 51.3050–3069).

PART 944—[AMENDED]

§ 944.25 Avocado Import Regulation 33.

(a) *Applicability to imports.* Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited during the period June 6, 1983, through August 28, 1983, unless:

(1) Such avocados grade at least U.S. No. 3, as defined in § 915.327.

(2) Such avocados have any portion of the skin of the individual fruit changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of red or purple when mature, except for the Linda variety.

(3) Such avocados, except as provided in paragraph (a)(2) of this section, meet the minimum weight or diameter requirements for the specified effective periods for each variety listed in the following Table 2: *Provided,* That avocados may not be imported prior to the earliest date specified in column 2 of such table for the respective variety: *Provided further,* That up to a total of 10 percent, by count of the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: *Provided further,* That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE 2

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
West Indian Seedling [1]	6-27-83	7-24-83	18	
	7-25-83	8-28-83	16	
	8-29-83	9-25-83	14	
Pollock	6-27-83	7-10-83	18	3 13/16
	7-11-83	7-24-83	16	3 5/16
	7-25-83	8-7-83	14	3 5/16
Trapp	7-25-83	8-7-83	11	3 1/16
	8-8-83	8-21-83	12	3 5/16
Catalina	8-22-83	9-4-83	24	
	9-5-83	9-25-83	22	
Guatemalan Seedling [2]	9-12-83	10-9-83	15	
	10-10-83	12-11-83	13	

[1] Avocados of the West Indian type varieties and the West Indian type seedlings, except for the Pollock and Trapp varieties.
[2] Avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings, except for the Catalina variety.

(b) It is hereby found that avocados imported into the United States shall meet the same grade and maturity requirements specified in § 915.327 for avocados grown in South Florida under M.O. 915 (7 CFR Part 915), except that all varieties of avocados, other than the Pollock, Catalina, and Trapp varieties, shall meet comparable weight or diameter maturity requirements, because it is not practicable to apply the same requirements due to the variations in characteristics between avocados grown in Florida and avocados imported into the United States.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 400).

(d) The term "importation" means release from custody of the United States Customs Service.

(e) *Minimum quantity exemption.* Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

(f) Any lot or portion thereof which fails to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

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

Dated: May 26, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-14568 Filed 6-2-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1033

[Milk Order No. 33; Docket No. AO–166–A51]

Milk in Ohio Valley Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action adopts on an emergency basis a temporary amendment to the Ohio Valley milk order. The order change provides for a reduction of 40 cents per hundredweight in the price for producer milk used to produce butter, nonfat dry milk and cheese. The change, which will apply only through July 1983, is based on evidence presented at a public hearing held on March 3 and 4, 1983, in Middleburg Heights, Ohio, to consider proposed amendments to the Ohio Valley and Eastern Ohio-Western Pennsylvania milk orders. The hearing was requested by a cooperative association representing a majority of the producers who supply milk to the two markets.

The change is necessary to reflect current marketing conditions and to assure orderly marketing of unusually large supplies of surplus milk. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and the opportunity to file exceptions thereto were omitted. A cooperative association representing more than two-thirds of the producers supplying the Ohio Valley market have approved the issuance of the amended order. A referendum will be held to determine producer approval of the amended Eastern Ohio-Western Pennsylvania milk order.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order

Formulation Branch, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202/447-6273).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of executive Order 12291.

Prior documents in this proceeding:

Notice of hearing: Issued February 15, 1983; published February 22, 1983 (48 FR 7462).

Reopening of hearing: Issued March 23, 1983; published March 25, 1983 (48 FR 12552).

Emergency Final Decision: Issued May 13, 1983; published May 18, 1983 (48 FR 22313).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Ohio Valley order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Ohio Valley marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective upon publication in the **Federal Register.** Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued May 13, 1983 (48 FR 22313). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the **Federal Register** and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.** (Sec. 553(d), Administrative procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1033

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Ohio Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

In § 1033.60, paragraph (h) is added to read as follows:

§ 1033.60 Computation of the net pool obligation of each handler.

* * * * *

(h) With respect to milk marketed on and after the effective date of this amendatory action through July 1983, subtract an amount determined by multiplying the pounds of producer milk used to make butter, nonfat dry milk and cheese (except cottage cheese and cottage cheese curd) by 40 cents per hundredweight.

Effective date: June 3, 1983.

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

Signed at Washington, D.C., on: May 31, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-14929 Filed 6-2-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1036

[Milk Order No. 36; Docket No. AO-179-A46]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action adopts on an emergency basis a temporary amendment to the Eastern Ohio-Western Pennsylvania milk order. The order change provides for a reduction of 40 cents per hundredweight in the price for producer milk used to produce butter, nonfat dry milk and cheese. The change, which will apply only through July 1983, is based on evidence presented at a public hearing held on March 3 and 4, 1983, in Middleburg Heights, Ohio, to consider proposed amendments to the Ohio Valley and Eastern Ohio-Western Pennsylvania milk orders. The hearing was requested by a cooperative association representing a majority of the producers who supply milk to the two markets.

The change is necessary to reflect current marketing conditions and to assure orderly marketing of unusually large supplies of surplus milk. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and

the opportunity to file exceptions thereto were omitted. Issuance of the amended order has been approved by more than two-thirds of the producers in the market.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Chief, Order Formulation Branch, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202/447-6273).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of hearing: Issued February 15, 1983; published February 22, 1983 (48 FR 7462).

Reopening of hearing: Issued March 23, 1983; published March 25, 1983 (48 FR 12552).

Emergency Final Decision: Issued May 13, 1983: published May 18, 1983, (48 FR 22313).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Eastern Ohio-Western Pennsylvania order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective upon publication in the **Federal Register.** Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The decision of the Assistant Secretary containing all amendment provisions of this order was issued May 13, 1983 (48 FR 22313). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective upon publication in the **Federal Register** and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register.** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1036

Milk marketing orders, Milk, Dairy products.

Order Relative To Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1036—MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

In § 1036.60, paragraph (f) is added to read as follows:

§ 1036.60 Handler's value of milk for computing uniform price.

* * * * *

(f) With respect to milk marketed on and after the effective date of this amendatory action through July 1983, subtract an amount determined by multiplying the pounds of producer milk used to make butter, nonfat dry milk and cheese (except cottage cheese and cottage cheese curd) by 40 cents per hundredweight.

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

Effective date: June 3, 1983.

Signed at Washington, D.C., on: June 1, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-15005 Filed 6-2-83; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1139

Milk in Lake Mead Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for May through July 1983 the requirement under the Lake Mead Federal milk order that 20 percent of a dairy farmer's monthly milk production be received at a pool plant in order for the remaining production to be eligible to be moved directly from the farm to nonpool manufacturing plants and still be priced and pooled under the order. The suspension was requested by a cooperative association in order to reduce the hauling costs of disposing of an increased supply of milk that is not needed for fluid use.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued May 5, 1983; published May 10, 1983 (48 FR 20929).

It has been determined that this suspension is not a major action under the criteria set forth in Executive Order 12291.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the issuance of the suspension in time to include May 1983 in the suspension period. The request for this action was received on April 27, 1983.

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 lessens the regulatory impact of the order on certain milk handlers and will tend to insure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

After considering all relevant information, it is hereby found and determined that for the months of May through July 1983, the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1139.13(d)(2), the language "from whom at least 20 percent of his milk production is received during the month at a pool plant".

2. In § 1139.13(d)(3), the language "from whom at least 20 percent of his milk production is received during the month at the pool plant".

Statement of Consideration

This action suspends for May through July 1983 the requirement that a portion of a dairy farmer's monthly milk production be received at a pool plant in order for the remaining production to be eligible to be diverted directly from the farm to nonpool plants and still be priced and pooled under the order. The order currently provides that 20 percent of a dairy farmer's production must be received at a pool plant in order for the remaining production of the producer to the eligible for diversion by a cooperative association or other handlers.

The suspension was requested by the Lake Mead Cooperative Association, which supplies a substantial part of the market's fluid milk needs and handles most of the market's reserve supplies. The cooperative association requested the suspension to provide for greater efficiencies in handling the market's reserve milk supply.

The need to handle an increasing quantity of reserve milk supplies is a result of a continuing imbalance between the market's fluid milk requirements and the milk supplies available from producers. The cooperative indicated that milk production continues to be heavy without a corresponding increase in sales to fluid milk outlets. As a result of these marketing conditions, the order limits on the quantity of milk that may be moved directly from farms to nonpool plants and still be priced under the order were suspended for the months of April through July 1983 (48 FR 16028). A similar suspension has been in effect since April 1982 (47 FR 17036, 47 FR 38496, 47 FR 55201).

Although the diversion limitations are currently suspended, the requirement that 20 percent of a dairy farmer's monthly milk production must be received at a pool plant in order for the remaining quantity to be eligible for diversion to nonpool plants has remained in effect. As a result, the cooperative stated that substantial quantities of the milk of individual producers who are located farthest from the market would have to be shipped to pool plants solely for diversion qualification purposes. The shipment of distantly located milk supplies to pool plants displaces the milk of other producers who are located nearer to the distributing plants. Such milk must then be shipped to distant outlets for surplus disposal. Thus, the cooperative contended it would incur unnecessary hauling costs because of the need to qualify the milk of its member producers to be eligible for diversion to nonpool plants. The cooperative indicated that suspension of this requirement will eliminate costly and inefficient movements of producer milk that are made solely for the purpose of pooling the milk of dairy farmers who have been regularly associated with the market.

The cooperative requested the suspension until a more permanent regulatory solution to the supply-demand imbalance in the market could be formulated based on the record of a public hearing. It is expected that a hearing will be held in the near future to consider proposals to amend the order to accommodate current marketing conditions.

Interested parties were given the opportunity to submit written data, views or arguments concerning the suspension. No comments were received.

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

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the affected and adjoining marketing areas;

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

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No views opposing this suspension were received.

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

List of Subjects in 7 CFR Part 1139

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in § 1139.13 of the Lake Mead order are hereby suspended for May through July 1983.

Effective Date: June 3, 1983.

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

Signed at Washington, D.C., on May 31, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-14928 Filed 6-2-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 83-053]

Specifically Approved States To Receive Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which added New York to the list of specifically approved States authorized to receive certain stallions imported into the United States from countries affected with contagious equine metritis (CEM). This action is taken because the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, determined that New York has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further ensure their freedom from CEM as required by the regulations. This action was necessary in order to avoid the imposition of unnecessary restrictions on importers of stallions from countries affected with CEM.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844-AAA, Federal Building, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

Section 92.2(i)(2) of the regulations in 9 CFR Part 92, among other things, authorizes the importation of certain male horses (stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into approved States for further inspection, treatment and testing.

A document published in the **Federal Register** on June 7, 1982 (47 FR 24540-24541), set forth an interim rule amending § 92.4(a)(5)(ii) of the regulations in 9 CFR Part 92 by adding New York to the list of States approved to receive these stallions. The addition of New York to the list was based on the finding that it meets certain criteria concerning treatment, testing, and handling procedures for these stallions.

The interim rule was made effective on the date it was signed, June 1, 1982, in order to relieve as soon as possible unnecessary restrictions that had been placed on importers of these stallions.

Comments were solicited for 60 days after publication of the amendment. No comments were received. The factual situation which was set forth in the document of June 7, 1982, still provides a basis for the amendment. Accordingly, it has been determined that the amendment should remain effective as published in the **Federal Register** on June 7, 1982.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, 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 any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512-1.

This action affirms an interim rule which provides a means by which stallions over 731 days of age from countries affected with CEM and bound for New York can be imported directly into New York. Otherwise, the stallions would be allowed to be imported only to other States which have been approved to receive these stallions from countries affected with CEM. The nearest States to New York approved to receive these stallions from countries affected with CEM are Ohio, Maryland, and Virginia. This action should result in a decrease of transportation costs for such horses.

It is anticipated that the number of these stallions imported into the United States from countries affected with CEM will be insignificant compared with horses of all classes imported into the United States. In the last year only 9 of these stallions were imported into New York and 70 into the entire United States from countries affected with CEM, compared with 38,983 horses of all classes imported into the United States.

Under the circumstances explained above, 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.

List of Subjects in 9 CFR Part 92

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

(Sec. 2, 32 Stat. 792, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d)).

Done at Washington, D.C., this 27th day of May 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-14869 Filed 6-2-83; 8:45 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

14 CFR Part 252

[Economic Regulations Amendment 1; Docket 29044]

Smoking Aboard Aircraft

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB affirms and provides further explanation for its earlier decision not to ban smoking on short flights and not to include vague language in its smoking rule prohibiting unreasonable burdens on nonsmokers from breathing tobacco smoke. The Board also republishes provisions previously eliminated regarding cigars and pipes and ventilation systems. This action is taken in response to a decision of the United States Court of Appeals for the District of Columbia.

DATES: Adopted: May 19, 1983. Effective: July 3, 1983.

FOR FURTHER INFORMATION CONTACT: David E. Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: By ER-1245, 46 FR 45934, September 16, 1981, the Board adopted a new version of 14 CFR Part 252, *Smoking Aboard Aircraft*. This was the culmination of a rulemaking proceeding that began in 1976 with a petition from Action on Smoking and Health (ASH), and included five notices of proposed rulemaking, one prior final rule, dozens of formal comments, thousands of individual letters and an oral argument.

In ER-1245, the Board decided to replace the then-existing rule with a less

detailed regulation. The new rule required airlines to provide separate seating for smokers and nonsmokers and to guarantee a seat in the no-smoking section for all nonsmokers with confirmed reservations who arrived by the airline's check-in deadline. As before, smokers had no right to smoke under this rule. The Board rejected arguments for ending its regulation of smoking, banning all smoking, banning smoking on small aircraft and short flights, and requiring special provisions for passengers especially sensitive to smoke. Details concerning cigars and pipes and ventilation systems, and language prohibiting unreasonable burdens were not included in the new rule.

ASH filed suit challenging ER-1245. The Air Transport Association of America and Transamerica Airlines intervened challenging the Board's authority to regulate smoking. On January 28, the Court issued it decision. *Action on Smoking and Health v. CAB*, F. 2d (D.C. Cir. 1983). It upheld the Board's authority to regulate smoking. It also did not question the Board's decision not to ban smoking on all flights and to permit airlines to establish a check-in deadline for guaranteeing a no-smoking seat. It did, however, direct the Board to provide further explanation for not adopting its proposals to (1) ban smoking on small aircraft, (2) ban smoking on short flights, and (3) provide special protections for persons especially sensitive to smoke. It also required further explanations for not continuing the previous requirements that (1) cigar and pipe smokers be specially segregated, (2) smoking be banned when the ventilation system is not fully functioning, and (3) nonsmokers not be unreasonably burdened by breathing smoke.

After the Court issued its decision, ASH filed a motion for oral argument, which we are granting, and a petition for rulemaking. In its petition ASH asked the Board to republish the three requirements above that had not been continued from the previous rule. It also asked the Board to reopen the smoking docket, or in the alternative, to institute a new rulemaking to consider the three provisions above that had been proposed but not adopted.

This notice responds to the Court's directive and the ASH petition with respect to some of the provisions summarized above. The others are the subject of a new rulemaking and are therefore discussed in EDR-461, issued simultaneously.

Short Flights

In EDR-377, 44 FR 29846, May 21, 1979, the Board proposed a ban on smoking during flights of one hour or less. This proposal was singled out for particular criticism. Delta argued that the nonsmoker's annoyance is less on a short flight because the duration of exposure would not be as long. The Association of Flight Attendants was concerned that it would be difficult to administer. PSA pointed out that there may be enforcement problems, especially if the Board does not clarify whether the 1 hour refers to scheduled or actual flight time. The Tobacco Institute considered the 1-hour cutoff to be arbitrary. ASH favored a 90-minute or 2-hour cutoff so that carriers could not evade the ban by listing a 1-hour flight as being 65 minutes.

The Board here reaffirms its decision not to adopt a ban on smoking on short flights. Unlike the proposal to ban smoking on small aircraft, there does not appear to be any characteristic of short flights that causes nonsmokers any greater problem than flights of longer duration. Indeed, the opposite is the case since smoking is limited to a briefer period of time. We also agree with those commenters that found it would be difficult to administer and enforce. It would be particularly troublesome on multisegment flights where smoking would be permitted at some times, and then prohibited during other parts of the trip. In addition, such a ban would require arbitrary line drawing. It might create a perverse incentive for some carriers to rearrange their schedules to evade it. We conclude on balance that the limited benefits are outweighed by the difficulties associated with this proposal.

Unreasonable Burden

The Board's smoking rule, as revised by ER-1245, did not include the "unreasonably burdened by breathing smoke" language formerly in § 252.2. This language has been viewed by the Board as an objective to be achieved by the rule rather than as a specific regulatory requirement. In addition the Board recognized that it had no sufficient justification for banning the practice of sandwiching nonsmokers between two smoking sections, so it dealt with the complaints about sandwiching by adding this hortatory language to paragraph (e) of § 252.2.

The Board concludes that this language is too vague to be effectively enforced and merely serves to create confusion over exactly which airline practices are prohibited. Some have tried to use this language as a basis for prohibiting longitudinal separation of smokers and nonsmokers, although the airlines and others have not viewed it as prohibiting that arrangement. Indeed, at least one aircraft manufacturer has stated that longitudinal separation would be the most effective way to separate smokers and nonsmokers.

The Board therefore reaffirms its decision not to include the "unreasonably burdened" language in the revised Part 252 and denies ASH's petition insofar as it asked the Board to republish it. We continue to view protecting nonsmokers from an unreasonable burden, whether from sandwiching or other airline practices, as one of the main purposes of its rule. There is no persuasive evidence, however, that the current required separation is not the most practical way to achieve this.

ASH did attach to its petition letters from people who claimed to be bothered by smoke even though they were in the no-smoking section. Most did not complain that they had been sandwiched between two smoking sections but rather were concerned about drifting smoke.

The problem thus appears to be primarily one of drifting smoke. The Board is not persuaded that it will help the situation to include hortatory language in a rule that nonsmokers should not be unreasonably burdened. There has been no showing that the level of complaints was affected by either the adoption or elimination of this language. It would be much better, from a regulatory standpoint, to propose specific requirements. ASH suggested none in its recent petition. The Board, however, has tried to do so. In EDR-377, it proposed to require physical barriers or buffer zones as a means of protecting nonsmokers from drifting smoke. The buffer zone, under this proposal, would have been composed of one row of seats that were either vacant or occupied by persons who did not object to being placed next to the smoking section.

Most nonsmokers who addressed this aspect of the proposal did not favor it, expressing doubt whether partitions or buffer zones would be effective. Some did suggest that the Board require carriers to install a wall-to-wall, floor-to-ceiling plexiglass divider between smoking and no-smoking sections. The Association of Flight Attendants viewed a one-row buffer zone as adequate. Donald Pevsner and other nonsmokers did not consider one row to be enough.

Several arguments were raised by airlines against the use of barriers or buffer zones. Delta viewed a Board-imposed requirement that carriers install

barriers to be contrary to section 401(e)(4) of the Act, prohibiting the Board from restricting a carrier's use of its accommodations and facilities. ATA and PSA stated that barriers would limit flexibility of carriers to expand the no-smoking section to accommodate an unexpectedly large number of nonsmoking passengers. TIA claimed that there was no FAA-approved structure that could be moved at the last minute. PSA and the Association of Flight Attendants were concerned that any partition would be unsafe. PSA added that its studies indicate that barriers would not protect non-smokers from smoke. ATA stated that attempts to establish a buffer zone comprised of nonsmokers who do not object to smoke would delay check-in and necessitate the hiring of more airline personnel, thereby increasing carrier costs and fares.

In light of the lack of enthusiasm for these proposals on the part of non-smokers, the operational, enforcement, safety, and financial problems they may cause if imposed as described above, and the lack of any clear evidence that prohibiting sandwiching or requiring partitions or buffer zones would minimize complaints about drifting smoke, we have decided not to adopt these proposals. Their difficulties and costs, in the Board's judgment, would far outweigh their uncertain benefits.

Cigars and Pipes and Ventilation

Prior to ER-1245, the Board's smoking rule required carriers to provide for special segregation of cigar and pipe smokers and to ban smoking when the aircraft ventilation system was not fully functioning. As revised by ER-1245, the rule no longer included these requirements. The Court of Appeals vacated this aspect of that decision. ASH has now asked the Board to republish them.

The Board recognizes that cigar and pipe smoke causes greater discomfort for some nonsmokers than cigarettes. The Board, in EDR-461, issued simultaneously, is therefore proposing to ban cigar and pipe smoking entirely. The Board is also here republishing the special segregation requirement so that that requirement will be in effect while the rulemaking to ban cigar and pipe smoking is pending.

For generally the same reasons, the Board is also republishing the ventilation requirements. Although, for the reasons discussed more fully in EDR-461, the Board has doubts about the appropriateness of that provision, it has decided to republish it while it is considering what the proper ventilation standard should be.

Final Regulatory Flexibility Analysis

The Board's final regulatory flexibility analysis of this rule is contained in ER-1245 as supplemented by the discussion above. Copies of these documents can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428 (202-673-5432) by referring to the "ER" number at the top of the document.

List of Subjects in 14 CFR Part 252

Air carriers, Consumer protection, Smoking.

Accordingly:

PART 252—[AMENDED]

1. For the reasons discussed above, the Board affirms its decision in ER-1245, 46 FR 45934, September 16, 1981, not to ban smoking on short flights;

§ 252.2 [Amended]

2. For the reasons discussed above, the introductory paragraph and paragraph (e) of § 252.2 of 14 CFR Part 252, *Smoking Aboard Aircraft* (1981), are again removed; and

3. A new § 252.1a is added to read:

§ 252.1a Special segregation of cigar and pipe smokers.

Carriers shall adopt and enforce rules providing for special segregation of cigar and pipe smokers, and for such other procedures as may be necessary to avoid exposing persons seated in no-smoking areas to smoke from cigars and pipes.

4. A new § 252.2a is added to read:

§ 252.2a Ban on smoking when ventilation systems not fully functioning.

Carriers shall adopt and enforce rules prohibiting the smoking of tobacco whenever the ventilation system is not fully functioning. A ventilation system shall be considered fully functioning only when all parts are in working order and operating at the capacity designed for normal service.

(Secs. 204, 404, 407, and 416 of Pub. L. 85-726, as amended, 72 Stat. 743, 760, 766, 771, 49 U.S.C. 1324, 1374, 1377, 1386.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-14944 Filed 6-2-83; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 423

Amendment to Trade Regulation Rule Concerning Care Labeling of Textile Wearing Apparel and Certain Piece Goods

Correction

FR Doc. 83-13576 was published on page 22733 in the issue of Friday, May 20, 1983. The trade regulation rule requires manufacturers and importers of textile wearing apparel and certain piece goods to provide labels for their products which disclose information for cleaning and care of the product. The document was published in the Proposed Rules section of the **Federal Register**. It should have appeared in the Rules section.

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 131

[Docket No. 77N-0143]

Standards of Identity for Cultured and Acidified Milks, Cultured and Acidified Buttermilks, Yogurts, and Eggnog; Confirmation of Effective Date and Extension of Effective Date of Previously Confirmed Provisions

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date and extension of effective date of previously confirmed provisions.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date for compliance with the amendments to the standards of identity for acidified milk, acidified lowfat milk, acidified skim milk, cultured milk, cultured lowfat milk, cultured skim milk, eggnog, yogurt, lowfat yogurt, and nonfat yogurt. FDA is also extending the effective date of the previously confirmed provisions of the standards to coincide with this effective date.

DATES: Effective July 1, 1985, for all affected products initially introduced or initially delivered for introduction into interstate commerce on or after this date. Voluntary compliance with the amendments to the standards of identity published in the **Federal Register** of September 21, 1982 (47 FR 41519), may have begun November 22, 1982. Voluntary compliance with the provisions of the standards published in

the **Federal Register** of January 30, 1981 (46 FR 9924), and confirmed in the **Federal Register** of September 21, 1982 (47 FR 41519), may have begun March 31, 1981.

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 30, 1981 (46 FR 9924), FDA published a final rule that established standards of identity for acidified milk (21 CFR 131.111), cultured milk (21 CFR 131.112), acidified lowfat milk (21 CFR 131.136), cultured lowfat milk (21 CFR 131.138), acidified skim milk (21 CFR 131.144), cultured skim milk (21 CFR 131.146), eggnog (21 CFR 131.170), yogurt (21 CFR 131.200), lowfat yogurt (21 CFR 131.203), and nonfat yogurt (21 CFR 131.206). The final rule also redesignated 21 CFR 131.145 *Skim milk* as 21 CFR 131.143 *Skim milk*. Except for provisions that were stayed by the filing of proper objections, the final rule would be effective July 1, 1983.

In the **Federal Register** of September 21, 1982 (47 FR 41519), FDA confirmed the effective date of July 1, 1983, for certain provisions of the standards of identity for acidified and cultured milks, eggnog, and yogurts. FDA also stayed certain provisions of these standards of identity because FDA had received objections and requests for hearing. In the same document, the agency issued further amendments to §§ 131.111 (d) and (e)(6); 131.112(d)(6); 131.136 (d) and (e)(6); 131.138(d)(6); 131.144 (d) and (e)(6); 131.146(d)(6); 131.170(a); 131.200 (a), (b), and (f)(1)(iii); 131.203 (a), (b), and (f)(1)(iv); and 131.206 (a), (b), and (f)(1)(iii). Any person adversely affected by the amendments could have, at any time on or before October 21, 1982, filed written objections and requested a hearing.

FDA received one objection and request for a hearing from the Milk Industry Foundation to extend the effective date of the previously confirmed provisions of these standards from July 1, 1983, to July 1, 1985. The Milk Industry Foundation stated that extending the effective date to July 1, 1985, would provide a uniform effective date for all confirmed provisions of the standards of identity for cultured and acidified milks, yogurts, and eggnog, which would serve the best interests of both the consumer and the affected industry.

The objection does not involve an issue of fact that warrants a hearing. FDA agrees, however, that it is reasonable to have one effective date. Therefore, FDA is extending the effective date of those provisions of the standards of identity that were confirmed in the **Federal Register** of September 21, 1982 to July 1, 1985.

List of Subjects in 21 CFR Part 131

Cream; Food standards; Milk; Yogurt.

PART 131—MILK AND CREAM

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that the amendments to §§ 131.111, 131.112, 131.136, 131.138, 131.144, 131.146, 131.170, 131.200, 131.203, and 131.206, published in the **Federal Register** of September 21, 1982 (47 FR 41519), will become effective July 1, 1985, and that the effective date for compliance with the amendments published in the **Federal Register** of January 30, 1981 (46 FR 9924), and confirmed in the **Federal Register** of September 21, 1982 (47 FR 41519), is extended from July 1, 1983, to July 1, 1985. Voluntary compliance with the amendments to the standards of identity published in the **Federal Register** of September 21, 1982 (47 FR 41519), may have begun November 22, 1982. Voluntary compliance with the amendments to the standards of identity published in the **Federal Register** of January 30, 1981 (46 FR 9924), may have begun March 31, 1981.

Dated: May 26, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-14697 Filed 5-27-83; 2:17 pm]

BILLING CODE 4160-01-M

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21 CFR Parts 175 and 178

[Docket No. 81F-0268]

Indirect Food Additives; Adhesive Coatings and Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of *alpha* olefin sulfonate [alkyl group is in the range of C_{10}–C_{18} with not less than 50 percent C_{14}–C_{16}], ammonium, calcium, magnesium, potassium, and sodium salts as emulsifiers and/or surface active agents in adhesives, vinyl chloride copolymer coatings, acrylic coatings, and certain acrylonitrile-butadiene copolymers. Witco Chemical Corp. petitioned for this use.

DATES: Effective June 3, 1983; objections by July 5, 1983.

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

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 2, 1981 (46 FR 48767), FDA announced that a petition (FAP 1B3567) had been filed by Witco Chemical Corp., Houston, TX 77045, proposing that the food additive regulations be amended to provide for the safe use of *alpha* olefin sulfonate [alkyl group is in the range of C_{10}–C_{18} with not less than 50 percent C_{14}–C_{16}], ammonium, calcium, magnesium, potassium, and sodium salts, as emulsifiers and/or surface-active agents in the manufacture of articles or components of articles intended for food-contact applications.

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

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

The agency previously considered the

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

List of Subjects

21 CFR Part 175

Adhesives; Food additives; Food packaging.

21 CFR Part 178

Food additives; Food packaging; Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetics Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61 as revised February 4, 1983; 48 FR 5251), Parts 175 and 178 are amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

1. Part 175 is amended in § 175.105(c)(5) by alphabetically inserting a new item in the list of substances to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
alpha Olefin sulfonate [alkyl group is in the range of C_{12}–C_{18} with not less than 50 percent C_{14}–C_{16}], ammonium, calcium, magnesium, potassium, and sodium salts	
* * * * *	

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

2. Part 178 is amended in § 178.3400 (c) by alphabetically inserting a new item in the list of substances to read as follows:

§ 178.3400 Emulsifiers and/or surface-active agents.

* * * * *

(c) * * *

List of substances	Limitations
alpha Olefin sulfonate [alkyl group is in the range of C_{12}–C_{18} with not less than 50 percent C_{14}–C_{16}], ammonium, calcium, magnesium, potassium, and sodium salts.	For use only: 1. In acrylonitrile-butadiene copolymers identified in § 177.2600(c)(4)(i) of this chapter. 2. At levels not to exceed 1 percent by weight of acrylic coatings complying with § 175.300(b)(3)(xx) of this chapter and having a maximum thickness of 0.051 millimeter (0.002 inch). The finished polymers contact food only of the types V, VIII, and IX as identified in table 1 of § 176.170(c) of this chapter. 3. At levels not to exceed 2 percent by weight of vinyl chloride copolymer coatings having a maximum thickness of 0.051 millimeter (0.002 inch) and complying with § 175.300(b)(3)(xv) of this chapter. The finished polymers contact food only of the types V, VIII, and IX as identified in table 1 of § 176.170(c) of this chapter. 4. As provided in § 175.105 of this chapter.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 5, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 3, 1983.

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

Dated: May 20, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-14699 Filed 5-27-83; 2:14 pm]

BILLING CODE 4160-01-M

21 CFR Part 510

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for several new animal drug applications (NADA's) from Evsco Pharmaceuticals Corp., subsidiary of Damon Corp., to Evsco Pharmceuticals, an Affiliate of ImmunoGenetics, Inc. Supplements to the affected NADA's provide for this change.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: Evsco Pharmaceuticals, an Affiliate of ImmunoGenetics, Inc., Box 209, Harding Hwy., Buena, NJ 08310, has filed several supplemental NADA's providing for a change of sponsor from Evsco Pharmaceutical Corp., Subsidiary of Damon Corp.

This change of sponsor for several NADA's does not involve changes in manufacturing facilities, equipment, procedures, or personnel. The list of sponsor names and addresses in 21 CFR 510.600(c) is amended to reflect the change of sponsor.

List of Subjects in 21 CFR Part 510

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

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), § 510.600 is amended in paragraph (c)(1) by revising the entry for Evsco Pharmaceutical Corp., and in paragraph (c)(2) by removing the sponsor name in the entry for "017030" and inserting the new sponsor name, to read as follows:

PART 510—NEW ANIMAL DRUGS

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Evsco Pharmaceuticals, An Affiliate of Immuno-Genetics, inc., Box 209, Harding Hwy., Buena, NJ 08310	017030
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
017030	Evsco Pharmaceuticals, An affiliate of ImmunoGenetics, Inc., Box 209, Harding Hwy., Buena, NJ 08310.
* * * * *	

Effective date. June 3, 1983.

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

Dated: May 25, 1983.

Max L. Crandall,

Associate Director for Surveillance and Compliance.

[FR Doc. 83-14837 Filed 6-2-83; 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 supplemental new animal drug application (NADA) filed for Feed Service Co., Inc., providing for manufacturing a 10-gram-per-pound tylosin premix from a 40- or 100-gram-per-pound premix or granulated tylosin concentrate. The intermediate premix is used to make complete feeds for swine, cattle, and chickens. This supplemental NADA also provides for a change of sponsor address.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: Feed Service Co., Inc., 303 Lundin Blvd., P.O. Box 698, Mankato, MN 56001, is the sponsor of a supplement to NADA 111-637 submitted on its behalf by Elanco Products Co. This NADA currently provides for use of 40-gram-per-pound tylosin (as tylosin phosphate) premixes to make 10-gram-per-pound intermediate premixes subsequently used in complete swine feeds. This supplement provides for use of the 40- and 100-gram-per-pound premixes or granulated tylosin concentrate to make 10-gram-per-pound premixes subsequently used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). The basis for approval of this supplement is discussed in the freedom of information (FOI) summary. Based on the data and information submitted, the supplement is approved and the regulations are amended to reflect the approval.

This supplemental NADA also provides for a change of sponsor address. The regulations are amended to provide for this change.

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 agency 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 and recordkeeping 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

§ 510.600 [Amended]

1. In Part 510, § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) for the entry "Feed Service Co., Inc." and (c)(2) for No. "030841" under "Firm name and address" by revising the address to read "303 Lundin Blvd., P.O. Box 698, Mankato, MN 56001."

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 558.625(b)(54) is revised to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(54) To No. 030841: 10 grams per pound; paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. June 3, 1983.

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

Dated: May 25, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-14565 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Sulfamethazine Sustained-Release Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Bayvet Division of Miles Laboratories. The regulation covering use in cattle of sustained-release boluses containing 22.5 grams of sulfamethazine is being amended to remove the limitation that the product may only be used by or on the order of a licensed veterinarian.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Bayvet Division of Miles Laboratories, Inc., P.O. Box 390, Shawnee Mission, KS 66201, filed a supplement to NADA 93-329 providing for deleting the limitation on the product label that required use only by or on the order of a licensed veterinarian (prescription use). The supplement also deleted the recommended use of the product at a dosage level of 22.5 grams of sulfamethazine per 100 pounds of body weight, revised the claims for the product to identify the pathogenic organisms against which the drug is effective, and added a warning statement to the product label advising that a veterinarian should be consulted

if treated animals do not respond within 2 to 3 days.

Under the Bureau of Veterinary Medicine's supplemental approval policy (**Federal Register** of December 23, 1977; 42 FR 64367), this is a Category II supplemental approval that does not require reevaluation of the safety and effectiveness data in the original application.

This basis of approval of the supplement is discussed fully in the freedom of information summary. The product was originally approved for prescription use only since the product was a new entity with limited drug experience data. Also, the withdrawal was in excess of 10 days, and an administrative decision had been made to limit such products to prescription use. Based on the data and information submitted, the supplement is approved and the regulations are amended to reflect the approval.

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 agency 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.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)), 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 in § 520.2260b by revising paragraph (a)(2), to read as follows:

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

§ 520.2260b Sulfamethazine sustained-release boluses.

(a)(1) * * *

(2) *Conditions of use*—(i) *Amount.* Administer as a single-dose 1 bolus (22.5 grams) per 200 pounds of body weight.

(ii) *Indications of use.* Beef and nonlactating dairy cattle for the prolonged treatment of the following diseases when caused by one or more of the listed pathogenic organisms sensitive to sulfamethazine: bovine respiratory disease complex (shipping fever complex) (*Pasteurella* spp.), bacterial pneumonia (*Pasteurella* spp.), necrotic pododermatitis (foot rot) (*Fusobacterium necrophorum*), colibacillosis (bacterial scours), (*Escherichia coli*), calf diptheria (*Fusobacterium necrophorum*), acute mastitis (*Streptococcus* spp.), and acute metritis (*Streptococcus* spp.).

(iii) *Limitations.* Cattle that are acutely ill should be treated by injection with a suitable antibacterial product to obtain immediate therapeutic blood levels; do not slaugther animals for food within 16 days of treatment; do not use in lactating dairy cattle; if treated animals do not respond within 2 to 3 days, consult a veterinarian.

* * * * *

Effective date. June 3, 1983.

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

Dated: May 25, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-14586 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Sterile Benzathine Penicillin G and Procaine Penicillin G Suspension

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 Beecham Laboratories. The supplement provides for over-the-counter (OTC) marketing of benzathine penicillin G and procaine penicillin G suspension for subcutaneous use in beef cattle.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Bristol, TN 37620, filed a supplement to its approved NADA 65–488 for Benza-Pen (benzathine penicillin G and procaine penicillin G suspension). The supplement requested OTC marketing of Benza-Pen when the product is labeled solely for subcutaneous use in beef cattle for the treatment of certain bacterial infections. The supplement did not include additional safety or effectiveness data. Under the Bureau of Veterinary Medicine's supplemental approval policy (see 42 FR 64367; December 23, 1977), this is a Category II approval which does not require reevaluation of the safety and effectiveness data in the original application. The basis of approval of this supplement is discussed in the **Federal Register** of July 23, 1982 (47 FR 31865). The supplement is approved and the regulations are amended to reflect the approval.

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 540

Animal drugs, Antibiotics, Penicillin.

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 540.255c [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n))) 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), § 540.255c *Sterile benzathine penicillin G and procaine penicillin G suspension* is amended in paragraph (c)(2)(ii) by inserting the phrase "000029 and" before the number "010271."

Effective date. June 3, 1983.

(Sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n)).)

Dated: May 27, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-14635 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 540

Penicillin Antibiotic Drugs for Animal Use; Sterile Benzathine Penicillin G and Procaine Penicillin G Suspension

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 Bristol Laboratories. The supplement provides for over-the-counter (OTC) marketing of benzathine penicillin G and procaine penicillin G suspension for subcutaneous use in beef cattle.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Bristol Laboratories, Division of Bristol-Myers Co., P.O. Box 657, Syracuse, NY 13201, filed a supplement to its approved NADA 65-169 for Dura-Biotic (benzathine pencillin G and procaine penicillin G suspension). The supplement requested OTC marketing of Dura-Biotic when the product is labeled solely for subcutaneous use in beef cattle for the treatment of certain bacterial infections. The supplement did not include additional safety or effectiveness data. Under the Bureau of Veterinary Medicine's supplemental approval policy (see 42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the original application. The basis of approval of this supplement is discussed in the **Federal Register** of July 23, 1982 (47 FR 31865). The supplement is approved and the regulations are amended to reflect the approval.

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 540

Animal drugs, Antibiotics, Penicillin.

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

§ 540.255c [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))) 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), § 540.255c *Sterile benzathine penicillin G and procaine penicillin G suspension* is amended in paragraph (c)(2)(ii) by inserting the number "000015" before the phrase "000029 and 010271."

Effective date. June 3, 1983.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n)))

Dated: May 27, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-14836 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Solar Energy and Energy Conservation Bank

24 CFR Part 1800

[Docket No. R-83-1053]

Financial Assistance Program

Correction

In FR Doc. 83-14153, beginning on page 24254 in the issue of Tuesday, May 31, 1983, make the following correction.

On page 24254, first column, the line reading: *"Dates: Effective Date:* May 31, 1982." should have read *"Dates: Effective Date:* May 31, 1983."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 260

Outer Continental Shelf Oil and Gas Bidding Systems

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule removes provisions relating to the use of variable net profit share and work commitment bidding systems in the award of Federal oil and gas leases on the Outer Continental Shelf (OCS). The Department of the Interior (DOI) has determined that the purposes of the OCS Lands Act would not be served by the use or availability of these bidding systems.

EFFECTIVE DATE: July 5, 1983.

FOR FURTHER INFORMATION CONTACT: Mary Vavrina, (703) 860-7567, (FTS) 928-7567.

SUPPLEMENTARY INFORMATION:

Background

Section 8(a) of the OCS Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629, authorizes the Secretary of the Interior (Secretary) to implement alternative bidding systems for the award of Federal oil and gas leases on the OCS. This authority, which had been transferred to the Secretary of Energy, revested in the Secretary on December 21, 1981, when Congress repealed section 802(b) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7152(b), 91 Stat. 578. Rules issued by DOE under its previous authority were codified at 10 CFR Parts 375, 376, 390, 391, and 378. On January 11, 1983 (48 FR 1181), DOI transferred these regulations to 30 CFR and redesignated them as Parts 259, 260, 261, 262, and 263, respectively. In the same issue of the **Federal Register** (48 FR 1200), DOI proposed to remove provisions contained in newly redesignated 30 CFR Part 260 relating to the use of variable net profit share and work commitment bidding systems in the award of Federal oil and gas leases on the OCS. (For a description of these two systems and the history of regulatory authority to implement and administer alternative bidding systems on the OCS, see the discussion contained in the proposed rulemaking under "SUPPLEMENTARY INFORMATION," 48 FR 1200, 1201, January 11, 1983.)

To date, neither the variable net profit share nor the work commitment bidding system has been used in the award of Federal oil and gas leases on the OCS.

Public Comments

A total of 15 comments was submitted in response to the proposed rule, 13 from industry or trade organizations, 1 from a nonprofit consumer organization, and 1 from a State governmental entity. Thirteen commenters expressed complete support of the rule as it was proposed. The reasons most frequently

cited by commenters in support of the proposal to remove variable net profit share and work commitment bidding systems were that use of the systems would:

1. Introduce enormous administrative costs to both industry and Government;
2. Offer little or no incentive for rapid exploration of the OCS; and
3. Tend to encourage speculation in the OCS lease market.

It was the consensus of these commenters that the bidding systems were unlikely to have a measurable effect on competition (one area intended to be enhanced by their use) and that the negative impacts incidental to their application would far outweigh any potential benefits. The DOI agrees with these comments and, thus, has not altered its previous determination that the two bidding systems which incorporate variable net profit share and work commitment as bid variables are costly, inefficient, and counterproductive.

Two commenters suggested that, while the Secretary is not obligated to use any one of the several bidding systems authorized by the OCS Lands Act, all of those bidding systems should be available in the event that he or a future Secretary should ever choose to use them.

The DOI disagrees. The fact that variable net profit share and work commitment bidding systems are authorized by the OCS Lands Act does not alter their status as inefficient and counterproductive approaches to the management of Federal OCS oil and gas resources. Because DOI believes that these bidding systems would be contrary to the purposes and policies expressed in the OCS Lands Act, their future availability, if any, should follow upon a new rulemaking which supports such availability.

The same commenters expressed doubt as to whether it is a justifiable expense to remove existing regulations which would have to be repromulgated if it were determined that their use would be desirable.

The DOI has determined that the inclusion of these bidding systems among those available to the Secretary would be inconsistent with the purposes and policies of the OCS Lands Act. The rulemaking directed toward their removal has provided the interested public with an opportunity to address the issues involved and has created a record which serves as an appropriate foundation to the policy of rescission. The removal is a beneficial action that DOI considers to be worth the administrative costs incurred.

One of these commenters contended that the bidding systems should not be removed because they provide a superior method of obtaining fair market value.

The DOI disagrees. Ironically, it is the preamble to the DOE rulemakings codifying these bidding systems where one finds the most compelling arguments against the ability of variable net profit share and work commitment bidding systems to achieve their intended benefits. The analysis contained in that rulemaking indicates that these bidding systems would not ensure, and indeed might prove an impediment to, the attainment of fair market value in the leasing of Federal OCS oil and gas resources. (For a detailed discussion of the issues surrounding these bidding systems, see "II. Analysis of Public Comments," 46 FR 29682, June 2, 1981, and 46 FR 35815, July 9, 1981.) Indeed, it is apparent that, in the absence of a court order (later reversed) requiring the adoption of these bidding systems, they most likely would not have been promulgated in the first place. (See *Energy Action Educational Foundation v. Andrus*, 654 F.2d 735 (1980), and *Watt v. Energy Action Educational Foundation*, 454 U.S. 151 (1981).)

Accordingly, in order to ensure that the Secretary's choices of bidding systems include only those which will best accomplish the purposes and policies of the OCS Lands Act, DOI is removing the provisions relating to variable net profit share and work commitment bidding systems. Specifically, DOI is removing paragraphs (a)(5) and (a)(6) from 30 CFR 260.110.

The DOI determined that this document is not a major rule under Executive Order 12291, since it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. The DOI certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This determination is based on the fact that oil and gas operations on the OCS are complex undertakings generally engaged in by enterprises that are not considered small entities. Accordingly, no small entities of any type are likely to be significantly affected by the rule.

Because the choice of bidding systems is within the sole discretion of the Secretary and DOI believes it would not constitute prudent management of the Nation's resources to utilize either of the bidding systems removed by this rule, neither of these bidding systems has been nor would be selected for use in the award of Federal OCS oil and gas leases. The rule, therefore, will have no effect on the selection of bidding systems nor any effect on costs, prices, competition, employment, investment, productivity, innovation, or the ability of domestic producers to compete with foreign-based enterprises.

Paperwork Reduction Act

Part 260 of 30 CFR does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Drafting Information: This document was drafted by Neil Stoloff, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 260

Continental shelf, Mineral royalties, Oil and gas exploration.

Dated: May 4, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary of the Interior.

PART 260—[AMENDED]

§ 260.110 [Amended]

For the reasons set forth in the preamble, 30 CFR Part 260 is amended by removing paragraphs (a)(5) and (a)(6) from § 260.110.

[FR Doc. 83-14873 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Removal of Conditions of Approval of the Kansas Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Interim rule.

SUMMARY: This document amends 30 CFR Part 916 by removing the conditions of approval of the Kansas Abandoned Mine Land Plan under the Surface Mining Control and Reclamation Act (SMCRA) of 1977, Pub. L. 95–87. Kansas has submitted provisions to the Office of Surface Mining which satisfy all the conditions of the Assistant Secretary's approval of February 1, 1982 (47 FR 4513–4515).

EFFECTIVE DATE: This rule is effective June 3, 1983. Public comment is not required due to the interpretive nature of this interim action.

ADDRESSES: Copies of the Kansas AML Plan, the amendments submitted by the State, and all written comments received in response to this notice will be available for review at the offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

State Corporation Commission, Mined Land Conservation Board, 107 West 11th Street, Pittsburg, Kansas 66762
Office of Surface Mining Reclamation and Enforcement, Missouri State Office, 818 Grand Avenue, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles V. Smith, Program Manager, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343-7921.

SUPPLEMENTARY INFORMATION:

Background on the Kansas AML Plan Submission

On October 1, 1981, the State of Kansas submitted its proposed Abandoned Mine Land Reclamation Plan to OSM. On February 1, 1982, following a review of that proposed program as outlined in 30 CFR Part 884, the Assistant Secretary approved the Kansas AML Plan subject to the correction of three minor deficiencies. The approval was effective upon publication of the conditional approval in the February 1, 1982, **Federal Register** (47 FR 4513-4515).

Information pertinent to the general background of the AML Program and the submission of the Kansas AML Plan can be found in the February 1, 1982, **Federal Register** (47 FR 4513-4515).

Background on the Assistant Secretary's Conditional Approval

The Assistant Secretary of the Interior determined that the Kansas AML Plan contained three minor deficiencies.

1. Kansas lacked the statutory authority to deposit Federal Abandoned Mine Land Funds in the State Treasury;
2. Liens on abandoned mine lands are for the benefit of the United States instead of the State of Kansas; and
3. The Mined Land Conservation and Reclamation Board has no authority for condemnation of lands for reclamation purposes.

In granting conditional approval of the Kansas AML Plan, the Assistant Secretary found that Kansas would be ineligible to apply for AML Reclamation construction grants until the appropriate legislation was passed correcting the three deficiencies.

Submission of Revisions

On April 14, 1982, Kansas House Bill No. 2994 was signed into law. This bill gave the State authority to deposit AML Funds in a State account and amended the lien authority provisions so that liens would now benefit the State and not the Federal Government.

On May 2, 1983, the remaining deficiency was corrected with the signing into law of House Bill No. 2516. This Bill provided the State condemnation authority as required by Section 407 of SMCRA and 30 CFR 879.12(c).

Both statutes have been submitted to OSM by the State of Kansas in order to remove the funding restriction placed on the Kansas AML Program in the Assistant Secretary's findings approving the State AML Plan.

OSM has reviewed these statutory provisions and has found them to be consistent with Title IV of SMCRA and 30 CFR Subchapter R of the Secretary's regulations, and therefore recommends that the Assistant Secretary remove the conditions of approval.

Assistant Secretary's Findings

The Assistant Secretary finds the amendments submitted by the State of Kansas in April, 1982, and May, 1983, correct the deficiencies in the Kansas AML Program as follows:

(1) Kansas Statute 49-428(a) deletes the prohibition regarding the State's acceptance of and the right to deposit abandoned mine land funds. This is consistent with Section 405 of SMCRA.

(2) Kansas Statute 49-428(d)(3) deletes the provision providing that any liens filed must be for the benefit of the United States and adds a new provision stating that the lien shall be for the benefit of the State, deposited in the State Treasury and credited to the abandoned mine land fund. This is consistent with Section 408 of SMCRA and 30 CFR 882.13.

(3) Section 1(c) of House Bill 2516, and amendment to Kansas Statute 49-428, provides the Mined-Land Reclamation Board authority to acquire land by eminent domain consistent with the provisions in Section 407 of SMCRA and 30 CFR 879.12(c).

Approval Without Condition

Accordingly, the Kansas AML Plan is hereby fully approved. 30 CFR 916.20 is amended to indicate approval of the April 14, 1982, and May 2, 1983, statutes passed by the State of Kansas.

The removal of the conditions of the control approval of the Kansas AML Plan is effective upon date of publication of this notice. The good cause for making this rule effective upon publication is that the State of Kansas has construction grants pending that need to be approved to safeguard the public health, safety, and general welfare from extreme danger of adverse effects of coal mining practices. If no substantive comments are received concerning the removal of conditions for the Kansas AML Plan, OSM will not publish any further annoucements.

Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Kansas AML Plan, as amended, will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and the organization of State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.3(A)(1), the Assistant Secretary's decision on the Kansas Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental

analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

List of Subjects in 30 CFR Part 916

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 24, 1983.

J. S. Griles,

Acting Director, Office of Surface Mining.

Dated: May 26, 1983.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

Accordingly, the Kansas AML Plan is hereby fully approved. 30 CFR 916.20 is amended to indicate the removal of the conditions prohibiting funding of State AML construction grants.

PART 916—[AMENDED]

Therefore, § 916.20 is revised to read as follows:

§ 916.20 Approval of Kansas Abandoned Mine Land Reclamation Plan.

The Kansas AML Plan, as submitted on October 1, 1981, and amended by Kansas Statute 49–428, April 14, 1982, is hereby fully approved and all conditions prohibiting the funding of State AML construction grants are deleted. Copies of the approved Plan, including amendments, are available at:

Office of Surface Mining, Missouri State Office, 818 Grand Avenue, Kansas City, Missouri 64106

State Corporation Commission, Mined-Land Conservation Board, 107 West 11th Street, Pittsburg, Kansas 66762.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 83-14992 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 944

Approval of the Abandoned Mine Land Reclamation Plan for the State of Utah Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On February 9, 1983, the State of Utah submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission was to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 47 FR 28574–28604, June 30, 1982). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals of the Department of the Interior has determined that the Utah Abandoned Mine Land Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the Utah Plan.

EFFECTIVE DATE: The rule is effective June 3, 1983.

ADDRESSES: Copies of the full text of the Utah Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue NW., Suite 216, Albuquerque, New Mexico 97102

State of Utah, Division of Oil, Gas and Mining 4241 State Office Building, Salt Lake City, Utah 84114

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles V. Smith, Program Manager, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone (202) 343–7921.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Reclamation Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Each State, having within its borders coal mined land eligible for reclamation under Title IV of SMCRA, may submit to the Department a State reclamation plan demonstrating its capability for administering an abandoned mine reclamation program. Title IV provides that the Department may approve the plan once the State has an approved Regulatory program under Title V of SMCRA. If the Secretary determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Secretary shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 47 FR 28600–28601, June 30, 1982). Under those regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Director on an annual basis an application for funds to be expended in that State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of Parts 900 through 950. Provisions relating to Utah are found in 30 CFR Part 944.

Background on the Utah Abandoned Mine Land Reclamation Plan Submission

On April 29, 1982, a cooperative agreement between the State of Utah, Division of Oil, Gas and Mining, and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the Utah Abandoned Mine Reclamation Plan would be assembled.

On February 9, 1983, the State of Utah submitted its proposed Abandoned Mine Land Reclamation Plan to the Office of Surface Mining.

During the drafting of the AML Plan, the public was provided adequate notice and opportunity to be heard on the Plan. The record did not reflect any major unresolved controversies. Therefore, a

public hearing on the Plan was deemed unnecessary.

Notice of receipt of the submission initiating the Plan review was published March 14, 1983 (48 FR 10719–10721). The announcement requested public comments. On March 7, 1983, OSM's Albuquerque Field Office Director and on May 2, 1983, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the Utah Reclamation Plan.

The administrative record on the Utah Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement's Administrative Record Office at the address listed above in "Addresses."

Assistant Secretary's Findings

1. In accordance with Section 405 of SMCRA the Assistant Secretary finds that Utah has submitted a Plan for reclamation of abandoned mine lands and has the ability and necessary legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.14, that:

(a) The State of Utah Division of Oil, Gas and Mining has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) The Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) The State has an approved regulatory program; and

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary solicited and considered the views of other Federal agencies having an interest in the Plan as required by 30 CFR 884.14(a)(2). Agencies that reviewed the Plan include: The Department of the Interior, Bureau of Mines (BOM), Denver, Colorado; Environmental Protection Agency (EPA), Denver Colorado; Department of Agriculture, Forest Service (FS), Ogden, Utah; and Department of the Interior, Fish and Wildlife Service (FWS), Salt Lake City, Utah.

Disposition of Comments

The following comments received on the Utah Plan during the public comment period were considered in the Assistant Secretary's evaluation as indicated below:

1. The FWS commented that the Division of Oil, Gas and Mining has a responsibility for "the protection of wildlife under the provisions of the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and the Endangered Species Act as they relate to reclamation of mined lands. We believe the document should express this responsibility." OSM's response is that Utah's AML Plan adequately addresses this concern. As discussed on page 11 of the Utah Plan, each eligible AML site will be reviewed and prioritized based in part on its environmental impact. The environmental index used by the State considers land surface impacts, air and water quality, the condition of vegetation, wildlife and endangered species and offsite impacts. In addition, specific wildlife concerns will be addressed in the environmental assessments (EAs) during project selection. Furthermore, OSM and FWS signed a memorandum of understanding (June 10, 1980) that provides for formal consultation on those projects which may affect threatened or endangered species. OSM is satisfied that these procedures adequately address the wildlife protection responsibilities raised by FWS.

2. The FWS commented that although the environmental index selection criteria adequately address threatened and endangered species; they do not, however, take into account State resident species or migratory birds. Both categories of wildlife, as well as threatened and endangered species, are protected at active mines under provisions of SMCRA; therefore, this same protection should be required at abandoned mine sites. The environmental index should reflect protection or enhancement potential for those species. OSM agrees that the Environmental Index Scoresheet lacks suitable explicit treatment of fish and wildlife values. However, these indices were considered initially in developing the scoresheet and were designed to be implicit in the vegetation component. The State has revised the scoresheets to show that they are intended primarily as a measure of wildlife habitat.

3. The FWS commented that it has wildlife and land use data for Utah stored on its computerized graphics information system (GIC). The level of detail varies from statewide to very site-specific vegetation and wildlife data for the coal-producing regions of the State. This information could be very useful for categorizing and ranking the large number of abandoned mines. OSM's response is that the FWS system might be beneficial to the State. This data was brought to the attention of the State. No changes to the AML Plan are required as a result of the comment.

4. The FWS suggested that after the sites have been initially prioritized from the literature review, "a more in-depth analysis of the high priority abandoned mines should be made before reclamation begins. This plan points out the possibilities for enhancing wildlife on all reclamation sites, even though public safety may be the main objective". OSM agrees that enhancing wildlife habitat on "all reclamation sites" may not be required. The State has changed the phrase "all reclamation sites" to the phrase "all reclamation sites where appropriate".

5. The FWS commented that the land use map included in the Plan fails to identify a great number of large and small wetlands that could be affected by reclamation decisions. These lands are given protection under Executive Order 11990. The FWS and Soil Conservation Service have conducted inventories of the Great Salt Lake area, Cache County and the Uintah Basin that identify wetlands based on the National Wetlands Inventory Classification System. The FWS also has 1:24000 photo interpreted land use maps for the Book Cliffs and Wasatch Plateau. More site-specific land use information may be appropriate when reclamation decisions are made.

OSM considers this a useful suggestion and has passed the comment on to the State to be used on a site specific basis. No change to the Plan is required, however.

6. The BOM objected to the term "abandoned mine" and instead favored the term "inactive mine"; the BOM stated that the Plan should distinguish clearly between mines that are truly abandoned and those that are merely inactive. OSM's response is that the term "abandoned mines" is standard terminology in Title IV of SMCRA. Legal distinctions between "inactive" and "abandoned" mines can be examined in more detail in the eligibility findings required by Section 404 of SMCRA. No change to the Plan is required as a result of this comment.

7. The BOM urged that the remaining mineral values of a reclamation site be considered and discussed as an integral part of the Plan to assure that reclamation is not carried out indiscriminately without regard for remaining minerals. OSM's response is that the Utah AML Plan adequately addresses the issue of remining during the project selection process. The potential for remining is evaluated during the site evaluation stage (see, pg. 21, figure 4—Socioeconomic index) and again during the final selection process (see, pg. 12—Section E). Moreover, OSM

has published final guidelines to assist States, Indian tribes and the U.S. Department of Agriculture in interpreting and applying the general reclamation requirements for individual programs and projects contained in SMCRA and the abandoned mine land regulations. Section 3(b)(6) in the "Selection Criteria" discusses the ramifications of remining on the selection process; Section 5(a) deals with the incidental recovery of coal in conjunction with AML sponsored reclamation activities; and Section 5(b) provides guidance for determining the resource recovery potential of an eligible site. Based on these provisions, no further discussion is needed in the Utah AML Plan regarding resource recovery. Specific details of any potential recovery operation will be examined on a site by site basis.

8. The EPA commented that additional specific information on the mines in each county would be helpful in the Plan. OSM's response is that the Plan meets the requirements of 30 CFR 884.13 and does an adequate job of highlighting abandoned mines in Utah. The specific reclamation activites designed by the State are more fully discussed in the annual construction grant submission. No changes to the Plan are required as a result of this comment.

Additional Findings

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect cost, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the Utah Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual (DM) 516.2.2(A)(1), the Assistant Secretary's decision on the Utah Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The good cause for making this rule effective upon date of publication is that grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to Utah to initiate needed reclamation work as required by the Act.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 24, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Dated: May 26, 1983.

Daniel N. Miller Jr.,

Assistant Secretary for Energy and Minerals.

(Pub. L. 95-87, 30 U.S.C. 1201, *et seq.*)

PART 944—UTAH

Therefore, Part 944 is amended by adding § 944.20 to read as follows:

§ 944.20 Approval of Utah Abandoned Mine Plan.

The Utah Abandoned Mine Plan, as submitted on February 9, 1983, and as subsequently revised is approved. Copies of the approved program are available at:

Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue NW., Suite 216, Albuquerque, New Mexico 97102

State of Utah, Division of Oil, Gas and Mining, 4241 State Office Building, Salt Lake City, Utah 84114.

[FR Doc. 83-14940 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

Air Force Privacy Act Program; Correction

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule; correction.

SUMMARY: This corrects 32 CFR Part 806b published as a final rule in 48 FR 18807, 26 April 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Updike, Department of the Air Force, HQ USAF/DAQD, Washington, D.C. 20330, telephone (202) 694-3488.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-10899, beginning on page 18807, in the issue of April 26, 1983, make the following correction in the part heading: Delete the word "[AMENDED]" and replace it with "Air Force Privacy Act program."

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-14925 Filed 6-2-83; 8:45 am]

BILLING CODE 3910-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-45

[FPMR Amdt. H-140]

Sales Responsibilities and Exclusions and Exemptions

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Final rule.

SUMMARY: This regulation amends GSA regulations to indicate that the Department of Defense is delegated authority to sell personal property under its control, and to show that the authority to dispose of vessels of 1,500 gross tons or more was transferred from the Secretary of Commerce to the Secretary of Transportation with the transfer of the Maritime Administration.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Milton Herman, 703-557-0814.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–45

Government property management, Reporting and recordkeeping requirements, Surplus Government property.

PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

1. The authority citation for Part 101–45 reads as follows:

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

Subpart 101–45.1—General

2. Section 101–45.103–1(a) is revised to read as follows:

§ 101–45.103–1 Responsibilities of the General Services Administration.

* * * * *

(a) Conducting sales for holding agencies except for the Department of Defense, which is delegated authority to sell property under its control;

* * * * *

3. Section 101–45.105–2 is revised to read as follows:

§ 101–45.105–2 Disposal of certain vessels.

The Secretary of Transportation has jurisdiction over the disposal of vessels of 1,500 gross tons or more which the Secretary determines to be merchant vessels or capable of conversion to merchant use. Such vessels, therefore, are excluded from the provision of this Part 101–45.

4. Section 101–45.105–3 is amended to revise the introductory paragraph to read as follows:

§ 101–45.105–3 Exemptions.

The sale by GSA of property (excluding personal property under the control of the Department of Defense) as required by this Part 101–45 has been determined to be advantageous to the Government in terms of economy, efficiency, and service with due regard to the program activities of the agencies concerned. Exemptions from the provisions of this Part 101–45 may be obtained only under the following circumstances:

* * * * *

Dated: May 9, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–14857 Filed 6–1–83; 8:45 am]

BILLING CODE 6820–34–M

41 CFR Part 101–47

[FPMR Amdt. H–139]

Utilization and Disposal of Real Property; Surplus Real Property Disposal; Deletion of Covenant Against Contingent Fees.

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The regulatory provision concerning the covenant against contingent fees is deleted from the text of the Code of Federal Regulations to facilitate the disposal of surplus real property since this requirement is not mandated by statute and is considered unnecessarily restrictive.

EFFECTIVE DATE: June 3, 1983.

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

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or to have significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

In 1966 GSA promulgated 41 CFR 101–47.315, which made the provisions of 41 CFR 101–45.313 concerning personal property applicable to disposals of real and related personal property. The latter regulation requires that the purchaser of surplus property warrant that he has not paid a contingent fee or commission to someone other than a full time employee or an agency regularly maintained by the purchaser. Under the regulation, a purchaser is barred from paying a real estate broker or anyone else a commission in connection with any one-time purchase of Government-owned surplus real property.

Deletion of 41 CFR 101–47.315 permits greater participation of real estate brokers in GSA's real property sales program and assists in accelerating the disposal of surplus real property as mandated under the Presidential initiative. The cancellation is consistent with the mission of the Presidential Task Force on Regulatory Relief.

List of Subjects in 41 CFR Part 101–47

Government property management, Surplus government property.

PART 101–47—[AMENDED]

Subpart 101–47.3—Surplus Real Property Disposal

1. The Table of Contents for Subpart 101–47.3 is amended by removing one entry as follows:

Sec.
101–47.315 [Removed]

2. Section 101–47.315 is removed as follows:

§ 101–47.315 [Removed]

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

Dated: May 9, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83–14856 Filed 6–2–83; 8:45 am]

BILLING CODE 6820–96–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 66

National Research Service Awards; Technical Amendments

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This notice amends the regulations for the National Research Service Awards program. The amendments are intended to comply with statutory changes mandated by the Omnibus Budget Reconciliation Act of 1981. The amendments liberalize the payback options available to Award recipients, and make minor, technical changes in the regulations.

DATES: Changes required by the Omnibus Budget Reconciliation Act are effective as of August 13, 1981. These changes are in §§ 66.105, 66.106, 66.107, 66.110, 66.205, and 66.206. Other changes in sections 66.112, 66.115, and 66.207 become effective on June 3, 1983.

FOR FURTHER INFORMATION CONTACT: William Raub, Ph. D., Associate Director for Extramural Research and Training, National Institutes of Health, Bethesda, Maryland 20205 (301) 496–1096.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), enacted on August 13, 1981, made a number of modifications in section 472, which require conforming changes in the regulations,[1] as follows:

1. Several sections are being amended to provide that the first twelve months of support under National Research Service Awards (Awards) are eliminated from the payback obligation. The effect of this new provision is that recipients of Awards for periods of twelve months or less incur no payback obligation; recipients of Awards for periods in excess of twelve months are subject to payback obligations for the period of support in excess of twelve months. Although the language of the Omnibus Budget Reconciliation Act does not state whether recipients of Awards in excess of twelve months incur a payback obligation for the first twelve months of training, the Conference Report makes Congressional intent clear that the first twelve months of support should be excluded from the payback obligation regardless of the length of the award. [See Conference Report (H. Rep. No. 97–208) at p. 803.]

2. The same sections are being amended to relieve further payback obligations on the part of individuals who receive awards for research training at the prebaccalaureate level. These provisions apply to prebaccalaureate candidates who are recipients of Minority Access to Research Careers support under the National Research Service Awards program.

3. Sections 66.105 and 66.205 are being amended to delete the provision that, effective July 1, 1975, Awards may be made for research or research training only in those subject areas for which there is a need for personnel, as determined under section 473 of the Act (42 U.S.C. 289*l*–2).

4. Sections 66.106 and 66.206 are being amended to provide that in making Awards, the Secretary shall take into account the Nation's overall need for biomedical research personnel by giving special consideration to physicians who agree to undertake a minimum of two years of biomedical research.

5. Section 66.107 is being amended to clarify that tuition and fees are included among the cost items to which Award recipients are entitled.

6. Section 66.110 is being amended to limit the payback options available to Award recipients to health research or teaching, or a combination of research and teaching which is in accordance with the usual patterns of academic employment. The other payback options which formerly existed in the regulations, namely, service as a member of the National Health Service Corps, service in certain health maintenance organizations which serve underserved populations, and service in certain other authorized health activities, have been eliminated.

In addition to the foregoing changes mandated by the Omnibus Budget Reconciliation Act , § 66.115 of the regulations is being deleted, and reference to the Department's regulations governing inventions and discoveries is being added to § 66.112 (Other HHS regulations and policies that apply) in view of changes made by the Patent and Trademark Amendment Act of 1980 (Pub. L. 96–517).

The amendments outlined above are intended solely to conform Part 66 with section 472, as amended, and to make a few minor, technical changes. Consequently, no purpose would be served by publishing these changes as a notice of proposed rulemaking, and the Department finds that good cause exists for dispensing with that step.

The following statement is provided for the information of the public:

1. As required by Executive Order 12291, Section 3(g)(1), the Secretary notes that the proposal has been reviewed against the criteria in Executive Order 12291, Section 1(b), and does not meet that directive's test for "a major rule."

2. No environmental impact statement is needed under 42 U.S.C. 4321 et seq.

3. *Catalog of Federal Domestic Assistance* numbered programs affected by this rule are:

13.272	13.282	13.306
13.278	13.297	13.398
13.821	13.848	13.864
13.837	13.849	13.865
13.838	13.851	13.866
13.839	13.852	13.867
13.840	13.853	13.868
13.841	13.854	13.869
13.842	13.855	13.870
13.843	13.856	13.871
13.844	13.859	13.878
13.846	13.862	13.880
13.847	13.863	13.894

4. The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354, since these regulations are technical in nature and revise existing regulations to implement statutory changes.

5. The information collection requirements contained in this final rule have been approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act and assigned control numbers as follows: §§ 66.104 and 66.105—OMB control number 0925–0002; §§ 66.204 and 66.205—OMB control number 0925–0022.

List of Subjects in 42 CFR Part 66

Grant programs—health, Health professions, Medical research, Nursing research.

Dated: Feburary 22, 1983.

Approved: April 26, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Margaret M. Heckler,

Secretary.

Accordingly, Part 66 of 42 CFR is revised to read as follows:

PART 66—NATIONAL RESEARCH SERVICE AWARDS

Subpart A—Direct Awards

Sec.
66.101 Applicability.
66.102 Definitions.
66.103 Eligibility.
66.104 Application.
66.105 Requirements.
66.106 Awards.
66.107 Payments to awardees.
66.108 Payments to institutions.
66.109 Termination.
66.110 Service, payback, and recovery requirements.
66.111 Suspension, waiver, and cancellation.
66.112 Other HHS regulations and policies that apply.
66.113 Publications.
66.114 Copyright.
66.115 Additional conditions.

Subpart B—Institutional Grants

66.201 Applicability.
66.202 Definitions.
66.203 Eligibility.
66.204 Application.

[1] On May 2, 1975 final regulations published in the **Federal Register** (40 FR 19314) implementing section 472 of the Public Health Service Act (42 U.S.C. 289*l*–1) regarding National Research Service Awards. These regulations are codified in 42 CFR Part 66. On January 8, 1980, technical amendments to the regulations were published in the **Federal Register** (45 FR 1822) to conform with certain statutory changes mandated by the Community Mental Health Centers Extension Act of 1978 (Pub. L. 95–622) and the Health Services Research, Health Statistics, and Health Care Technology Act of 1978 (Pub. L. 95–623).

Sec.
66.205 Requirements.
66.206 Grant awards.
66.207 Other HHS regulations and policies that apply.
66.208 Additional conditions.

Authority: Sec. 215, 58 Stat. 690, as amended (42 U.S.C 216); sec. 472, 88 Stat. 342 (42 U.S.C. 289/–1).

Subpart A—Direct Awards

§ 66.101 Applicability.

The regulations in this subpart apply to National Research Service Awards made by the Secretary to individuals for research, and training to undertake research, under section 472(a)(1)(A) of the Public Health Service Act, as amended [42 U.S.C. 289/–1(a)(1)(A)].

§ 66.102 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

(c) "Nonprofit" institution means a corporation or association in which no part of the net earnings inures or may lawfully inure to the benefit of any private shareholder or individual.

(d) "Award" means a National Research Service Award under section 472 of the Act (42 U.S.C. 289/–1).

(e) "Residency" means post-graduate training for doctors of medicine, osteopathy, dentistry, optometry, and podiatry, nurses, and other individuals providing health care directly to patients, in which the majority of the time is spent in non-research clinical training.

(f) "Noncitizen national of the United States" means a person who, though not a citizen of the United States, owes permanent allegiance to the United States [8 U.S.C. 1101(a) (22)].

(g) "Predoctoral training" means training at the post-baccalaureate level in a program leading to the award of a doctor of philosophy or science, or equivalent degree. For purposes of Awards under the Minority Access to Research Careers programs of the National Institute of General Medical Sciences and the Alcohol, Drug Abuse, and Mental Health Administration, "predoctoral training" also means training in a program leading to the award of a baccalaureate degree in science or equivalent degree.

(h) "Postdoctoral training" means training of individuals holding a doctor of philosophy, science, medicine, dentistry, osteopathy, optometry, podiatry, veterinary medicine, engineering, nursing sciences, public health, or equivalent degree.

§ 66.103 Eligibility.

To be eligible for a National Research Service Award an individual must:

(a) Be a citizen, noncitizen national of the United States, or lawfully admitted to the United States for permanent residence at the time of application; and

(b) Propose to engage on a full-time basis in research, or training to undertake research, in a program specified in section 472(a)(1)(A) of the Act.

§ 66.104 Application.

(a) Eligible individuals may apply for an Award using the form and by the dates the Secretary prescribes.

(b) In addition to any other pertinent information that the Secretary may require, each application shall detail:

(1) The applicant's educational background and other qualifications and experience, including previous academic and professional degrees;

(2) The subject area of the proposed research or training;

(3) The proposed period of Award;

(4) If the proposed period of Award would provide the individual with aggregate support in excess of five years at the predoctoral level or three years at the postdoctoral level, the justification for this request; and

(5) The availability of necessary resources facilities at the institution where the research or training would be conducted.

(Approved by the Office of Management and Budget under control number 0925–0002.)

§ 66.105 Requirements.

The Secretary shall make an Award to an individual under this subpart only if:

(a) For any Award made for a period in excess of twelve months, other than an Award made for research training at the prebaccalaureate level, the individual has submitted to the Secretary a written assurance (in the manner the Secretary may prescribe) that he or she will satisfy the requirements of § 66.110;

(b) If the proposed research or training would take place at an institution other than one operated by the Public Health Service agencies listed in section 472(a)(1)(A) of the Act, the institution has submitted a written assurance (in the manner the Secretary may prescribe). The assurance shall indicate that:

(1) The applicant has been accepted to the institution for the purpose of engaging in the research or training for which an Award is being sought;

(2) The Award will not be used to support a residency; and

(3) In the event an Award is made the institution will make available to the applicant any resources and facilities described in the application as necessary to carry out the research or training; and

(c) The individual has submitted a written assurance (in the manner the Secretary may prescribe) that the Award to individuals will not be used to support a residency.

(Approved by the Office of Management and Budget under control number 0925–0002.)

§ 66.106 Awards.

(a) Within the limits of funds available, the Secretary shall make Awards to those applicants:

(1) Who have satisfied the requirements of § 66.105; and

(2) Whose proposed research or training would, in the judgment of the Secretary, best promote the purposes of section 472(a)(1)(A) of the Act, taking into consideration among other pertinent factors:

(i) The scientific, technical, or educational merit of the particular proposal;

(ii) The availability of resources and facilities to carry it out;

(iii) The qualifications and experience of the applicant; and

(iv) The need for personnel in the subject area of the proposed research or training.

(b) In making Awards, the Secretary shall take account of the Nation's overall need for biomedical research by giving special consideration to physicians who agree to undertake a minimum of two years of biomedical research.

(c) All Awards shall be in writing. Each shall specify:

(1) The period of the Award;

(2) The total recommended stipends and allowances provided for the entire Award period;

(3) The amount awarded for the intitial year of that period (see § 66.107); and

(4) The amount of the payments to the institution for the cost of services provided the awardee by the institution during the initial year of that period (see § 66.108).

(d) Neither the approval of any application nor any Award shall commit or obligate the United States in any way to make additional, supplemental, continuation, or other Award with respect to any approved application or portion thereof.

(e) No individual may receive an aggregate of more than five years of

support at the predoctoral level and three years at the postdoctoral level unless the Secretary waives, for good cause shown, this limitation for the individual. In determining what constitutes "good cause," the Secretary shall take into account such factors as whether the applicant proposes to pursue a combined program leading to the degrees of doctor of medicine and doctor of philosophy.

§ 66.107 Payments to awardees.

(a) Individuals receiving Awards shall be entitled to the stipends, tuition, fees, and allowances the Secretary may designate, taking into account the cost of living, and such other factors as the needs of the program and the availability of funds.

(b) The Secretary shall pay stipends, tuition, fees and allowances to the awardee or the sponsoring institution for payment to the awardee.

§ 66.108 Payments to institutions.

The institution shall be entitled to an allowance to help defray the cost of support services (including the cost of faculty salaries, supplies, equipment, general research support, and related items) provided to the individual by the institution. The Secretary shall determine the amount of payments based upon reasonable costs to the institution of establishing and maintaining the quality of research and training programs for which it receives support under this subpart. The Secretary may make payments to the institution either in advance or by way of reimbursement.

§ 66.109 Termination.

(a) The Secretary may terminate an Award prior to its normal expiration date:

(1) At the written request of the awardee; or

(2) If the Secretary finds that the awardee has materially failed to comply with the terms and conditions of the Award or to carry out the purpose for which it was made.

(b) In the event an Award is terminated, the Secretary shall notify the awardee in writing of this determination, the reasons for termination, the effective date, and any procedural rights available.

§ 66.110 Service, payback, and recovery requirements.

(a) Each individual who receives an Award for more than twelve months other than an Award for research training at the prebaccalaureate level shall upon completion of the Award engage for a period equal to the period of support (in excess of twelve months) in health research or teaching or, when in academic employment, any combination of research or teaching which is in accordance with the usual patterns of such employment.

(b) Except as provided in § 66.111, an individual subject to the requirements for service in paragraph (a) of this section must begin to undertake the service on a continuous basis within two years after the termination of his or her Award.

(c) If the individual fails to undertake or perform the service in accordance with the requirements of paragraph (a) of this section, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula:

$$A = O\frac{(t-s)}{(t)}$$

in which "A" is the amount the United States is entitled to recover; "O" is the sum of the total amount paid under one or more Awards to the individual less the amount paid for the initial twelve months; "t" is total number in months in the individual's sevice obligation; and "S" is the number of months of the obligation served by him or her in accordance with paragraph (a) of this section.

(d) Except as provided in § 66.111, the individual shall pay to the United States any amount which it is entitled to recover under paragraph (c) within a three-year period beginning on the date the United States becomes entitled to recover that amount. Interest shall accrue to the United States until any amount due it under paragraph (c) of this section is paid. The rate of interest will be fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date the United States become entitled to recovery.

§ 66.111 Suspension, waiver, and cancellation.

(a) The Secratary may extend the period for undertaking service prescribed in § 66.110(b), permit breaks in service under § 66.110(b), or extend the period of repayment under § 66.110(b) if the Secretary determines that:

(1) An extension or break in service is necessary so the individual may complete his or her research training;

(2) Completion during the period would be impossible because the individual is temporarily disabled; or

(3) Completion during the period would involve a substantial hardship to the individual and failure to extend to the period would be against equity and good conscience.

(b) The Secretary may waive, in whole or in part, the obligation of the individual to repay pursuant to § 66.110(c) if the Secretary determines that:

(1) Fulfillment would be impossible because the individual is permanently and totally disabled; or

(2) Fulfillment would involve a substantial hardship to the individual and enforcement of the obligation would be against equity and good conscience.

(c) In making determinations under § 66.111 (a)(3) and (b)(2), the Secretary will take into consideration such factors as:

(1) The individual's present financial resources and obligations;

(2) The individual's estimated future financial resources and obligations;

(3) The reasons for the individual's failure to complete the requirements within the prescribed period, such as problems of a personal nature;

(4) The extent to which the individual has been engaged in activities encompassed by § 66.110(a);

(5) Whether the individual has received sufficient training to be qualified to perform any such activities;

(6) The unavailability of employment opportunities appropriate to the individual's education and training; and

(7) Any other extenuating circumstances.

(d) Any obligations of any individual under this subpart will be cancelled upon the death of that individual.

§ 66.112 Other HHS regulations and policies that apply.

Several other regulations and policies may apply to individuals and institutions receiving payments under this subpart. These include, but are not limited to:

45 CFR Part 6—Inventions and Patents (General).

45 CFR Part 8—Inventions resulting from research grants, fellowship awards, and contracts for research.

45 CFR Part 46—Protection of human subjects.

45 CFR Part 76—Debarment and suspension from eligibility for financial assistance.

45 CFR Part 80—Nondiscrimination under programs receiving federal assistance through the Department of Health and Human Services-Effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 81—Practice and procedure for hearings under Part 80.

45 CFR Part 84—Nondiscrimination on the basis of handicap in federally assisted programs.

45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and

activities receiving or benefiting from federal financial assistance.
45 CFR Part 90—Nondiscrimination on the basis of age in programs and activities receiving federal financial assistance.
46 FR 34462—Guidelines for Research Involving Recombinant DNA Molecules published by the National Institutes of Health.

§ 66.113 Publications.

Publication, distribution, and disposition of all manuscripts and other materials resulting from an Award shall be subject to the conditions that all such materials shall bear appropriate acknowledgement of Department of Health and Human Services support and that the awardee shall furnish copies of these manuscripts or other materials as the Secretary may reasonably request.

§ 66.114 Copyright.

Where the work accomplished under an Award results in a book or other copyrightable material, the author is free to copyright the work, but the United States reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable or copyrighted material resulting from the Award.

§ 66.115 Additional conditions.

The Secretary may with respect to any Award or class of Awards impose additional conditions prior to or at the time of any Award when in the Secretary's judgment such conditions are necessary to assure the carrying out of the purposes of the Award, the interests of the public health, or the conservation of funds awarded.

Subpart B—Institutional Grants

§ 66.201 Applicability.

The regulations in this subpart apply to grants under section 472(a)(1)(B) of the Public Health Service Act, as amended [42 U.S.C. 289*l*–1(a)(1)(B)], to public institutions and to nonprofit private institutions to enable these institutions to make National Research Service Awards to individuals for research, and training to undertake research, in programs specified in section 472(a)(1)(B) of the Act.

§ 66.202 Definitions.

The definitions in § 66.102 of Subpart A of this part apply to this Subpart.

§ 66.203 Eligibility.

To be eligible for a grant under this subpart, an applicant must be:

(a) A public or nonprofit private institution; and

(b) Located in a State, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

§ 66.204 Application.

(a) Application for a grant under this subpart shall be made on a form approved for that purpose by the Secretary. Applicants shall submit completed forms on or before the dates the Secretary may prescribe.

(b) In addition to any other pertinent information that the Secretary may require, each application shall set forth in detail:

(1) The subject area or areas in which the proposed research or training will be conducted;

(2) The resources and facilities available for use by recipients of Awards in carrying out this research or training;

(3) The names, qualifications, and experience of the program director and principal staff members who will be responsible for the proposed program;

(4) The criteria to be employed in selecting recipients of Awards;

(5) The estimated number of recipients of Awards under the grant;

(6) The proposed project period and a detailed budget and justification for the amount of grant funds requested; and

(7) Proposed methods for monitoring and evaluating the performance of individual recipients of Awards, as well as the overall program.

(Approved by the Office of Management and Budget under control number 0925–0022.)

§ 66.205 Requirements.

(a) No Award shall be made to an individual from a grant under this subpart unless:

(1) For any Award made for a period in excess of twelve months, other than an Award made for research training at the baccalaureate level, the individual has submitted to the Secretary a written assurance (in the manner the Secretary may prescribe) that he or she will satisfy the requirements of § 66.110 of Subpart A of this Part;

(2) The individual is a citizen or non-citizen national of the United States or has been lawfully admitted to the United States for permanent residence at the time of application;

(3) The Award includes a provision for termination in the event the recipient is found by the institution to have materially failed to comply with the terms and conditions of the Award or to carry out the purpose for which it was made; and

(4) The Award is not to be used to support a residency.

(b) No Award shall be made to an individual under such grant which would provide that individual with aggregate support in excess of five years for predoctoral training and three years for postdoctoral training, unless the Secretary for good cause shown as provided in § 66.106(d) of Subpart A of this part, waives the application of the limitation with respect to that individual.

(c) The provisions of §§ 66.110 and 66.111 of Subpart A of this part constitute terms and conditions of any Award made from a grant under this subpart.

(Approved by the Office of Management and Budget under control number 0925–0022.)

§ 66.206 Grant awards.

(a) Within the limits of funds available, the Secretary shall award grants to those applicants:

(1) Whose applications have been reviewed and recommended for approval by the appropriate national advisory council or board;

(2) Who have satisfied the requirements of § 66.105; and

(3) Whose proposed programs would, in the judgment of the Secretary, best promote the purposes of section 472(a)(1)(B) of the Act, taking into consideration among other pertinent factors:

(i) The scientific, technical, or educational merit of the proposed program;

(ii) The adequacy of the resources and facilities available to the applicant;

(iii) The qualifications and experience of the program director and principal staff members;

(iv) The degree of the need for personnel in the subject area or areas of the proposed research or training;

(v) The extent to which the applicant, in making Awards, gives special consideration to physicians who agree to undertake a minimum of two years of biomedical research;

(vi) The administrative and management capability of the applicant;

(vii) The reasonableness of the proposed budget in relation to the proposed program; and

(viii) The adequacy of the methods for monitoring and evaluating the performance of individual recipients and the overall program.

(b) The notice of grant award specifies how long HHS intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 3–5 years.

(c) Generally the grant will initially be for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a

separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the government.

(d) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of any approved application.

§ 66.207 Other HHS regulations and policies that apply.

Several other regulations and policies apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50—PHS grant appeals process.
45 CFR Part 16—Department grant appeals process.
45 CFR Part 46—Protection of human subjects.
45 CFR Part 74—Administration of grants.
45 CFR Part 75—Informal grant appeals procedure.
45 CFR Part 76—Debarment and suspension from elgibility for financial assistance.
45 CFR Part 80—Nondiscrimination under programs receiving federal assistance through the Department of Health and Human Services—Effectuation of Title VI of the Civil Rights Act of 1964.
45 CFR Part 81—Practice and procedure for hearings under Part 80.
45 CFR Part 84—Nondiscrimination on basis of handicap in federally assisted programs.
45 CFR Part 86—Nondiscrimination on basis of sex in education programs and activities receiving or benefiting from federal financial assistance.
45 CFR Part 90—Nondiscrimination on the basis of age in programs and activities receiving federal financial assistance.
47 FR 17180—Guidelines for Research Involving Recombinant DNA Molecules published by the National Institutes of Health.

§ 66.208 Additional conditions.

The Secretary may, with respect to any grant award, impose additional conditions prior to or at the time of any award when in the Secretary's judgment those conditions are necessary to assure or protect advancement of the approved program, the interests of the public health, or the conservation of grant funds.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 95

[PR Docket No. 82-799; FCC 83-169]

Elimination of Individual Station Licenses in Radio Control Radio Service and Citizens Band Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This Report and Order amends Parts 1 and 95 of the Commission's Rules to eliminate individual station licenses in the Radio Control (R/C) Radio Service and in the Citizens Band (CB) Radio Service. These amendments are being adopted because licensing of individual stations in these services is unnecessary. Elimination of individual station licensing will result in significant cost savings and will reduce administrative burdens.

DATE: July 5, 1983.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554 (202) 632-4964.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 95

Radio.

Report and Order

In the matter of amendment of Parts 1 and 95 of the Commission's rules to eliminate individual station licenses in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service; PR Docket No. 82-799.

Adopted: April 27, 1983.
Released: May 10, 1983.

By the Commission. Commissioner Jones absent.

I. Introduction

1. In a *Notice of Proposed Rule Making* in this proceeding, 47 FR 56677 (December 20, 1982), we proposed to eliminate individual licensing of stations in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service and, instead, to authorize operation of these radio stations without individual licenses.[1]

II. Background

2. In the *Notice of Proposed Rule Making, supra,* we set forth, by way of background information, the circumstances which led to commencement of this proceeding. We believe it would be useful to reiterate this information.

3. The CB Radio Service was created to make available to the public a low-cost, short-range, two-way voice radio service for both personal and business communications.[2] The R/C Radio Service was created to make available to the public a private, one-way short-distance, non-voice communications service for the remote operation of devices. Its primary use has been for the control of model aircraft, model boats, and model cars.

4. Although there have been some modifications to the technical and operational rules governing both the R/C and CB services, they have remained essentially unchanged in purpose since their inception. These services have attracted millions of users. There are now approximately 6 million R/C and CB licensees, down from a high of 15 million in 1979. We expect to receive some 600,000 applications in FY (Fiscal Year) 1983 for new, renewed and modified licenses in both the R/C and CB Radio Services.

5. Licensing of R/C and CB stations has always differed from licensing of other private radio stations because of the broad eligibility and operational provisions of these services. Individualized R/C and CB licensing is not used to assign specific frequencies, output power or hours of operation. All R/C and CB licensees are authorized to operate on legal R/C and CB frequencies with legal power at any time of the day. Applicants are not required to show financial or technical qualifications, and need only meet minimal eligibility requirements (12 years of age for R/C, 18 years of age for CB, and not a foreign government or a representative thereof or a federal government agency).[3] Each application in these services is computer processed, largely by outside contractors, with minimal review.

6. Spectrum management in the R/C and CB radio services is accomplished by way of type acceptance and operating rules, rather than by licensing. R/C and CB transmitters are type

[1] Individual station licenses, in this context, refer to R/C and CB station licenses now issued to eligible persons, including individuals, corporations, partnerships, associations or governmental entities other than those specifically prohibited by statute from holding such licenses. See Footnote 3, *infra.*

[2] *See California Citizens Band Assn., Inc. v. United States,* 375 F2d. 43, 9 RR2d 2037 (9th Circ. 1967), cert. denied, 389 U.S. 844. (1967)

[3] 47 U.S.C. § 310(a) prohibits the issuance of a license to a foreign government or a representive thereof. 47 U.S.C. § 305 exempts radio stations "belonging to and operated by" the United States from the licensing requirements of Title III.

accepted to assure that they are operated on legal frequencies with legal power. Frequency assignments, power limitations and antenna height restrictions are determined by rule making, not by licensing. We have estimated that in FY 1983 we will spend approximately $361,000 for R/C and CB radio station licensing.

7. Recognizing that the high cost for licensing individual stations in the R/C and CB Radio Services may not justify the limited public interest benefits of such licensing, Congress recently amended the Communications Act of 1934 to permit us to grant authority to operate R/C and CB radio stations without individual licenses. *See* Public Law (Pub. L.) 97–259, Section 113(a), enacted September 13, 1982. *See also* 47 U.S.C. § 307(e).

III. Proposal

8. We therefore proposed to eliminate all individual station licenses in the R/C and CB Radio Services and instead, to authorize operation of these stations by rule without individual stations licenses. We proposed that as of the day a *Report and Order* adopting these rules would be issued, all existing R/C and CB licenses would be void. Additionally, we proposed that all pending applications for such licenses, and all applications for such licenses subsequently received, would result in no official Commission action.

9. We also proposed to eliminate all individual station call signs in the R/C and CB Radio Services. In the Citizens Band Radio Service, in lieu of call sign identification, we proposed requiring identification by the license plate number of any truck, automobile or motorcycle registered in the CB operator's name. If the operator did not have a truck, automobile or motorcycle we proposed requiring identification by the operator's residence street address. We sought comment on the desirability of requiring identification of CB radio communications. We also sought comment on whether identification would assist in the resolution of interference problems without Commission intervention, and on whether identification would facilitate the effective utilization of voluntary and uncompensated Citizens Band radio operators under new paragraph 4 of 47 U.S.C. 154(f). Additionally, we sought comment on whether license plate numbers would be the most appropriate unique identifiers if CB identification was retained. In the Radio Control Radio Service we proposed to retain rules not requiring identification of communications (see 47 CFR 95.227).

10. We proposed retaining, with appropriate modifications, the requirement that manufacturers pack a copy of the CB rules with each transmitter. *See* 47 CFR 95.645(f). We also proposed to delete minimum age requirements for operating in the R/C and CB Radio Services. Finally, we proposed that for compliance purposes we would treat persons violating R/C or CB rules while using non-modified, type accepted equipment as persons operating in violation of Commission rules. Conversely, we would treat a person violating R/C or CB rules which could be violated only by using modified or non-type-accepted equipment as operating without proper authorization in violation of Sections 301 and 302 of the Act.

IV Comments

11. We received approximately 200 comments and 150 reply comments to the *Notice of Proposed Rule Making, supra*, in this proceeding. Of these 350 filings, only roughly 25 were filed by persons other than REACT organizations or members of REACT. About 70 of the comments received were REACT standard form comments. About 140 of the reply comments received were REACT fill-in-the-blank reply comments. We note that for a proceeding directly affecting millions of Americans, the number or comments received was exceedingly small. It has been typical in other potentially far-reaching personal radio proceedings for us to receive ten times the number of comments we received in this proceeding. *See Memorandum Opinion and Order*, 66 FCC 2d 504, Docket 19759 (October 18, 1977), at paragraph 3: "Several thousand Comments and Reply Comments were received." *See also Amateur Radio Service*, 59 FCC 2d 877, 878 (June 15, 1976): "An estimated 4000 comments and reply comments were filed in this Docket."

12. The question of whether to eliminate individual station licenses in the Radio Control Radio Service was largely unaddressed by the comments. Fewer than ten comments spoke to this issue. Of those, only one (comments of Jeny Dwiggins) clearly opposed the R/C proposal. The Academy of Model Aeronautics, Inc.,[4] endorsed eliminating R/C individual licenses.

13. Most of the comments filed addressed the question of whether to eliminate individual station licenses in the CB Radio Service. There was almost unanimous opposition to this proposal. Of the 350 comments in this proceeding, no more than five favored eliminating individual CB licenses. Among others, lengthy and substantive comments concurring in this opposition were filed by REACT International, Inc., National Capital REACT, Inc., P. Randall Knowles and Dennis M. Lowry. Thomas C. Bowling, III, Nathan L. Maryn and Robert R. Vannoy filed substantial comments and reply comments opposing this proposal. Corwin D. Moore filed reply comments in opposition to eliminating individual CB licenses.

14. The comments of these and all commenters are addressed below in the context of each of the respective issues.

V. Summary of Decision

15. For the reasons set forth in the discussion below, we have decided to eliminate all individual station licenses in the R/C and CB Radio Services. We are, by rule, authorizing operation of these stations without individual station licenses. We are eliminating all individual station call signs in the R/C and CB Radio Services. We are retaining rules not requiring identification of communications in the Radio Control Radio Service, and eliminating rules requiring identification of communications in the Citizens Band Radio Service. We are deleting minimum age requirements for operating in the R/C and CB Radio Services. We are retaining the requirement that manufacturers pack a copy of the CB rules with each transmitter. In the CB Radio Service, we will adhere to the enforcement policy elucidated in the *Notice*.

VI. Discussion

A. *Rationale for Eliminating Individual Station Licenses in the R/C and CB Radio Services.*

1. *Individual Licensing is Unnecessary.* 16. The comments dispute our view that spectrum management is achieved in the R/C and CB services exclusively through the mechanisms of type acceptance and operating rules, rather than by the licensing function. The comments maintain that by obtaining a license in the R/C or CB services, an R/C or CB user is then authorized to operate on the frequencies allocated to the services only at the prescribed power in the services, and only with equipment permitted in the services. This is true, but it does not dispute the very essence of our position, which is that it is not the licensing function that accomplishes assignment of frequencies, power limitations or equipment standards in these services.

[4] The Academy of Model Aeronautics is a division of the National Aeronautic Association, which is the official U.S. representative of the Federal Aeronautique Internationale, the world governing body for sport aviation.

Rather, in these services an R/C or CB user may operate on every one of the frequencies allocated to each service with equipment and at powers set forth in the rules for each of the respective services. Each license in these services conveys exactly the same rights and privileges to any given user.

17. Many of the comments argue that if our position that we do not accomplish spectrum management through the licensing function in these services is true, then it is equally as true for other services, and not a valid reason to eliminate individual licenses for R/C and CB. This argument is not valid. A license in the R/C or CB services permits operation on every channel in each service. A license in the GMRS (General Mobile Radio Service) or in the private land mobile radio services authorizes operation only upon the frequency(ies) or frequency pair(s) assigned. In the private land mobile services obtaining such an assignment my involve extensive frequency coordination as part of a license application (see 47 CFR 90.175). In either case the licensing function is used to determine the most spectrum efficient assignment to the applicant in the service, and to make that assignment. No such frequency assignment function is served by the issuance of R/C or CB licenses. Additionally, in the Amateur Radio Service there are various classes of operator licenses, each with different privileges including use of various frequencies and use of voice communication. Part of the licensing function in the Amateur Radio Service is to determine what class of Amateur Radio operator license an individual is qualified for and, therefore, the nature of his or her operating privileges. No similar function of allocating operating privileges is served by the issuance of R/C or CB licenses.

18. Some comments set forth the view that because CB equipment is easily modified, type acceptance does not play an important spectrum management role. If CB equipment is modified, the operator using that equipment does not violate a condition of his/her license, but instead violates type acceptance rules and operating rules applicable to all CB operation. In such a situation, the cudgel of spectrum management is wielded not by the licensing function, but by type acceptance and operating rules.

19. Some comments are of the view that licensing at least serves the function of compliance with ITU (International Telecommunication Union) Regulations. However, as we stated in the *Notice*, new Radio Regulation No. 2020 (Article 24) of the ITU Regulations, effective January 1, 1982, permits licenses to be issued "in an appropriate form." It is our view that this permits authorization by rule instead of issuance of individual station licenses. This is consistent with Pub. L. 97-259 which exempted R/C and CB radio stations from the individual licensing provisions of the Communications Act of 1934, as amended.

20. Many of the comments stated that licensing in these services serves the function of informing users that there is an FCC and that there are rules the user must obey. Commenters stated that licensing reminds an operator that transmitting is a regulated privilege. Other comments expressed the view that the knowledge that a license is needed and can be revoked constitutes a psychological deterrent to violators, and imposes moral pressure on a would-be violator.

21. Assuring that users know of the existence of the FCC and operating rules is achieved by many means, including packaging of CB rules by manufacturers and word-of-mouth within the CB community. There are few CB'ers who haven't heard of "Uncle Charlie." The existence of a license does not play an essential role in this process. Rather than relying upon the unquantifiable vagaries of psychological deterrence or infusion of moral sensitivity that certain commenters have attributed to the licensing process, we believe that our forfeiture authority in these services constitutes that primary deterrence to would-be violators. Many comments indicated that effective enforcement is the only effective deterrent to violations. Recently our ability to respond to problems other than major "hue and cry" situations has been limited. However, we hope that we will be able to augment our efforts by accepting the services of CB volunteers. *See* 47 U.S.C. 154(f)(4)(D). The extent to which these volunteers can actually bolster our overall CB enforcement capability is not clear. The Field Operations Bureau (FOB) is planning to begin to implement a CB volunteer enforcement program in late Fiscal Year 1984 with emphasis upon channel 9.

22. Other comments stated that licensing provides a data base, which is a valuable enforcement tool. However, by and large CB violators fail to identify their communications, and our field offices must use other means to determine the location and identity of a violator. These means often include the use of sophisticated direction-finding techniques. While a data base does have value in resolving interference problems or other complaints of rule violation, it is not the primary method by which we locate and identify serious violators. We hope that the use of volunteers to monitor for rule violations will be helpful to FOB in this regard because such volunteers may be in a position to identify rule violators through their personal knowledge of the local CB population and practices.

23. Finally, some comments claimed that since the majority of users apply for licenses and comply with our rules, licensing must work. This merely begs the question, and does not consider whether other Commission rules or policies besides the licensing function are responsible for rule compliance.

24. Because most comments were encouraged by REACT International, Inc., they reflected a view which would be expected from such a volunteer, quasi-law-enforcement body, that has, as its primary interest, the use of 1 channel in the CB radio service (channel 9). This view was that licensing equates with rule compliance. This position however, must be placed in perspective. We do not believe it is representative of the views of the 6 million licensees from whom we heard nothing. Moreover, we believe REACT's concern that CB violations will increase significantly without individual station licensing is speculative. Our records reflect that since 1980 the number of complaints received by our Field Operations Bureau relating to interference by CB to CB and by CB to home electronic entertainment equipment has been gradually decreasing, both in real numbers and as a percentage of situations of interference generating more than 1% of complaints.[5] Additionally, since 1979 the number of complaints we have received of interference to CB users has dramatically decreased. [6] We conclude that licensing in these services serves only a minimal function * * * one better served by the type acceptance and operating rules and enforcement of those rules.

[5] In the following chart, HEEE refers to Home Electronic Entertainment Equipment:

SITUATIONS OF INTERFERENCE GENERATING MORE THAN 1% OF COMPLAINTS

Interference		Fiscal year 1980		Fiscal year 1981		Fiscal year 1982	
From	To	Percent	Number	Percent	Number	Percent	Number
CB	HEEE	64	51,128	60	48,960	56	42,373
CB	CB	8	6,471	7	5,900	6	4,537

[6] Complaint data:

Interference to	Fiscal year 1979	Fiscal year 1980	Fiscal year 1981	Fiscal year 1982	Fiscal year 1983 (projections)
CB	8,057	6,672	6,194	4,753	3,000

2. *Individual Licensing Is Costly and Administratively Burdensome.* 25. We have already indicated at paragraphs four and six, *infra*, that there are approximately 6 million R/C and CB licensees; that we expect to receive some 600,000 applications in FY 1983 for new, renewed and modified licenses in both the R/C and CB Radio Services; and that we have estimated that in FY 1983 we will spend approximately $361,000 for R/C and CB radio station licensing, including costs for ten full time permanent positions within the Private Radio Bureau, two computer-related positions within the Managing Director's Office, and additional miscellaneous expenses for forms, postage, computer operation and microfiche licensing records.

26. Commenters stated that the estimated savings work out to a license processing cost per application of $.50 to $.60, which, in their view, is *de minimus*. Nonetheless, it is our view that the aggregate savings this agency would realize by eliminating individual licensing in these services would be substantial.

27. Some comments indicated that the savings we now estimate are less than those claimed in previous testimony by this Commission in Congressional hearings. This is true, because we have taken into account the fact that R/C and CB applications have been decreasing annually. These figures represent annual savings based on FY 1983 statistics. Some comments indicated we should project a continued decline in license applications and a commensurate net decrease in our projected annual savings. We do not believe that the rate of R/C and CB application filings is sufficiently predictable to attribute figures other than those in FY 1983 to future fiscal years.

28. Many comments argue that our projected cost savings will be offset by increased enforcement costs that would result from loss of the Citizens Band Radio Service data base. Our Field Operations Bureau (FOB) estimates that this data base provides significant assistance in resolving about 7,000 interference complaints per year. Even without this tool, most cases will be resolvable by the FOB Public Service Staff through other means, but at a slight additional cost of about two work-years annually. However, FOB also estimates that because of the loss of the data base about 700 additional cases will require on-scene visits from FOB Enforcement Staff at an additional cost of 4 work-years annually. Therefore, the total cost to FOB of eliminating individual station licenses while maintaining the present level of enforcement effort in the Citizens Band Radio Service will be 6 workyears, spread over all field installations, and, at worst, an offset of $166,875 per annum against savings of $361,000.

29. It is our belief that FOB will incur no other additional enforcement expense, because we will be able to proceed with the issuance of forfeitures in the R/C and CB Radio Services in the same manner and using the same methods as we have in the past.

30. We conclude that elimination of individual station licenses in the R/C and CB Radio Services would result in significant cost savings and in substantial administrative savings.

3. *Individual Licensing Consumes Burden Hours.* 31. In the *Notice* in this proceeding we stated that elimination of individual station licensing in the R/C and CB Radio Services will reduce the associated paperwork burden on the public for filling out temporary permits, application forms, and change of name and address forms by 68,000 burden hours in fiscal year 1983 and each fiscal year thereafter. The comments questioned the validity of this statistic, claiming that this would be roughly 6.8 to 7 minutes per application form, and that, in reality, it takes less than 2 minutes to fill out such a form. These comments fail to recognize that the time to fill out a temporary permit was included. Also, the time for addressing, sealing and mailing the application in an envelope is included in such estimates.

32. While the comments stated that even 6.8–7 minutes is a *de minimus* amount of time for one applicant to spend every five years, the 68,000 figure still quantifies the public paperwork burden saved by adoption of this proposal.

B. *Rules and Policies We Are Adopting in Eliminating Individual Station Licensees in the R/C and CB Radio Services.*

1. *Identification.* 33. The vast majority of comments favored retention of identification in the Citizens Band Radio Service, preferably by Commission-assigned call sign. Commenters were of the view that unique identification is needed in the CB Radio Service to provide ease of communications, for emergencies, for FOB and volunteer enforcement, and for informal resolution of interference complaints. Some commenters expressed the view that ITU Radio Regulations require call sign identification or some similar unique identifier.

34. If we eliminate individual station licenses in the R/C and CB Radio Services in order to reduce administrative and cost burdens to the FCC, we cannot retain the practice of individually assigned call signs without incurring roughly the same amount of administrative and cost burdens. We are confident that in order to facilitate ease of communications and in order to handle emergencies CB operators will be able to adequately identify themselves by other means. We have already explored FOB's cost evaluation of the impact of lack of a data base in these services, and found that even with the offsetting costs we would realize significant savings by eliminating individual station licenses. The effects of eliminating call signs on a prospective volunteer enforcement program, or on informal resolution of interference complaints, are speculative, at best. Accordingly, we will eliminate all individual station call signs in the R/C and CB Radio Services.

35. In the Citizens Band Radio Service we proposed that in lieu of Commission-assigned call signs we would instead require that each CB operator identify by the license plate number of any motor vehicle registered in the operator's name or, if the operator did not own a motor vehicle, by the operator's residence street address. This proposal met significant opposition in the comments, with roughly 180 filings opposing it and 25 filings favoring it.

36. The primary objections to the license plate/address identification proposal were that: (1) Such identification eliminates the anonymity of the operator, which according to the commenters, is an essential aspect of CB radio and one of its prime attractions, and (2) that such specific identification may constitute a danger to life and property for the operator so identifying, with one result being that fewer operators would identify. Many of the other objections to the proposal were of a legal or practical nature, including: (1) Identification would not be unique to an individual where the individual owned more than one motor vehicle; (2) the same license plate number may exist in more than one state, resulting in loss of uniqueness; (3) persons having their Amateur Radio Service call sign on their license plates would be required to identify by their call signs in the Amateur Radio Service, violating Amateur Radio Service rules; (4)

identification with obscene, profane or offensive vanity plates would be required; (5) many motor vehicle owners have not memorized their tag numbers; (6) within a family, different identifications would be required; (7) residence street addresses of multi-residence buildings would not be unique; (8) employees driving leased vehicles in the course of their business would have confusing identification requirements; and (9) businesses or organizations neither owning motor vehicles nor having street addresses would have no proper identification.

37. In its "fill-in-the-blank" reply comments, REACT polled those who filed on what identification methods they would prefer were we to eliminate individual station licenses in the CB radio service. The choices were not mutually exclusive. Of those filing such reply comments, almost all favored retention of identification by original Commission-assigned call sign. Additionally, about 90 favored identification by organization and unit (where applicable), about 60 favored use of a call sign constructed in the same fashion as present call signs to be used in CB radio with temporary authorization, and about 50 favored use of handles.

38. Without going into the merits of each individual objection to the proposed license plate/address identification scheme for CB, we are convinced by the comments that it could create significant practical problems. As a result, we have chosen not to adopt this identification proposal. Each of the other proposed alternatives would be, arguably, less unique, and each of the other proposed alternatives could create equally as many practical problems, such as (1) new CB'ers won't have original Commission-assigned call signs, (2) call signs in the fashion of those constructed for temporary use with CB today could be highly duplicative, (3) identification by organization and unit numbers does not include individual persons, and would cause massive confusion in the case of large organizations or businesses, and (4) handles are also frequently duplicated. Thus, instead of adopting the license plate/address identification scheme, we are eliminating the requirement that CB communications be identified.

39. We recognize that present ITU Radio Regulation No. 737, Mar. 2 (Article 19) states in pertinent part: "A station shall be identified by a call sign or other recognized means of identification." However, in the Final Acts of the World Administrative Radio Conference, Geneva, 1979 (the Final Acts) to which the U.S. Senate recently gave its advice and consent, new ITU Radio Regulation No. 2058, Geneva, 1979, states that transmissions by stations in the mobile services "should" carry identification signals. It does not make station identification mandatory. And while present ITU Radio Regulation No. 737, Mar. 2 survives in the Final Acts in substance as new ITU Radio Regulation No. 2069, Geneva, 1979, it does so with the added qualifier that it applies only to "* * * transmissions carrying identification signals * * *." This is consistent with new Radio Regulation 2079, Geneva, 1979, which expressly comtemplates "transmissions not carrying identification signals." CB transmissions, therefore, will be such transmissions. The United Kingdom has already eliminated identification requirements in its Citizens Band service. We believe elimination of identification requirements in the U.S. Citizens Band Radio Service is consistent with the Final Acts.

40. As we indicated in the *Notice* in this proceeding, the removal of individually assigned call signs makes it impossible to meet with International Frequency Board (IFRB) requirements. Because of the large number of CB licensees, we have never given notification of CB call signs to the IFRB. This has caused few problems, because violators rarely identify by call sign and cross-checking of IFRB data would not generally have been helpful. Thus, we believe that elimination of any requirement to identify CB communications will have little impact in view of out long-standing policy of not reporting CB call signs to the IFRB.

41. In the Radio Control Service, we are retaining rules not requiring identification of communications. While Article 19 of the ITU Radio Regulations requires identification of stations, Footnote 1 to Radio Regulation 735 of Article 19 recognizes that "identifying signals for certain radio systems (e.g. radiodetermination, radio relay systems and space systems) is not always possible." We believe that systems used in the Radio Control Service, which are typically designed to transmit signals to control mechanical devices, fall within this exception.

2. *Enforcement.* 42. Some comments stated that a greater number of CB violations will occur if we eliminate individual station licenses because this action will contribute to a growing perception that the FCC is abandoning the Citizens Band Radio Service. The same comments argued that FCC enforcement in CB is inadequate now, and would continue to be inadequate if individual station licenses are eliminated.

43. We are not abandoning the Citizens Band Radio Service. Elimination of individual station licenses will result in no diminution of the operating privileges or responsibilities of R/C and CB users. An operator of an R/C or CB radio station will still be required to comply with the Act and with the rules of each service. *See* 47 U.S.C. 307(e)(2). We will continue to use forfeitures and cease and desist orders as enforcement tools.

44. However, it must be recognized that the level of field enforcement in the Citizens Band Radio Service, regardless of the outcome of this proceeding, is directly related to budgetary constraints and the necessary prioritization that must occur in times of limited resources.

45. Nonetheless, we believe that the changes in compliance policy proposed in the *Notice* at para. 16 will go a long way toward giving FOB and the Justice Department greater latitude in dealing with CB violators. Specifically, we will, for compliance purposes, treat persons violating R/C or CB rules while using non-modified, type accepted equipment as operating in violation of Commission Rules. We will treat persons violating R/C or CB rules while using modified or non-type-accepted equipment as operating without proper authorization in violation of Sections 301 and 302 of the Communications Act of 1934, as amended.

46. Other practical difficulties of enforcement likely to occur with the elimination of individual station licenses were raised by the comments. These difficulties included the need to ascertain specific operator's identity to establish responsibility for transmissions, the need for additional field activity or inspections to identify violators, and the difficulty of imposing forfeitures upon minors. These workability problems were factored into our assessment of FOB's offsetting costs to maintain its present level of CB enforcement.

47. REACT International, Inc. and 125 or so reply commenters indicated that if the FCC accepted the use of voluntary and uncompensated volunteers to assist in enforcement in the Citizens Band Radio Service, they would participate in such a program if individual station licenses were eliminated. The comments generally agreed that without a unique identifier such as a Commission-assigned call sign it would be difficult for volunteers to assist the FCC in enforcement or to assist others in emergencies. However, as we have already indicated, violators generally do

not identify, so a lack of required identification for communications should not adversely impact upon a volunteer enforcement assistance program. Moreover in emergencies we are confident that those wishing to identify themselves adequately in order to obtain or to provide emergency assistance will be able to do so.

3. *Rule copies.* 48. We are retaining, with appropriate modifications, the requirement that manufacturers pack a copy of the CB rules with each transmitter. *See* 47 CFR 95.645(f). We expect that this will insure that the public will continue to be apprised of the substance of our rules and the necessity to abide by them. Almost all of the reply comments filed supported retention of this rule.

49. Also, virtually all of the reply comments favored reinstatment of a rule requiring CB operators to keep a current copy of FCC CB rules as part of their station records. We recently decided to stop requiring CB operators to have a copy of Commission CB rules. The reasons we took this action are equally valid whether or not we eliminate individual station licenses, and we do not intend to revisit the matter in the context of this proceeding. *See Order,* 47 FR 19367 (May 5, 1982). *See also Memorandum Opinion and Order,* FCC 82-540 (December 13, 1982).

4. *Eligibility.* 50. We are deleting minimum age requirements for operating in the R/C and CB Radio Services. Age reduction proposals in the CB Radio Service have generally been supported in comments in previous proceedings. *See Citizens Radio Service,* 60 FCC 2d 762, 767 (July 29, 1976). However, we have in the past refrained from changing the minimum age for eligibility due to inability to absorb the likely additional resource impact from the projected number of additional license applications. *Id.* With the elimination of individual station licenses in these services, Commission resource impact no longer stands in the way of deleting minimum age requirements. Comments on this subject in this proceeding were limited and mixed.

51. In addition to its *Comments* in this proceeding, REACT International, Inc., filed a separate pleading noting that proposed CB Rule 4 does not rule ineligible those persons whose CB licenses have been revoked but who have not been issued a cease and desist order. Other comments, including the *Comments* of P. Randall Knowles, felt that it would be inappropriate to permit those who had committed serious violations which had resulted in license revocation to operate under the new rules. We disagree. It would be neither consistent nor equitable for us to establish a rationale, on the one hand, that we will eliminate individual station licenses and rely on our forfeiture authority primarily for enforcement and then, on the other hand, to "grandfather" in the effects of license revocation into services where individual station licenses have been eliminated. Nevertheless, we have available to us several remedies for resumed or continued violative conduct. These remedies include cease and desist orders and/or criminal prosecution. In criminal prosecutions illegal equipment may be seized by U.S. Marshalls and forfeited to the United States Government.

C. *Alternative Proposals.* 1. *User Fees.* 52. Almost two-thirds of the comments and reply comments urged that we offset licensing administration, education and enforcement of CB radio matters with licensing or user fees, instead of eliminating individual station licensing in the Citizens Ban Radio Service. Fewer than five filings expressed opposition to such a proposal. Roughly 70 persons indicated they would pay a $10 fee for a five year license; 35 persons would pay $20; and 30 persons would pay $5.

53. Some of the comments acknowledged that any monies collected in such a fashion would have to be placed in U.S. government general revenues, rather than in the operating budget of this agency. *See* the *Miscellaneous Receipts Act,* 31 U.S.C. 484 *et seq.,* read in conjunction with 31 U.S.C. 628 and 18 U.S.C. 209. We may only spend those monies which Congress has appropriated for our budget. Thus, we are not in a position to act favorably on such a proposal.

54. A few comments urged the enactment of new legislation permitting establishment of a trust fund or other similar "escrow" account into which the Commission could place CB license or user fees. The Commission would then be authorized by Congress to offset its CB expenses with monies from such a fund.

55. This rule making proceeding is not the appropriate forum in which to seek new legislation. We can only make rules consistent with our mandate from Congress and the laws of the land as they exist today. Present law does not permit us to offset CB costs directly with license or user fees. Therefore, such fees are not an available alternative.

2. *Ten Year Licenses.* 56. At least one comment suggested that, in order to realize cost savings, we adopt ten year licenses in the R/C and CB Radio Services instead of eliminating individual station licenses. Many of the cost and administrative savings achieved by eliminating individual station licenses result from abolishing the data base entirely and completely eliminating jobs and computer usage associated with processing the licenses and maintaining the data base. Comparable savings could not be achieved by adopting a system of ten-year licensing. The savings would be less than half those estimated for eliminating individual station licensing. We are, therefore, not adopting this proposed alternative.

D. *Channel 9.*

57. REACT International, Inc. requested us to permit administrative communications on Channel 9 in the CB Radio Service if we eliminate individual station licenses. Almost 100 reply comments favored this request; more than 40 opposed it. We now allow Channel 9 to be used only for emergency communications or for traveler assistance. We do not believe that elimination of individual station licensing should have, in and of itself, any practical impact on the use of Channel 9. Therefore, we will not permit administrative communications on this channel.

E. *International Effects.*

58. Some comments expressed concern that if we eliminate individual station licenses in the CB Radio Service, then U.S. citizens travelling abroad, particularly in Canada and Mexico, will no longer be able to use their CB radios in those countries. We have forwarded copies of the *Notice of Proposed Rule Making* in this proceeding to Canada and Mexico. To date, we have received no response. We hope to be able to work out acceptable arrangements for use of CB radios by travellers from the United States to Canada or Mexico.

59. Some comments stated that elimination of individual station licensing in these services as proposed would adversely affect the United States in future international negotiations and encourage other countries to ignore the ITU Regulations. Admittedly, we do not know what the reaction of the international community will be to elimination of individual station licenses in the United States in the Radio Control and Citizens Band Radio Services. However, we are of the view that our action is defensible in international negotiations.

VII. Regulatory Flexibility

60. We certified in the *Notice of Proposed Rule Making* in this proceeding that the rules we are adopting would not have a significant economic impact on a substantial number of small entities, since they

merely eliminate a licensing requirement that imposed little economic burden on individual applicants. Accordingly, pursuant to Section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, we determined in the *Notice* that Sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 603 and 604, do not apply to this rule making proceeding. The Chief Counsel for Advocacy of the Small Business Administration was so notified.

VIII. Ordering Clauses

61. Accordingly, it is ordered, effective thirty days after publication of this document in the **Federal Register**, that 47 CFR Parts 1 and 95 are amended as shown in the Appendix attached hereto.[1] The authority for this action is found in sections 4(i), 303 and 307(e) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303 and 307(e).

62. It is further ordered that as of the effective date of these rule changes all existing licenses that have been issued by this Commission in the Radio Control Radio Service and in the Citizens Band Radio Service will be void.

63. It is further ordered that all pending applications for licenses in the Radio Control Radio Service and in the Citizens Band Radio Service, as of the date of adoption of this *Report and Order*, will receive no further consideration.

64. It is further ordered that applications for licenses in the Radio Control Radio Service and in the Citizens Band Radio Service received on or after the date of adoption of this *Report and Order* will receive no consideration.

65. It is further ordered that this proceeding is terminated.

66. For further information concerning this document, contact John J. Borkowski (202) 632–4964.

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

William J. Tricarico,

Secretary.

Appendix

The FCC hereby amends Part 1 [47 CFR 1.89, 1.912, 1.922, 1.925, 1.926 and 1.933] and Part 95 [Subpart C (47 CFR 95.201 and following), Subpart D (47 CFR 95.401 and following), and 47 CFR 95.645(f) in Subpart E] of its Rules as set forth below:

[1] In the interest of clarity, we have set forth new Subparts C and D of Part 95 in the Appendix in their entirety.

PART 1—[AMENDED]

1. Section 1.89 of the rules is revised to read:

§ 1.89 Notice of violations.

(a) Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, any person who holds a license, permit or other authorization appearing to have violated any provision of the Communications Act or any provision of this chapter will, before revocation, suspension, or cease and desist proceedings are instituted, be served with a written notice calling these facts to his or her attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose. The Notice of Violation may be combined with a Notice of Apparent Liability to Monetary Forfeiture. In such event, notwithstanding the Notice of Violation, the provisions of § 1.80 apply and not those of § 1.89.

(b) Within 10 days from receipt of notice or such other period as may be specified, the recipient shall send a written answer, in duplicate, directly to the Commission office originating the official notice. If an answer cannot be sent or an acknowledgment cannot be made within such 10-day period by reason of illness or other unavoidable circumstance, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. In every instance the answer shall contain a statement of action taken to correct the condition or omission complained of and to preclude its recurrence. In addition:

(1) If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus and any new apparatus is to be installed, the answer shall state the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application.

(2) If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge (where applicable) shall be given.

2. Paragraph (d) of § 1.912 of the rules is revised to read:

§ 1.912 Where applications are to be filed.

* * * * *

(d) All formal applications for ship station licenses (FCC Forms 502 and 405–B) shall be submitted to the Commission's office, Box 1040, Gettysburg, Pennsylvania 17325. All formal applications for aircraft station licenses (FCC Forms 404 and 405–B) shall be submitted to the Commission's office, Box 1030, Gettysburg, Pennsylvania 17325. All applications for General Mobile Radio Service station licenses shall be filed in accordance with paragraph (e) of this section.

* * * * *

§ 1.922 [Amended]

3. FCC Forms 505 and 555–B are removed from § 1.922 of the rules.

§ 1.925 [Amended]

4. Paragraph (d) of § 1.925 of the rules is removed and reserved.

§ 1.926 [Amended]

5. Paragraph (b)10 of § 1.926 of the rules is removed and reserved.

6. Paragraph (b) of § 1.933 of the rules is revised to read:

§ 1.933 Installation or removal of apparatus.

* * * * *

(b) In the Personal Radio Services, replacement of transmitting equipment may be made without prior authorization if: (1) The replacement transmitter appears in the Commission's "Radio Equipment List," as designated for use in the Personal Radio Service, *OR* (2) the replacement transmitter is for an R/C station, operates on frequencies assigned for R/C station use and complies with the technical standards of Part 95, Subpart E.

7. Subpart C of Part 95, Radio Control (R/C) Radio Service, is completely revised to read as follows:

PART 95—PERSONAL RADIO SERVICES

* * * * *

Subpart C—Radio Control (R/C) Radio Service

General Provisions

Sec.

95.201 (R/C Rule 1) What is the Radio Control (R/C) Radio Service?
95.202 (R/C Rule 2) How do I use these rules?
95.203 (R/C Rule 3) Am I eligible to operate an R/C station?
95.204 (R/C Rule 4) Do I need a license?

Sec.

95.205 (R/C Rule 5) Where may I operate my R/C station?
95.206 (R/C Rule 6) Are there any special restrictions on the location of my R/C station?

How To Operate An R/C Station

95.207 (R/C Rule 7) On what channels may I operate?
95.208 (R/C Rule 8) How high may I put my antenna?
95.209 (R/C Rule 9) What equipment may I use at my R/C station?
95.210 (R/C Rule 10) How much power may I use?
95.211 (R/C Rule 11) What communications may be transmitted?
95.212 (R/C Rule 12) What communications are prohibited?
95.213 (R/C Rule 13) May I be paid to use my R/C station?
95.214 (R/C Rule 14) Who is responsible for R/C communications I make?
95.215 (R/C Rule 15) Do I have to limit the length of my communications?
95.216 (R/C Rule 16) Do I identify my R/C communications?
95.217 (R/C Rule 17) May I operate my R/C station transmitter by remote control?

Other Things You Need to Know

95.218 (R/C Rule 18) What are the penalties for violating these rules?
95.219 (R/C Rule 19) How do I answer correspondence from the FCC?
95.220 (R/C Rule 20) What must I do if the FCC tells me that my R/C station is causing interference?
95.221 (R/C Rule 21) How do I have my R/C station transmitter serviced?
95.222 (R/C Rule 22) May I make any changes to my R/C station transmitter?
95.223 (R/C Rule 23) Do I have to make my R/C station available for inspection?
95.224 (R/C Rule 24) What are my station records?
95.225 (R/C Rule 25) How do I contact the FCC?

Subpart C—Radio Control (R/C) Radio Service

General Provisions

§ 95.201 (R/C Rule 1) What is the Radio Control (R/C) Radio Service?

The R/C Service is a private, one-way, short distance non-voice communications service for the operation of devices at remote locations.

§ 95.202 (R/C Rule 2) How do I use these rules?

(a) You must comply with rules (see R/C Rule 18, § 95.218, for the penalties for violations) when you operate a station in the R/C service from:

(1) Within or over the territorial limits of places where radio services are regulated by the FCC (see R/C Rule 5, §95.205);

(2) Aboard any vessel or aircraft registered in the United States; or

(3) Aboard any unregistered vessel or aircraft owned or operated by a United States citizen or company.

(b) Your R/C station must comply with technical rules found in Subpart E of Part 95.

(c) Where the rules use the word "you", "you" means a person operating an R/C station.

(d) Where the rules use the word "person," the rules are concerned with an individual, a corporation, a partnership, an association, a joint stock company, a trust, a state, territorial or local government unit, or other legal entity.

(e) Where the rules use the term "FCC," that means the Federal Communications Commission.

(f) Where the rules use the term "R/C station," that means a radio station transmitting in the R/C Radio Service.

§ 95.203 (R/C Rule 3) Am I eligible to operate an R/C station?

You are authorized to operate an R/C station unless:

(a) You are a foreign government, a representative of a foreign government, or a federal government agency; *OR*

(b) The FCC has issued a cease and desist order to you, and the order is still in effect.

§ 95.204 (R/C Rule 4) Do I need a license?

You do not need an individual license to operate an R/C station. You are authorized by this rule to operate your R/C station in accordance with the rules in this subpart.

§ 95.205 (R/C Rule 5) Where may I operate my R/C station?

Your are authorized to operate your R/C station from:

(a) Within or over any area of the world where radio services are regulated by the FCC. Those areas are within the territorial limits of:

(1) The fifty United States

(2) The District of Columbia

Caribbean Insular areas

(3) Commonwealth of Puerto Rico

(4) Navassa Island

(5) United States Virgin Islands (50 islets and cays)

Pacific Insular areas

(6) American Samoa (seven islands)

(7) Baker Island

(8) Commonwealth of Northern Mariana Islands

(9) Guam Island

(10) Howland Island

(11) Jarvis Island

(12) Johnston Island (Islets East, Johnston, North and Sand)

(13) Kingman Reef

(14) Midway Island (Islets Eastern and Sand)

(15) Palmyra Island (more than 50 islets)

(16) Wake Island (Islets Peale, Wake and Wilkes)

(b) Any other area of the world, except within the territorial limits of areas where radio services are regulated by—

(1) An agency of the United States other than the FCC. (You are subject to its rules.)

(2) Any foreign government. (You are subject to its rules.)

(c) An aircraft or ship, with the permission of the captain, within or over any area of the world where radio services are regulated by the FCC or upon or over international waters. You must operate your R/C station according to any applicable treaty to which the United States is a party.

§ 95.206 (R/C Rule 6) are there any special restrictions on the location of my R/C stations?

(a) If your R/C station is located on premises controlled by the Department of Defense, you may be required to comply with additional regulations imposed by the commanding officer of the installation.

(b) If your R/C station will be constructed on land of environmental or historical importance (such as a location significant in American history, architecture or culture), you may be required to provide information and to comply with §§ 1.1305–1.1319 of the FCC's Rules.

How to Operate an R/C Station

§ 95.207 (R/C Rule 7) On what channels may I operate?

(a) Your R/C station may transmit only on the following channels (frequencies):

Frequencies (MHz)	To operate
26.995	Any kind of device (any object or apparatus, except an R/C transmitter).
27.045	
27.095	
27.145	
27.195	
27.255	
26.995	A model aircraft device (any small imitation of an aircraft).
27.045	
27.095	
27.145	
27.195	
27.255	
72.01	
72.03	
72.05	
72.07	
72.08	[see paragraph (e) of this section]
72.09	
72.11	
72.13	
72.15	

Frequencies (MHz)	To operate
72.16	[see paragraph (e) of this section]
72.17	
72.19	
72.21	
72.23	
72.24	[see paragraph (e) of this section]
72.25	
72.27	
72.29	
72.31	
72.32	[see paragraph (e) of this section]
72.33	
72.35	
72.37	
72.39	
72.40	[see paragraph (e) of this section]
72.41	
72.43	
72.45	
72.47	
72.49	
72.51	
72.53	
72.55	
72.57	
72.59	
72.61	
72.63	
72.65	
72.67	
72.69	
72.71	
72.73	
72.75	
72.77	
72.79	
72.81	
72.83	
72.85	
72.87	
72.89	
72.91	
72.93	
72.95	
72.96	[see paragraph (e) of this section]
72.97	
72.99	
75.64	[see paragraph (e) of this section]
26.995	A model surface craft device (any small imitation of a boat, car or vehicle except aircraft, for carrying people or objects).
27.045	
27.095	
27.145	
27.195	
27.255	
72.16	[see paragraph (e) of this section]
72.32	[see paragraph (e) of this section]
72.96	[see paragraph (e) of this section]
75.41	
75.43	
75.45	
75.47	
75.49	
75.51	
75.53	
75.55	
75.57	
75.59	
75.61	
75.63	
75.65	
75.67	
75.69	
75.71	
75.73	
75.75	
75.77	
75.79	
75.81	
75.83	
75.85	
75.87	
75.89	
75.91	
75.93	
75.95	
75.97	
75.99	

(b) You must share the channels with other R/C stations. You must cooperate in the selection and use of the channels. You must share the channel 27.255 MHz with stations in other radio services. There is no protection from interference on any of these channels.

(c) Your R/C station may not transmit simultaneously on more than one channel in the 72–76 MHz band when your operation would cause harmful interference to the operation of other R/C stations.

(d) Your R/C station must stop transmitting if it interferes with:

(1) Authorized radio operations in the 72–76 MHz band; *OR*

(2) Television reception on TV channels 4 or 5.

(e) Authorization for the use of the following frequencies is withdrawn effective December 20, 1987: 72.08, 72.16, 72.24, 72.32, 72.40, 72.96 and 75.64 MHz.

§ 95.208 (R/C Rule 8) How high may I put my antenna?

(a) "Antenna" means the radiating system (for transmitting, receiving or both) and the structure holding it up (tower, pole or mast). It also means everything else attached to the radiating system and the structure.

(b) If your antenna is mounted on a hand-held portable unit, none of the following limitations apply.

(c) If your antenna is installed at a fixed location, it (whether receiving, transmitting or both) must comply with either one of the following:

(1) The highest point must not be more than 6.10 meters (20 feet) higher than the highest point of the building or tree on which it is mounted; *OR*

(2) The highest point must not be more than 18.3 meters (60 feet) above the ground.

(d) If your R/C station is located near an airport, and if your antenna structure is more than 6.1 meters (20 feet) high, you may have to obey additional restrictions. The highest point of your antenna must not exceed one meter above the airport elevation for every hundred meters of distance from the nearest point of the nearest airport runway. Differences in ground elevation between your antenna and the airport runway may complicate this formula. If your R/C station is near an airport, you may contact the nearest FCC field office listed in section 0.121 of the Commission's Rules for a worksheet to help you figure the maximum allowable height of your antenna. Consult Part 17 of the FCC's Rules for more information.

WARNING: Installation and removal of R/C station antennas near powerlines is dangerous. For your safety, follow the installation directions included with your antenna.

§ 95.209 (R/C Rule 9) What equipment may I use at my R/C station?

(a) Your R/C station may transmit only with:

(1) An FCC type accepted (or type approved) R/C transmitter (Type accepted means the FCC has determined that certain radio equipment is capable of meeting recommended standards for operation); *OR*

(2) A non-type accepted R/C transmitter on channels 26.995–27.255 MHz if it complies with the technical standards (See Part 95, Subpart E).

(3) Use of a transmitter outside of the band 26.995–27.255 MHz which is not type accepted (or type approved) voids your authority to operate the station. Use of a transmitter in the band 26.995–27.255 MHz which does not comply with the technical standards voids your authority to operate the station.

(b) You may examine a list of type accepted transmitters at any FCC field office.

(c) Your R/C station may transmit with a transmitter assembled from a kit.

(d) You must not make, or have made, any internal modification to a type-accepted transmitter. (See R/C Rule 22.) Any internal modification to a type-accepted transmitter cancels the type-acceptance, and use of such a transmitter voids your authority to operate the station.

§ 95.210 (R/C Rule 10) How much power may I use?

(a) Your R/C station transmitter power output must not exceed the following value under any conditions:

Channel	Transmitter power (carrier power) (watts)
27.255 MHz	25
26.995–27.195 MHz	4
72–76 MHz	0.75

(b) Use of a transmitter which has power output in excess of that authorized voids your authority to operate the station.

§ 95.211 (R/C Rule 11) What communications may be transmitted?

(a) You may only use your R/C station to transmit one-way communications. (One-way communications are transmissions which are not intended to establish communications with another station.)

(b) You may only use your R/C station for the following purposes:

(1) The operator turns on and/or off a device at a remote location (Refer to Diagram 1); *or*

(2) A sensor at a remote location turns on and/or off an indicating device for the operator. (Refer to Diagram 2.) Only channels 26.995 to 27.255 MHz (see R/C Rule 17 § 95.217) may be used for this purpose. (A remote location means a place distant from the operator.)

(c) Your R/C station may only transmit non-voice:

(1) Amplitude modulation emissions (A9);

(2) Unmodulated on-off emissions (A9); *or*

(3) Frequency (or phase) modulated emissions (F9) on the 72–76 MHz channels only.

§ 95.212 (R/C Rule 12) What communications are prohibited?

You must not use an R/C station—

(a) In connection with any activity which is against federal, state or local law;

(b) To transmit any message other than for operation of devices at remote locations (no voice, telegraphy, etc.);

(c) To intentionally interfere with another station's transmissions;

(d) To operate another R/C transmitter by remote control (See R/C Rule 17 § 95.217); *or*

(e) To transmit two-way communications.

§ 95.213 (R/C Rule 13) May I be paid to use my R/C station?

(a) You may not accept direct or indirect payment for transmitting with an R/C station.

(b) You may use an R/C station to help you provide a service, and be paid for that service, as long as you are paid only for the service and not for the actual use of the R/C station.

§ 95.214 (R/C Rule 14) Who is responsible for R/C communications I make?

You are responsible for all communications which are made by you from an R/C station.

§ 95.215 (R/C Rule 15) Do I have to limit the length of my communications?

(a) You must limit your R/C communications to the minimum practical time.

(b) The only time your R/C communications may be a continuous signal for more than 3 minutes is when operation of the device requires at least one or more changes during each minute of the communications.

(c) Your R/C station may transmit a continuous signal without modulation only if:

(1) You are using it to operate a model aircraft device; *and*

(2) The presence or absence of the signal operates the device.

(d) If you show that you need a continuous signal to insure the immediate safety of life of property, the FCC may make an exception to the limitations in this rule.

§ 95.216 (R/C Rule 16) Do I identify my R/C communications?

You need not identify your R/C communications.

§ 95.217 (R/C Rule 17) May I operate my R/C station transmitter by remote control?

(a) You may not operate an R/C transmitter by radio remote control. (See R/C Rule 12, § 95.212.)

(b) You may operate an R/C transmitter by wireline remote control if you obtain specific approval in writing from the FCC. To obtain FCC approval, you must show why you need to operate your station by wireline remote control. Send your request and justification to FCC, Gettysburg, Pa. 17325. If you receive FCC approval, you must keep the approval as part of your station records. (See R/C Rule 24, § 95.224.)

(c) Remote control means operation of an R/C transmitter from any place other than the location of the R/C transmitter. Direct mechanical control or direct electrical control by wire from some point on the same premises, craft or vehicles as the R/C transmitter is not considered remote control.

Other Things You Need To Know

§ 95.218 (R/C Rule 18) What are the penalties for violating these rules?

(a) If the FCC finds that you have willfully or repeatedly violated the Communications Act or the FCC Rules, you may have to pay as much as $2,000 for each violation, up to a total of $5,000. (See Section 503(b) of the Communications Act.)

(b) If the FCC finds that you have violated any section of the Communications Act or the FCC Rules, you may be ordered to stop whatever action caused the violation. (See Section 312(b) of the Communications Act.)

(c) If a federal court finds that you have willfully and knowingly violated any FCC Rule, you may be fined up to $500 for each day you committed the violation. (See Section 502 of the Communications Act.)

(d) If a federal court finds that you have willfully and knowingly violated any provision of the Communications Act, you may be fined up to $10,000, or you may be imprisoned for one year, or both. (See Section 501 of the Communications Act.)

§ 95.219 (R/C Rule 19) How do I answer correspondence from the FCC?

(a) If it appears to the FCC that you have violated the Communications Act or FCC rules, the FCC may send you a discrepancy notice.

(b) Within the time period stated in the notice, you must answer with:

(1) A complete written statement about the apparent discrepancy;

(2) A complete written statement about any action you have taken to correct the apparent violation and to prevent it from happening again; *AND*

(3) The name of the person operating at the time of the apparent violation.

(c) If the FCC send you a letter asking you questions about your R/C radio station or its operation, you must answer each of the questions with a complete written statement within the time period stated in the letter.

(d) You must not shorten your answer by references to other communications or notices.

(e) You must send your answer to the FCC office which sent you the notice.

(f) You must keep a copy of your answer in your station records (See R/C Rule 24, § 95.224).

§ 95.220 (R/C Rules 20) What must I do if the FCC tells me that my R/C station is causing interference?

(a) If the FCC tells you that your R/C station is causing interference for technical reasons, you must follow all instructions in the official FCC notice. (This notice may require you to have technical adjustments made to your equipment.)

(b) You must comply with any restricted hours of R/C station operation which may be included in the official FCC notice.

§ 95.221 (R/C Rule 21) How do I have my R/C transmitter serviced?

(a) You may adjust an antenna to your R/C transmitter and you may make radio checks. (A radio check means a one-way transmission for a short time in order to test the transmitter.)

(b) Each internal repair and each internal adjustment to your FCC type accepted R/C transmitter (see R/C Rule 9, § 95.209) must be made by or under the direct supervision of a person licensed by the FCC as a General Radiotelephone Operator.

(c) Except as provided in paragraph (d) of this section, each internal repair and each internal adjustment of an R/C transmitter in which signals are transmitted must be made using a nonradiating ("dummy") antenna.

(d) Brief test signals (signals not longer than one minute during any five

minute period) using a radiating antenna may be transmitted in order to:

(1) Adjust a transmitter to an antenna;

(2) Detect or measure radiation of energy other than the intended signal; *OR*

(3) Tune a receiver to your R/C transmitter.

§ 95.222 (R/C Rule 22) May I make any changes to my R/C station transmitter?

(a) You must not make or have anyone else make an internal modification to your R/C transmitter.

(b) Internal modification does not include:

(1) Repair or servicing of an R/C station transmitter (see R/C Rule 21, § 95.221); *OR*

(2) Changing plug-in modules which were type-accepted as part of your R/C transmitter.

(c) You must not operate an R/C transmitter which has been modified by anyone in any way, including modification to operate on unauthorized frequencies or with illegal power. (See R/C Rules 9 and 10, §§ 95.209 and 95.210.)

§ 95.223 (R/C Rule 23) Do I have to make my R/C station available for inspection?

(a) If an authorized FCC representative requests to inspect your R/C station, you must make your R/C station and records available for inspection.

(b) An R/C station includes all of the radio equipment you use.

§ 95.224 (R/C Rule 24) What are my station records?

Your station records include the following documents, as applicable:

(a) A copy of each response to an FCC violation notice or an FCC letter. (See R/C Rule 19, § 95.219.)

(b) Each written permission received from the FCC. (See R/C Rule 17.)

§ 95.225 (R/C Rule 25) How do I contact the FCC?

(a) Write to your nearest FCC Field Office listed in Section 0.121 of the Commission's Rules if you:

(1) Want to report an interference complaint; *OR*

(2) Want to know if the FCC has type-accepted a transmitter for R/C.

(b) Write to the FCC, Private Radio Bureau, Personal Radio Branch, Washington, D.C. 20554 if you have questions about the R/C Rules.

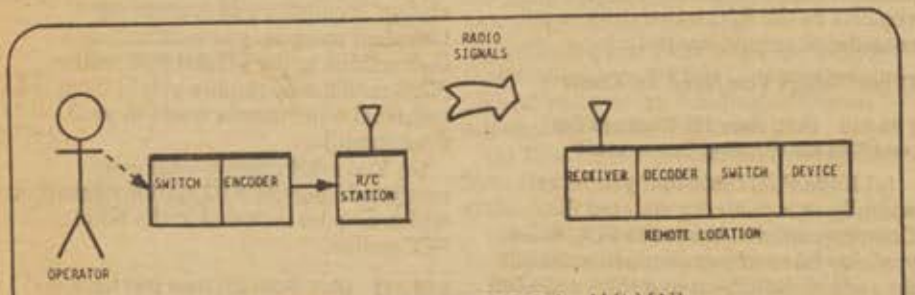


Diagram 1 (Refer to R/C Rule 11(b)(1))

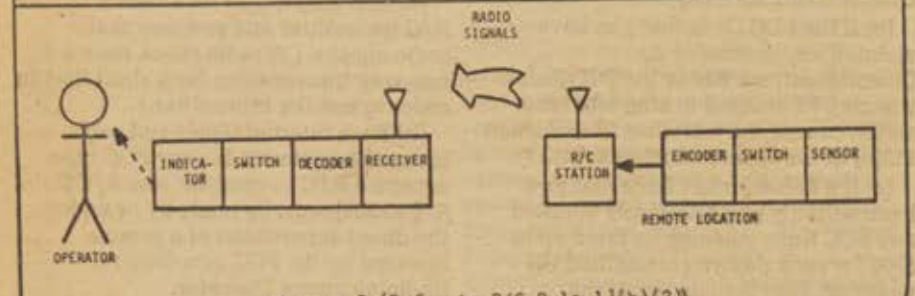


Diagram 2 (Refer to R/C Rule 11(b)(2))

8. Subpart D of Part 95, Citizens Band (CB) Radio Service, is completely revised to read as follows:

Subpart D—Citizens Band (CB) Radio Service

General Provisions

Sec.

95.401 (CB Rule 1) What is the Citizens Band (CB) Radio Service?
95.402 (CB Rule 2) How do I use these rules?
95.403 (CB Rule 3) Am I eligible to operate a CB station?
95.404 (CB Rule 4) Do I need a license?
95.405 (CB Rule 5) Where may I operate my CB station?
95.406 (CB Rule 6) Are there any special restrictions on the location of my CB station?

How To Operate a CB Station

95.407 (CB Rule 7) On what channels may I operate?
95.408 (CB Rule 8) How high may I put my antenna?
95.409 (CB Rule 9) What equipment may I use at my CB station?
95.410 (CB Rule 10) How much power may I use?
95.411 (CB Rule 11) May I use power amplifiers?
95.412 (CB Rule 12) What communications may be transmitted?
95.413 (CB Rule 13) What communications are prohibited?
95.414 (CB Rule 14) May I be paid to use my CB station?
95.415 (CB Rule 15) Who is responsible for CB communications I make?
95.416 (CB Rule 16) Do I have to limit the length of my communications?
95.417 (CB Rule 17) Do I identify my CB communications?
95.418 (CB Rule 18) How do I use my CB station in an emergency or to assist a traveler?
95.419 (CB Rule 19) May I operate my CB station transmitter by remote control?
95.420 (CB Rule 20) May I connect my CB station transmitter to a telephone?

Other Things You Need To Know

95.421 (CB Rule 21) What are the penalties for violating these rules?
95.422 (CB Rule 22) How do I answer correspondence from the FCC?
95.423 (CB Rule 23) What must I do if the FCC tells me that my CB station is causing interference?
95.424 (CB Rule 24) How do I have my CB station transmitter serviced?
95.425 (CB Rule 25) May I make changes to my CB station transmitter?
95.426 (CB Rule 26) Do I have to make my CB station available for inspection?
95.427 (CB Rule 27) What are my station records?
95.428 (CB Rule 28) How do I contact the FCC?

Subpart D—Citizens Band (CB) Radio Service

General Provisions

§ 95.401 (CB Rule 1) What is the Citizens Band (CB) Radio Service?

The CB Radio Service is a private, two-way, short-distance voice communications service for personal or business activities. The CB Radio Service may also be used for voice paging.

§ 95.402 (CB Rule 2) How do I use these rules?

(a) You must comply with these rules (See CB Rule 21 § 95.421, for the penalties for violations) when you operate a station in the CB Service from:

(1) Within or over the territorial limits of places where radio services are regulated by the FCC (see CB Rule 5, § 95.405);

(2) Aboard any vessel or aircraft registered in the United States; *OR*

(3) Aboard any unregistered vessel or aircraft owned or operated by a United States citizen or company.

(b) Your CB station must comply with technical rules found in Subpart E of Part 95.

(c) Where the rules use the word "you", "you" means a person operating a CB station.

(d) Where the rules use the word "person," the rules are concerned with an individual, a corporation, a partnership, an association, a joint stock company, a trust, a state, territorial or local government unit, or other legal entity.

(e) Where the rules use the term "FCC", that means the Federal Communications Commission.

(f) Where the rules use the term "CB station", that means a radio station transmitting in the CB Radio Service.

§ 95.403 (CB Rule 3) Am I eligible to operate a CB station?

You are authorized to operate a CB station unless:

(a) You are a foreign government, a representative of a foreign government, or a federal government agency; *OR*

(b) The FCC has issued a cease and desist order to you, and the order is still in effect.

§ 95.404 (CB Rule 4) Do I need a license?

You do not need an individual license to operate a CB station. You are authorized by this rule to operate your CB station in accordance with the rules in this Subpart.

§ 95.405 (CB Rule 5) Where may I operate my CB station?

You are authorized to operate your CB station from:

(a) Within or over any area of the world where radio services are regulated by the FCC. Those areas are within the territorial limits of:

(1) The fifty United States.

(2) The District of Columbia.

Caribbean Insular areas

(3) Commonwealth of Puerto Rico.

(4) Navassa Island.

(5) United States Virgin Islands (50 islets and cays).

Pacific Insular areas

(6) American Samoa (seven islands).

(7) Baker Island.

(8) Commonwealth of Northern Mariana Islands.

(9) Guam Island.

(10) Howland Island.

(11) Jarvis Island.

(12) Johnston Island (Islets East, Johnston, North and Sand).

(13) Kingman Reef.

(14) Midway Island (Islets Eastern and Sand).

(15) Palmyra Island (more than 50 islets).

(16) Wake Island (Islets Peale, Wake and Wilkes).

(b) Any other area of the world, except within the territorial limits of areas where radio services are regulated by—

(1) An agency of the United States other than the FCC. (You are subject to its rules.)

(2) Any foreign government. (You are subject to its rules.)

(c) An aircraft or ship, with the permission of the captain, within or over any area of the world where radio services are regulated by the FCC or upon or over international waters. You must operate your CB station according to any applicable treaty to which the United States is a party.

§ 95.406 (CB Rule 6) Are there any special restrictions on the location of my CB station?

(a) If your CB station is located on premises controlled by the Department of Defense you may be required to comply with additional regulations imposed by the commanding officer of the installation.

(b) If your CB station will be constructed on land of environmental or historical importance (such as a location significant in American history, architecture or culture), you may be required to provide information and to comply with §§ 1.1305 through 1.1319 of the FCC's Rules.

How To Operate a CB Station

§ 95.407 (CB Rule 7) On what channels may I operate?

(a) Your CB station may transmit only on the following channels (frequencies):

Channel	Frequency (megahertz-MHz)
1	26.965
2	26.975
3	26.985
4	27.005
5	27.015
6	27.025
7	27.035
8	27.055
9	[1] 27.065
10	27.075
11	27.085
12	27.105
13	27.115
14	27.125
15	27.135
16	27.155
17	27.165
18	27.175
19	27.185
20	27.205
21	27.215
22	27.225
23	27.255
24	27.235
25	27.245
26	27.265
27	27.275
28	27.285
29	27.295
30	27.305
31	27.315
32	27.325
33	27.335
34	27.345
35	27.355
36	27.365
37	27.375
38	27.385
39	27.395
40	27.405

[1] See paragraph (b) of this section.

(b) Channel 9 may be used only for emergency communications or for traveler assistance.

(c) You must, at all times and on all channels, give priority to emergency communication messages concerning the immediate safety of life or the immediate protection of property.

(d) You may use any channel for emergency communications or for traveler assistance.

(e) You must share each channel with other users.

(f) The FCC will not assign any channel for the private or exclusive use of any particular CB station or group of stations.

(g) The FCC will not assign any channel for the private of exclusive use of CB stations transmitting single sideband or AM.

§ 95.408 (CB Rule 8) How high may I put my antenna?

(a) "Antenna" means the radiating system (for transmitting, receiving or

both) and the structure holding it up (tower, pole or mast). It also means everything else attached to the radiating system and the structure.

(b) If your antenna is mounted on a hand-held portable unit, none of the following limitations apply.

(c) If your antenna is installed at a fixed location it (whether receiving, transmitting or both) must comply with either one of the following:

(1) The highest point must not be more than 6.10 meters (20 feet) higher than the highest point of the building or tree on which it is mounted; *OR*

(2) The highest point must not be more than 18.3 meters (60 feet) above the ground.

(d) If your CB station is located near an airport, and if your antenna structure is more than 6.1 meters (20 feet) high, you may have to obey additional restrictions. The highest point of your antenna must not exceed one meter above the airport elevation for every hundred meters of distance from the nearest point of the nearest airport runway. Differences in ground elevation between your antenna and the airport runway may conplicate this formula. If your CB station is near an airport, you may contact the nearest FCC field office listed in Section 0.121 of the Commission's Rules for a worksheet to help you figure the maximum allowable height for your antenna. Consult Part 17 of the FCC's Rules for more information.

WARNING: Installation and removal of CB Station Antennas near powerlines is dangerous. For your safety follow the installation directions included with your antenna.

§ 95.409 (CB Rule 9) What equipment may I use at my CB station?

(a) You must use an FCC type-accepted CB transmitter at your CB station. You can identify an FCC type-accepted transmitter by the type-acceptance label placed on it by the manufacturer. You may examine a list of type-accepted equipment at any FCC Field Office or at FCC Headquarters. Use of a transmitter which is not FCC type-accepted voids your authority to operate the station.

(b) You must not make, or have made, any internal modification to a type-accepted CB transmitter. (See CB Rule 25, § 95.425). Any internal modification to a type-accepted CB transmitter cancels the type-acceptance, and use of such a transmitter voids your authority to operate the station.

§ 95.410 (CB Rule 10) How much power may I use?

(a) Your CB station transmitter power output must not exceed the following values under any conditions:

AM (A3)–4 watts (carrier power)
SSB—12 watts (peak envelope power)

(b) If you need more information about the power rule, see the technical rules in Subpart E of Part 95.

(c) Use of a transmitter which has carrier or peak envelope power in excess of that authorized voids your authority to operate the station.

§ 95.411 (CB Rule 11) May I use power amplifiers?

(a) You may not attach the following items (power amplifiers) to your type-accepted CB transmitter in any way:

(1) External radio frequency (RF) power amplifiers (sometimes called linears or linear amplifiers); *OR*

(2) Any other devices which, when used with a radio transmitter as a signal source, are capable of amplifying the signal.

(b) There are no exceptions to this rule and use of a power amplifier voids your authority to operate the station.

(c) The FCC will presume you have used a linear or other external RF power amplifier if—

(1) It is in your possession or on your premises; *AND*

(2) There is other evidence that you have operated your CB station with more power than allowed by CB Rule 10, § 95.410

(d) Paragraph (c) of this section does not apply if you hold a license in another radio service which allows you to operate an external RF power amplifier.

§ 95.412 (CB Rule 12) What communications may be transmitted?

(a) You may use your CB station to transmit two-way plain language communications. Two-way plain language communications are communications without codes or coded messages. Operating signals such as "ten codes" are not considered codes or coded messages. You may transmit two-way plain language communications only to other CB stations, to units of your own CB station or to authorized government stations on CB frequencies about—

(1) Your personal or business activities or those of members of your immediate family living in your household;

(2) Emergencies (see CB Rule 18, § 95.418);

(3) Traveler assistance (see CB Rule 18, § 95.418); *or*

(4) Civil defense activities in connection with official tests or drills conducted by, or actual emergencies announced by, the civil defense agency with authority over the area in which your station is located.

(b) You may use your CB station to transmit a tone signal only when the signal is used to make contact or to continue communications. (Examples of circuits using these signals are tone operated squelch and selective calling circuits.) If the signal is an audible tone, it must last no longer than 15 seconds at one time. If the signal is a subaudible tone, it may be transmitted continuously only as long as you are talking.

(c) You may use your CB station to transmit one-way communications (messages which are not intended to establish communications between two or more particular CB stations) only for emergency communications, traveler assistance, brief tests (radio checks) or voice paging.

§ 95.413 (CB Rule 13) What communications are prohibited?

(a) You must not use a CB station—

(1) In connection with any activity which is against federal, state or local law;

(2) To transmit obscence, indecent or profane words, language or meaning;

(3) To interfere intentionally with the communications of another CB station;

(4) To transmit one-way communications, except for emergency communications, traveler assistance, brief tests (radio checks), or voice paging;

(5) To advertise or solicit the sale of any goods or services;

(6) To transmit music, whistling, sound effects or any material to amuse or entertain;

(7) To transmit any sound effect solely to attract attention;

(8) To transmit the word "MAYDAY" or any other international distress signal, except when your station is located in a ship, aircraft or other vehicle which is threatened by grave and imminent danger and your are requesting immediate assistance;

(9) To communicate with, or attempt to communicate with, any CB station more than 250 kilometers (155.3 miles) away;

(10) To advertise a political candidate or political campaign; (you may use your CB radio for the business or organizational aspects of a campaign, if you follow all other applicable rules);

(11) To communicate with stations in other countries, except General Radio Service stations in Canada; *or*

(12) To transmit a false or deceptive communication.

(b) You must not use a CB station to transmit communications for live or delayed rebroadcast on a radio or television broadcast station. You may

use your CB station to gather news items or to prepare programs.

§ 95.414 (CB Rule 14) May I be paid to use my CB station?

(a) You may not accept direct or indirect payment for transmitting with a CB station.

(b) You may use a CB station to help you provide a service, and be paid for that service, as long as you are paid only for the service and not for the actual use of the CB station.

§ 95.415 (CB Rule 15) Who is responsible for communications I make?

You are responsible for all communications which are made by you from a CB station.

§ 95.416 (CB Rule 16) Do I have to limit the length of my communications?

(a) You must limit your CB communications to the minimum practical time.

(b) If you are communicating with another CB station or stations, you, and the stations communicating with you, must limit each of your conversations to no more than five continuous minutes.

(c) At the end of your conversation, you, and the stations communicating with you, must not transmit again for at least one minute.

§ 95.417 (CB Rule 17) Do I identify my CB communications?

(a) You need not identify your CB communications.

(b) [You are encouraged to identify your CB communications by any of the following means:

(1) Previously assigned CB call sign;

(2) K prefix followed by operator initials and residence zip code;

(3) Name; *OR*

(4) Organizational description including name and any applicable operator unit number.]

(c) [You are encouraged to use your "handle" only in conjuction with the methods of identification listed in paragraph (b) of this section.]

§ 95.418 (CB Rule 18) How do I use my CB station in an emergency or to assist a traveler?

(a) You must at all times and on all channels, give priority to emergency communications.

(b) When you are directly participating in emergency communications, you do not have to comply with the rule about length of transmissions (CB Rule 16, § 95.416). You must obey all other rules.

(c) You may use your CB station for communications necessary to assist a traveler to reach a destination or to receive necessary services. When you are using your CB station to assist a traveler, you do not have to obey the rule about length of transmissions (CB Rule 16, § 95.416). You must obey all other rules.

§ 95.419 (CB Rule 19) May I operate my CB station transmitter by remote control?

(a) You may not operate a CB station transmitter by radio remote control.

(b) You may operate a CB transmitter by wireline remote control if you obtain specific approval in writing from the FCC. To obtain FCC approval, you must show why you need to operate your station by wireline remote control. Send your request and justification to FCC, Gettysburg, Pa 17325. If you receive FCC approval, you must keep the approval as part of your station records. (See CB Rule 27, §95.427.)

(c) Remote control means operation of a CB transmitter from any place other than the location of the CB transmitter. Direct mechanical control or direct electrical control by wire from some point on the same premises, craft or vehicle as the CB transmitter is not considered remote control.

§ 95.420 (CB Rule 20) May I connect my CB transmitter to a telephone?

(a) You may connect your CB station transmitter to a telephone if you comply with all of the following:

(1) You or someone else must be present at your CB station and must—

(i) Manually make the connection (the connection must not be made by remote control);

(ii) Supervise the operation of the transmitter during the connecton;

(iii) Listen to each communication during the connection; *AND*

(iv) Stop all communications if there are operations in violation of these rules.

(2) Each communication during the telephone connection must comply with all of these rules.

(3) You must obey any restriction that the telephone company places on the connection of a CB transmitter to a telephone.

(b) The CB transmitter you connect to a telephone must not be shared with any other CB station.

(c) If you connect your CB transmitter to a telephone, you must use a phone patch device with has been registered with the FCC.

Other Things You Need to Know

§ 95.421 (CB Rule 21) What are the penalties for violating these rules?

(a) If the FCC finds that you have willfully or repeatedly violated the Communications Act or the FCC Rules, you may have to pay as much as $2,000 for each violation, up to a total of $5,000. (See Section 503(b) of the Communications Act.)

(b) If the FCC finds that you have violated any section of the Communications Act or the FCC Rules, you may be ordered to stop whatever action caused the violation. (See Section 312(b) of the Communications Act.)

(c) If a federal court finds that you have willfully and knowingly violated any FCC Rule, you may be fined up to $500 for each day you committed the violation. (See Section 502 of the Communications Act.)

(d) If a federal court finds that you have willfully and knowingly violated any provision of the Communications Act, you may be fined up to $10,000 or you may be imprisoned for one year, or both. (See Section 501 of the Communications Act.)

§ 95.422 (CB Rule 22) How do I answer correspondence from the FCC?

(a) If it appears to the FCC that you have violated the Communications Act or these rules, the FCC may send you a discrepancy notice.

(b) Within the time period stated in the notice, you must answer with:

(1) A complete written statement about the apparent discrepancy;

(2) A complete written statement about any action you have taken to correct the apparent violation and to prevent it from happening again: *AND*

(3) The name of the person operating at the time of the apparent violation.

(c) If the FCC sends you a letter asking you questions about your CB radio station or its operation, you must answer each of the questions with a complete written statement within the time period stated in the letter.

(d) You must not shorten your answer by references to other communications or notices.

(e) You must send your answer to the FCC office which sent you the notice.

(f) You must keep a copy of your answer in your station records. (See CB Rule 27, § 95.427.

§ 95.423 (CB Rule 23) What must I do if the FCC tells me that my CB station is causing interference?

(a) If the FCC tells you that your CB station is causing interference for technical reasons you must follow all instructions in the official FCC notice. (This notice may require you to have technical adjustments made to your equipment.)

(b) You must comply with any restricted hours of CB station operation which may be included in the official notice.

§ 95.424 (CB Rule 24) How do I have my CB station transmitter serviced?

(a) You may adjust an antenna to your CB transmitter and you may make radio checks. (A radio check means a one way transmission for a short time in order to test the transmitter.)

(b) Each internal repair and each internal adjustment to your FCC type-accepted CB transmitter (See CB Rule 9, § 95.409) must be made by or under the direct supervision of a person licensed by the FCC as a General Radiotelephone Operator.

(c) Except as provided in paragraph (d) of this section, each internal repair and each internal adjustment of a CB transmitter in which signals are transmitted must be made using a nonradiating ("dummy") antenna.

(d) Brief test signals (signals not longer than one minute during any five minute period) using a radiating antenna may be transmitted in order to:

(1) Adjust an antenna to a transmitter;

(2) Detect or measure radiation of energy other than the intended signal; *OR*

(3) Tune a receiver to your CB transmitter.

§ 95.425 (CB Rule 25) May I make any changes to my CB station transmitter?

(a) You must not make or have any one else make any internal modification to your CB transmitter.

(b) Internal modification does not include:

(1) Repair or servicing of a CB station transmitter (see CB Rule 24, § 95.424); *OR*

(2) Changing plug-in modules which were type accepted as part of your CB transmitter.

(c) You must not operate a CB transmitter which has been modified by anyone in any way, including modification to operate on unauthorized frequencies or with illegal power. (See CB Rules 9 and 11, § 95.409 and 95.411.)

§ 95.426 (CB Rule 26) Do I have to make my CB station available for inspection?

(a) If an authorized FCC representative requests to inspect your CB station, you must make your CB station and records available for inspection.

(b) A CB station includes all of the radio equipment you use.

§ 95.427 (CB Rule 27) What are my station records?

Your station records include the following documents, as applicable.

(a) A copy of each response to an FCC violation notice or an FCC letter. (See CB Rule 22, § 95.422.)

(b) Each written permission received from the FCC. (See CB Rule 19, § 95.419.)

§ 95.428 (CB Rule 28) How do I contact the FCC?

(a) Write to your nearest FCC Field Office listed in Section 0.121 of the Commission's Rules if you:

(1) Want to report an interference complaint; *OR*

(2) Want to know if the FCC has type-accepted a transmitter for CB.

(b) Write to the FCC, Private Radio Bureau, Personal Radio Branch, Washington, D.C. 20554 if you have questions about the CB Rules.

9. Paragraph (f) of § 95.645 of the rules is revised to read:

§ 95.645 Additional requirements for type acceptance.

* * * * *

(f) A copy of Subpart D of Part 95 of the Commission's Rules, to be current at the time of packing of the transmitter, shall be furnished with each transmitter.

* * * * *

[FR Doc. 83-13966 Filed 6-2-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-421; FCC 83-227; RM-3130]

Permit Increased Antenna Height of Class A FM Commercial Broadcast Stations in Puerto Rico and the Virgin Islands

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: In response to a petition filed by Radio Musical Incorporated, and a subsequent Notice of Proposed Rule Making, this action amends the Commission's rules to permit Class A FM broadcast stations in Puerto Rico and the Virgin Islands to operate with increased antenna height. The increase will allow Class A stations to regain portions of their service area, theoretically lost when Class B stations were permitted to increase their antenna height, and to compensate for the adverse effects of the unusually rugged terrain found on these islands.

EFFECTIVE DATE: June 30, 1983.

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

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Mass Media Bureau, (202) 632-9660.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order Proceeding terminated

In the matter of amendment of § 73.211 (b)(3) of the Commission's rules to permit increased antenna height of Class A FM Commercial Broadcast Stations in Puerto Rico and the Virgin Islands; BC Docket No. 81-421, RM-3130.

Adopted: May 12, 1983.

Released: May 23, 1983.

By the Commission.

Introduction

1. The Commission has before it for consideration the *Notice of Proposed Rule Making* [1] *("Notice")* in the above-captioned proceeding and the comments and reply comments filed in response thereto. The *Notice* proposed to increase the maximum antenna height permitted Class A FM broadcast stations in Puerto Rico and the Virgin Islands to compensate for the irregular terrain found there. Class A stations are now limited to a maximum antenna height above average terrain ("AAT") of 300 feet and the *Notice* proposed to increase this to 1,100 feet. It also proposed that Class A stations having antennas above 1,100 feet AAT should reduce power to prevent the service area from exceeding that possible with the proposed maximum facilities. No change in the maximum power limit of 3 kilowatts ("kW") was proposed.

Background

2. Radio Musical, Incorporated, licensee of Class A FM Station WBRQ at Cidra, Puerto Rico ("WBRQ"), submitted a petition (RM-3130) requesting an increase in the antenna height permitted Class A stations located in the two territories. It asserted that the Islands' irregular terrain severely limited the coverage of Class A stations, as it does all FM broadcast stations in that region. Petitioner noted that this problem and its effect on the operation of Class B stations had been explored by the Commission in Docket No. 14185.[2]

3. In Docket No. 14185 the Commission permitted Class B FM broadcast stations in Puerto Rico to utilize 25 kW power with antenna heights up to 2000 feet above average terrain. The primary reasons for the adoption of this provision in Puerto Rico were (a) the special terrain situation wherein a large mountain range runs throughout the Island in its central portion and (b) the favorable assignment situation wherein most of the mileage separations meet the requirements for Class B classifications. In view of those

[1] 47 FR 37923 (July 21, 1981).

[2] See the *Fourth Report and Order* in Docket No. 14185, adopted on October 7, 1964 (29 FR 14116, October 14, 1964). Also see *Report and Order* in Docket No. 18050, adopted May 15, 1968 33 FR 7573 (May 22, 1968).

special considerations and in order to encourage use of higher antennas with their attendant better service to the public, the Commission adopted § 73.211(b)(3) of the rules to permit increased antenna facilities (2000 feet at 25 kW) for Class B stations and further appropriate power reduction for antenna heights above 2000 feet in Puerto Rico. Subsequently, the provision was amended further, by action in Docket No. 18050, to include Class B stations in the Virgin Islands.[3]

4. When § 73.211(b)(3) was originally adopted in 1964, there were no Class A FM stations or channel assignments in Puerto Rico. Thus, increased facilities for Class A stations were not considered. When Class A channels were later assigned in Puerto Rico, similar relief was not considered, and the Class A channels were allocated according to normal mileage separation requirements. However, at normal separations, Class A station's service area might be reduced in the direction of an adjacent channel Class B station. Thus, petitioner indicated that Class A stations require an increase in antenna height to redress this imbalance as well as to compensate for effects of irregular terrain.

5. The Commission agreed that relief appeared warranted and thereby issued the *Notice of Proposed Rule Making* initiating this proceeding to modify the rules. The proposal differed from that suggested by the petitioner in one minor respect: a maximum antenna height of 1100 feet AAT was proposed instead of the 1200 feet sought by WBRQ. The *Notice* indicated that an 1100 foot antenna height permitted an increase in coverage of approximately 6 miles, in the direction of interfering adjacent channel Class B stations. This is sufficient to restore the service area otherwise lost by Class A stations to adjacent channel Class B stations (due to their greater than normal operating facilities at the regular separation distances).

6. The *Notice* also referred to the *Notice of Proposed Rule Making* in BC Docket No. 80–520, as an alternate solution to the Class A stations' signal coverage problem.[4] That proceeding proposed to substitute Class B channels for three of the five Class A channels currently allocated to Puerto Rico. To accommodate these substitute channels, four of the existing Class B stations would have had to change their channel assignments. This proposal was not adopted because the Commission believed that the gain in possible service by upgrading the three Class A channels would not outweigh the disruption to the existing Class B stations. *Report and Order* in BC Docket No. 80–520 adopted on June 29, 1982.[5]

Comments

7. Individual comments were filed by Radio Americas Corporation, licensee of Class B FM Station WIOA, Mayaguez, Puerto Rico ("WIOA"); Guyama Broadcasting Company, licensee of Class B FM Station WXRF, Guayama, Puerto Rico ("WXRF"); Southwestern Broadcasting Corporation, licensee of Class A FM Station WGIT–FM, Hormigueros, Puerto Rico ("WGIT") the Estate of Carlos Rivera, licensee of Class A FM Station WZOL, Luquillo, Puerto Rico ("WZOL"); and Arso Radio Corporation, licensee of Class B FM Station WPRM–FM, San Juan, ("WPRM").[6] Joint comments were filed by Aurio Matos, licensee of Class A FM Station WRFE, Aguada, Puerto Rico ("WRFE"); Arzuaga and Davilla Associates, licensee of Class A FM Station WREI, Quebradillas, Puerto Rico ("WREI"); Radio Musical, Inc., licensee of Class A Station WBRQ, Cidra, Puerto Rico ("WBRQ"); and Enrique Leon. Reply comments were submitted by WBRQ.

8. In its comments, Class B Station WXRF expressed some doubts regarding the technical limitations claimed by Class A stations in Puerto Rico. However, it did believe the instant proposal offered Class A station licensees an opportunity to improve their service in an orderly and efficient manner, and that it constituted a suitable method of achieving a technically appropriate, balance of Class A and Class B FM service in the two regions. Furthermore, WXRF viewed the instant proposal as a preferred alternative to the proposal in BC Docket No. 80–520, because it believed that proceeding would result in considerable disruption and inconvenience necessitated by changes in channel assignments. Lastly, WXRF agreed that the instant proposal is consistent with the intent and purpose of the Commission's FM channel allocation structure.

9. Class B Station WIOA contended that neither the petitioner nor the other Class A station licensees had shown the need for improved facilities, or any significant benefit to the public, to justify adoption of either of the two proposals then under consideration. However, in the event that the Commission concluded that some change of existing standards were warranted, WIOA agreed with WXRF that the antenna height increase at issue in this proceeding was preferable to the more general increase in facilities proposed in DB Docket No. 80–520. WIOA believed that the latter proposal would cause massive and plainly unnecessary disruption of existing Class B station service throughout Puerto Rico.

10. WGIT and WZOL both submitted similar but separate comments in support of the *Notice*. Since each would benefit from adoption of the proposal, both fully supported the technical arguments and fundamental basis for the instant proceeding. These licensees further emphasized the importance of this proceeding in permitting Class A FM assignments in Puerto Rico and the Virgin Islands to operate with facilities that have service areas comparable to those of Class A stations on the U.S. mainland.

11. WBRQ, WREI, WRFE (all Class A stations) and Enrique Leon, collectively submitted comments in response to the *Notice* that discussed the differences of the instant proposal from their proposal under consideration in BC Docket No. 80–520.[7] Their comments suggested the Commission adopt the proposals of both rule making proceedings. Additionally, they indicated that while they supported the proposed increase in antenna height, they believed that a maximum antenna height of 1,200 feet, as petitioned, would be more appropriate than the 1,100 feet limitation proposed in the *Notice*.[8]

[3] Also in Docket No. 18050, the Commission further amended § 73.211(b)(3) of the rules to address the appropriate operating power for stations using antennas between 500 feet and 2000 feet in height. That amendment in effect permits any combination of power and antenna height provided the specified signal (1 mV/m) contour coverage area is not greater than that obtained with the facilities of 25 kW at 2000 feet. As a result, this rule allows these Class B stations to maintain a maximum power of 50 kW and increase their antenna height to a maximum of 1500 feet.

[4] 45 FR 58624 (September 4, 1980).

[5] The *Report and Order* also assigned a Class A channel to Lajas, Puerto Rico, in response to interest expressed during the comment period. Reconsideration of this action has been sought.

[6] The comments of WPRM do not address the merits of the Commission's proposal. They simply register an objection to any improvements in the facilities of short-spaced Class A Station WREI. WREI entered into an agreement with WPRM in which it has agreed not to increase its facilities at its present location. The comments of WPRM are not relevant to this general proceeding since the matter it discusses is a separate one which should be raised in connection with an application for increased facilities by Station WREI.

[7] Collectively, these parties are the petitioners in DB Docket No. 80–520.

[8] These commenters assumed that since Class B stations had earlier received provision for a fourfold increase in antenna height, Class A stations should receive a similar increase in order to restore balance to the FM station assignment criteria in Puerto Rico and the Virgin Islands. However, we would note here (as we did in the *Notice*) that while the maximum antenna height of Class B stations

Conclusion

12. The foregoing discussion reflects the general support of the comments for the antenna height increase proposed in the *Notice*. While Class B station licensees view it as somewhat of an infringement on their service areas, they prefer adoption of this proposal over that considered and denied in BC Docket No. 80–520.

13. After careful consideration of the comments, the Commission concludes that action on the instant proposal is warranted to achieve a greater degree of service area comparability between Class A stations in Puerto Rico and the Virgin Islands and those on the U.S. mainland. It is further warranted to correct an imbalance between the service area relationship of Class A and Class B stations in Puerto Rico and the Virgin Islands. Accordingly, the Commission is herein amending § 73.211(b)(3) to permit use of maximum facilities of 3 kW/1,100 feet by Class A FM commercial stations in Puerto Rico and the Virgin Islands. The use of an antenna height in excess of 1,100 feet will require a reduction in power so that the 1 mV/m contour extends no further from the transmitter/antenna site than it would with the facilities of 3 kW/1,100 feet.

14. *Regulatory Flexibility Act Final Analysis.*

I. Need for Rule

This rule is needed in order that Class A stations in Puerto Rico and the Virgin Islands may overcome the adverse impact of irregular terrain found there, and counterbalance previous Commission action granting adjacent channel Class B stations authority to operate with increased antenna height.

II. Purpose of Rule

The rule amendment described above is intended to improve the service areas of Class A FM commercial stations in Puerto Rico and the Virgin Islands, thereby facilitiating delivery of communications service to the general public. It should also restore the traditional relationship between these stations and Class B FM commercial stations in the same areas, making it analogous with that found on the U.S. mainland.

III. Flexibility Issues Raised In the Comments

None.

IV. Significant Alternatives Not Adopted

None within the scope of this proceeding.

15. Accordingly, it is ordered, pursuant to the authority contained in §§ 4(i) and 303 of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules and Regulations is amended as set forth in the attached Appendix, effective June 30, 1983. It is further ordered that this proceeding is terminated.

16. Further information on this matter may be obtained by contacting Bernard Gorden, Mass Media Bureau, (202) 632–9660.

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

Federal Communication Commission.

William J. Tricarico,

Secretary.

PART 73—[AMENDED]

47 CFR Part 73 of the Federal Communications Commission's Rules and Regulations is amended as follows:

1. Section 73.211(b)(3) is revised as follows:

§ 73.211 Power and antenna height requirements.

* * * * *

(b) * * *

(3) In Puerto Rico and the Virgin Islands:

(i) Class B stations may use antenna heights up to 2,000 feet above average terrain with effective radiated powers up to 25 kW. For antenna heights above 2,000 feet, the power shall be reduced so that the station's 1 mV/m contour (located pursuant to Figure 1 of § 73.333) will extend no farther from the station's transmitter than with the facilities of 25 kW and an antenna height of 2,000 feet. For powers above 25 kW (up to 50 kW) no antenna height will be authorized which result in greater coverage by the 1 mV/m contour than that obtained with the facilities of 25 kW and an antenna height of 2,000 feet.

(ii) Class A stations may use antenna heights up to 1,100 feet above average terrain with effective radiated powers up to 3 kW. For antenna heights above 1,100 feet, the power shall be reduced so that the station's 1 mV/m contour (located pursuant to Figure 1 of § 73.333) will extend no farther from the station's transmitter than with the facilities of 3 kW and an antenna height of 1,100 feet.

* * * * *

[FR Doc. 83-14867 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

was quadrupled, their maximum power was halved. Furthermore, the two technical parameters under consideration do not relate linearly, *i.e.*, increasing or decreasing the antenna height by some specified percentage does not equate with a similar percentage change in the effective radiated power.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 9A)]

Liquid Iron Chloride; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Notice of correction of final rules.

SUMMARY: In a notice of final rules (exemption) published in the **Federal Register** on April 15, 1983 (48 FR 16277), the Commission exempted nationwide rail transportation of liquid iron chloride from regulation pursuant to 49 U.S.C. 10505. The notices of proposed and final rules contemplated adding liquid iron chloride to an existing list of exempt commodities in § 1039.11. Final rules developed in Ex Parte No. 346 (Sub-No. 14) and published in the **Federal Register** on March 4, 1983 (48 FR 9277) removed § 1039.11. This notice corrects the erroneous April 15th publication by adding a new § 1039.11 for miscellaneous commodities.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245 or Mont Burrup (202) 275–6447.

SUPPLEMENTARY INFORMATION:

Environment and Energy

This action does not significantly affect the quality of the human environment or conservation of energy resources.

Revisions

The text in the amendments below is patterned after the former provisions of § 1039.11, with adaptations to make it better suited for additions of other miscellaneous commodities that may be exempted later. A notification condition in the former section related to an exemption proceeding that is no longer applicable. We are omitting it and otherwise wording the conditions to correspond to less detailed ones in a more recent exemption (see § 1039.13). These are minor changes without substantive effect, and thus notice and public comment are unnecessary.

Accordingly, the **Federal Register** notice of April 15, 1983 is amended by correcting the Appendix on page 16277 to read as follows:

PART 1039—[AMENDED]

Title 49 of the Code of Federal Regulations is amended by adding the following § 1039.11 to read as follows:

§ 1039.11 Miscellaneous commodities exemptions.

(a) *Commodities exempted.* Except as indicated in paragraph (b) of this section, the rail transportation of the commodities listed below is exempt from the provisions of 49 U.S.C. Subtitle IV. The Standard Transportation Commodity Code [STCC] numbers that identify the exempted commodities are those in effect on the effective date of the tariff cited, and shall embrace all commodities assigned additional digits.

STCC No.	STCC tariff	Commodity
28 195 22-23	6001-J, eff. 1-1-1982.	Iron chloride liquid.

(b) *Conditions.* Carriers must continue to comply with Commission accounting and reporting requirements. All railroad tariffs pertaining to the transportation of these miscellaneous commodities will no longer apply. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Commission.

(49 U.S.C. 10321 and 10505; 5 U.S.C. 553)

Decided: May 16, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-14841 Filed 6-2-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 260

[Docket No. 30427-67]

Inspection and Certification; Fees and Charges

AGENCY: National Oceanic and Atmospheric Administration, (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This rulemaking amends the procedure for publishing fees for voluntary Department of Commerce fishery product grading and certification services. The current program fee schedule is revised annually by amending the existing program regulations through a formal rulemaking process. This rule authorizes the Secretary of Commerce to revise the fees charged by the National Seafood Inspection Program by publishing a fee schedule in the notice section of the Federal Register. Therefore, this rulemaking simplifies the method by which program participants will be notified of future fee schedule changes.

EFFECTIVE DATE: July 5, 1983.

FOR FURTHER INFORMATION CONTACT: Richard V. Cano, Acting Program Manager, National Seafood Inspection Program, Office of Utilization Research, National Marine Fisheries Service, Washington, D.C. 20235, Phone: (202) 634-7458.

SUPPLEMENTARY INFORMATION: On October 1, 1982, the President, by Executive Order, increased the rates of basic pay of General Schedule employees. 50 CFR 206.81(a) requires that the hourly rates for inspection fees automatically be increased on the effective date of the pay adjustment by an amount equal to the increase received by the average General Schedule grade level of fishery product inspectors receiving such pay increases. In addition, during the previous several years this Agency has incurred added costs for increased inspector training, equipment replacement, and other administrative expenses. These cost increases previously were reflected by an amendment to the fee schedule in 50 CFR 260.70.

This rulemaking amends the existing regulations to allow the added costs for the previous fiscal year General Schedule pay increase and the additional administrative costs associated with providing fishery product grading and certification services to be reflected in a fee schedule published by notice in the **Federal Register.**

Executive Order 12291

A determination has been made that this rule is not a major rule under Executive Order 12291. This rule determines the procedure by which annual National Seafood Inspection Program fees will be revised. Therefore, this rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. It is anticipated that this procedure for revising and publishing, program fees will not have significant economic effects on fish plant producers, packers, and consumers.

Administrative Procedure Act

This rulemaking applies exclusively to the procedure for publishing fees charged under agency contracts for fishery product inspection services. As a "* * * matter relating to Agency * * * contracts," this rulemaking is exempt from the notice and comment provisions of the Administrative Procedure Act.

Regulatory Flexibility Act

Since this rulemaking is exempt from the notice and comment provisions of the Administrative Procedure Act, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Paperwork Reduction Act

This rulemaking does not require an additional collection of information from the public under the Paperwork Reduction Act of 1980.

List of Subjects in 50 CFR Part 260

Food grades and standards, Food labeling, Seafood.

Dated: May 25, 1983.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries.

PART 260—[AMENDED]

For the reasons set forth in the preamble, 50 CFR Part 260 is amended as follows:

1. The authority citation for Part 260 reads as follows:

Authority: Sec. 6, 70 Stat. 1122, 16 U.S.C. 742e; secs. 203, 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624; Reorganization Plan No. 4 of 1970 (84 Stat. 2090).

2. In Part 260, § 260.70 is revised to read as follows:

§ 260.70 Schedule of fees.

(a) Unless otherwise provided in a written agreement between the applicant and the Secretary, the fees to be charged and collected for any inspection service performed under the regulations in this part at the request of the United States, or any other agency or instrumentality thereof, will be published as a notice in the **Federal Register** and will be in accordance with § 260.81.

(b) Fees are reviewed annually to ascertain that the hourly fees charged are adequate to recover the costs of the services rendered.

(1) The TYPE I (Contract Inspection) hourly fee is determined by dividing the estimated annual costs by the estimated annual billable hours.

(2) The TYPE II (Lot Inspection) hourly fee is determined by adding a factor of 50 percent to the TYPE I fee, to

cover additional costs (down-time, etc.) associated with conducting lot inspection services.

(3) The TYPE III (Miscellaneous and Consulting) hourly fee is determined by adding a factor of 25 percent to the TYPE I fee, to cover the additional costs (down-time, etc.) associated with conducting miscellaneous inspection services.

[FR Doc. 83-14875 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 371

[Docket No. 30527-97]

Fraser River Sockeye and Pink Salmon Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of final rule.

SUMMARY: NOAA issues this notice of final rule to reprint in the **Federal Register** the International Pacific Salmon Fisheries Commission's 1983 regulations, which implement the Convention for Protection, Preservation, and Extension of the Sockeye Salmon and Pink Salmon Fisheries of the Fraser River System between the United States and Canada (Convention). This notice and reprinting discharges a foreign affairs obligation of the United States. These regulations are necessary to achieve the objectives of the Convention in 1983. The intended effect of the regulations is to ensure adequate escapement of each spawning unit and the equitable division of catch between U.S. and Canadian fishermen in Convention waters. These rules do not apply to Treaty Indians exercising treaty-secured fishing rights at the tribes' usual and accustomed fishing places, who will be fishing under regulations promulgated by the Department of the Interior.

EFFECTIVE DATE: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. H. A. Larkins, Regional Director, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115; telephone: 206-527-6150.

SUPPLEMENTARY INFORMATION: On February 21, 1983, the International Pacific Salmon Fisheries Commission (the Commission) forwarded proposed regulations for the 1983 commercial fishing season for sockeye in Convention Waters to the Government of the United States for approval, as required by Article VI of the Convention for Protection, Preservation, and Extension of the Sockeye Salmon and Pink Salmon Fisheries of the Fraser River System (the Convention) between the United States and Canada. The United States has provisionally approved those regulations, with the exception that the regulations would not apply to Treaty Indians exercising treaty-secured fishing rights at the tribes' usual and accustomed fishing places. Treaty Indian fisheries are regulated by 25 CFR Part 256, published by the Department of the Interior.

Regulations for 1983 are similar to regulations adopted by the Commission in previous years to implement the Convention. The regulations for 1982 were published at 47 FR 24723 on June 8, 1982. The 1983 regulations amend the 1982 schedules of fishing by gillnets, purse seines and reef nets to 1983 calendar dates.

The 1983 regulations for sockeye salmon fishing provide for a 9-week season with one day of fishing per week for the all-citizen, or non-Indian, fishery. This preseason schedule will undoubtedly be adjusted during the season by the Commission to meet the following paramount objectives of the Convention with Canada: (1) Conservation, i.e., properly-timed escapement through all fisheries of adequate numbers of the various races of salmon for spawning purposes, and (2) equal division of Convention Waters catches between fishermen of the two nations. Such changes in the fishing schedule often occur as the season progresses because preseason estimates of run size, catches, racial compositions of the salmon runs, migration routes, and timing of the runs may vary substantially from actual observations during the season.

These regulations for all-citizen fisheries will be effective in High Seas Convention Waters and in Convention Waters inside the Bonilla Point-Tatoosh Island line. These regulations are necessary to achieve the objectives of the Convention and provide for a rational fishery by U.S. fishermen.

50 CFR Part 371 gives notice of the effectiveness and content of regulations adopted by an international commission and in force for the United States through the operation of the Convention. Reprinting the Commission's regulations in the **Federal Register** helps fulfill the United States, Convention obligation to make the Commission's regulations effective and, as such, involves a foreign affairs function not subject to the requirements of E.O. 12291 or the Regulatory Flexibility Act.

List of Subjects in 50 CFR Part 371

Fish, Fishing, Fisheries, International organizations, Reporting requirements.

Dated: May 27, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

PART 371—FRASER RIVER SOCKEYE AND PINK SALMON REGULATIONS

50 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776-776f.

2. Section 371.9 and Appendix A are revised to read as follows:

§ 371.9 Commission regulations.

Appendix A sets forth regulations of the Commission for the 1983 fishing season. These regulations, as may be modified from time to time by emergency orders of the Commission and disseminated under § 371.6 of this part, are the "Regulations of the Commission," violation of which is unlawful under the Act.

Appendix A—International Pacific Salmon Fisheries Commission Regulations

1. (1) No person shall retain sockeye salmon taken by commercial trolling gear in those waters westerly of a straight line drawn from Tatoosh Island Lighthouse in the State of Washington to Bonilla Point in the Province of British Columbia from the 15th day of June, 1983 to the 30th day of July, 1983, both dates inclusive.

(2) No person shall retain pink salmon taken by commercial trolling gear in those waters described in subsection (1) of this section from the 15th day of June, 1983 to the 6th day of August, 1983, both dates inclusive.

(3) Regulatory control of the waters described in subsection (1) of this section shall be relinquished effective 12:01 a.m. September 11, 1983.

2. No person shall fish for sockeye or pink salmon with nets from the 19th day of June, 1983 to the 16th day of July, 1983, both dates inclusive

3. (1) No person shall fish for sockeye or pink salmon with purse seines in Puget Sound Salmon Management and Catch Reporting Areas 4B, 5, 6, 6C, 7 and 7A:

(a) From the 17th day of July, 1983, to the 13th day of August, 1983, both dates inclusive, except from five o'clock in the forenoon to half past nine o'clock in the afternoon of Monday of each week; and

(b) From the 14th day of August, 1983 to the 17th day of September, 1983, both dates inclusive, except from five o'clock in the forenoon to nine o'clock in the afternoon of Monday of each week.

(2) No person shall fish for sockeye or pink salmon with reef nets in the waters described in subsection (1) of this section:

(a) From the 17th day of July, 1983 to the 23rd day of July, 1983; from the 31st day of July, 1983 to the 6th day of August, 1983; and from the 14th day of August, 1983 to the 20th

day of August, 1983, all dates inclusive, except from half past seven o'clock in the forenoon to nine o'clock in the afternoon of Sunday of each week; and

(b) From the 24th day of July, 1983 to the 30th day of July, 1983, and from the 7th day of August 1983 to the 13th day of August, 1983, all dates inclusive, except from half past six o'clock in the forenoon to half past eight o'clock in the afternoon of Sunday of each week; and

(c) From the 21st day of August, 1983 to the 27th day of August, 1983, and from the 4th day of September, 1983 to the 10th day of September, 1983, all dates inclusive, except from seven o'clock in the forenoon to half past seven o'clock in the afternoon of Sunday of each week; and

(d) From the 28th day of August, 1983 to the 3rd day of September, 1983, and from the 11th day of September, 1983 to the 17th day of September, 1983, all dates inclusive, except from six o'clock in the forenoon to nine o'clock in the afternoon of Sunday of each week.

(3) No person shall fish for sockeye or pink salmon with gill nets in the waters described in subsection (1) of this section:

(a) From the 17th day of July, 1983 to the 23rd day of July, 1983, and from the 31st day of July, 1983 to the 6th day of August, 1983, all dates inclusive, except from seven o'clock in the afternoon of Sunday to half past nine o'clock in the forenoon of Monday of each week; and

(b) From the 24th day of July, 1983 to the 30th day of July, 1983, and from the 7th day of August, 1983 to the 13th day of August, 1983, all dates inclusive, except from seven o'clock in the afternoon of Monday to half past nine o'clock in the forenoon of Tuesday of each week; and

(c) From the 14th day of August, 1983 to the 20th day of August, 1983; from the 28th day of August, 1983 to the 3rd day of September, 1983; and from the 11th day of September, 1983 to the 17th day of September, 1983, all dates inclusive, except from six o'clock in the afternoon of Sunday to nine o'clock in the forenoon of Monday of each week; and

(d) From the 21st day of August, 1983 to the 27th day of August, 1983, and from the 4th day of September, 1983 to the 10th day of September, 1983, all dates inclusive, except from six o'clock in the afternoon of Monday to nine o'clock in the forenoon of Tuesday of each week.

4. (1) No person shall fish for sockeye or pink salmon with purse seines in Puget Sound Salmon Management and Catch Reporting Area 6A:

(a) From the 17th day of July, 1983 to the 13th day of August, 1983, both dates inclusive, except from five o'clock in the forenoon to half past nine o'clock in the afternoon of Monday of each week; and

(b) From the 14th day of August, 1983 to the 10th day of September, 1983, both dates inclusive; and

(c) From the 11th day of September, 1983 to the 17th day of September, 1983, both dates inclusive, except from five o'clock in the forenoon to nine o'clock in the afternoon of Monday.

(2) No person shall fish for sockeye or pink salmon with gill nets in the waters described in subsection (1) of this section:

(a) From the 17th day of July, 1983 to the 23rd day of July, 1983, and from the 31st day of July, 1983 to the 6th day of August, 1983, all dates inclusive, except from seven o'clock in the afternoon of Sunday to half past nine o'clock in the forenoon of Monday of each week; and

(b) From the 24th day of July, 1983 to the 30th day of July, 1983, and from the 7th day of August, 1983 to the 13th day of August, 1983, all dates inclusive, except from seven o'clock in the afternoon of Monday to half past nine o'clock in the forenoon of Tuesday of each week; and

(c) From the 14th day of August, 1983 to the 10th day of September, 1983, both dates inclusive; and

(d) From the 11th day of September, 1983 to the 17th day of September, 1983, both dates inclusive, except from six o'clock in the afternoon of Sunday to nine o'clock in the forenoon of Monday.

5. (1) No person shall fish for sockeye or pink salmon with purse seines in Puget Sound Salmon Management and Catch Reporting Area 7D:

(a) From the 17th day of July, 1983 to the 13th day of August, 1983, both dates inclusive, except from five o'clock in the forenoon to half past nine o'clock in the afternoon of Monday of each week; and

(b) From the 14th day of August, 1983 to the 3rd day of September, 1983, both dates inclusive, except from five o'clock in the forenoon to nine o'clock in the afternoon of Monday of each week.

(2) No person shall fish for sockeye or pink salmon with gill nets in the waters described in subsection (1) of this section:

(a) From the 17th day of July, 1983 to the 23rd day of July, 1983, and from the 31st day of July, 1983 to the 6th day of August, 1983, all dates inclusive, except from seven o'clock in the afternoon of Sunday to half past nine o'clock in the forenoon of Monday of each week; and

(b) From the 24th day of July, 1983 to the 30th day of July, 1983, and from the 7th day of August, 1983 to the 13th day of August, 1983, all dates inclusive, except from seven o'clock in the afternoon of Monday to half past nine o'clock in the forenoon of Tuesday of each week; and

(c) From the 14th day of August, 1983 to the 20th day of August, 1983, and from the 28th day of August, 1983 to the 3rd day of September, 1983, all dates inclusive, except from six o'clock in the afternoon of Sunday to nine o'clock in the forenoon of Monday of each week; and

(d) From the 21st day of August, 1983 to the 27th day of August, 1983, both dates inclusive, except from six o'clock in the afternoon of Monday to nine o'clock in the forenoon of Tuesday.

6. No person shall fish for sockeye or pink salmon with commercial trolling gear in Puget Sound Salmon Management and Catch Reporting Area 4B, 5 and 6C from the 17th day of July, 1983 to the 17th day of September, 1983, both dates inclusive, except from Monday through Friday of each week on those days when purse seine fishing is permitted within that area.

7. No person shall fish for sockeye or pink salmon with nets in Puget Sound Salmon Management and Catch Reporting Area 7B, except for those sockeye and pink salmon taken in nets having mesh of not less than 7 inches as authorized for the taking of chinook salmon by the Director of Fisheries of the State of Washington, from the 19th day of June, 1983 to the 3rd day of September, 1983, both dates inclusive.

8. (1) No person shall fish for sockeye or pink salmon with nets in that portion of the waters described in subsection (1) of section 3 lying northerly and westerly of a straight line drawn from Iwersen's Dock on Point Roberts in the State of Washington to Georgina Point Light at the entrance to Active Pass in the Province of British Columbia from the 28th day of August, 1983 to the 3rd day of September, 1983, both dates inclusive.

(2) No person shall fish for sockeye or pink salmon with nets in that portion of the waters described in subsection (1) of section 3 lying westerly of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary through the east tip of Point Roberts in the State of Washington to the East Point Light on Saturna Island in the Province of British Columbia from the 4th day of September, 1983 to the 1st day of October, 1983, both dates inclusive.

9. The foregoing recommended regulations shall not apply to the following waters:

(1) Puget Sound Salmon Management and Catch Reporting Areas 6B, 6D and 7C.

(2) Preserves previously established by the Director of Fisheries of the State of Washington for the protection of other species of food fish.

All times hereinbefore mentioned shall be Pacific Daylight Savings Time.

[FR Doc. 83-14874 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 424

Listing Endangered and Threatened Species and Designating Critical Habitat: Actions on Petitions to List Several Marine Species

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Rule-related notice.

SUMMARY: The Service received petitions to add the pea crab, *Parapinnixia affinis*, large summer-run steelhead trout, *Salmo gairdneri*, in California, the monoplacophoran mollusc, *Vema hyalina*, and the Gulf of California harbor porpoise, *Phocoena sinus*, to the U.S. List of Endangered and Threatened Wildlife (50 CFR Part 17). As required by Section 4 of the Endangered Species Act, notice is given herein of findings made by the Assistant Administrator for Fisheries concerning petitions to add certain species to the List of Endangered and Threatened Wildlife. The Assistant Administrator for Fisheries has determined the petitions concerning *P. affinis*, *S. gairdneri*, and *V. hyalina* do not meet

the requirements of Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended, because they do not present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore the Service will not conduct reviews of the status of those species to determine if they are threatened or endangered species. The Assistant Administrator for Fisheries also has determined that the petition concerning *P. sinus* presents substantial scientific information indicating that the petitioned action may be warranted. As required by Section 4(b)(3)(A) of the Act, the Service has commenced a review of the status of *P. sinus* to determine if the petitioned action is warranted. To insure that the review is comprehensive, the Service is soliciting information and data concerning the status of *P. sinus*.

DATE: Comments, information and data must be received by August 2, 1983.

ADDRESS: Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Charles Karnella, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235 ((202) 634–7471).

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Endangered Species Act of 1973, as amended, contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce to add a species to, or remove a species from the List of Endangered and Threatened Wildlife (List). Section 4(b)(3)(A) of the Act requires that to the maximum extent practicable, within 90 days after receiving such a petition the Secretary must determine whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This information standard for petitions is the result of an amendment made to Section 4 of the Act in 1982. Regulations implementing these amendments have not been published. The Service interprets "substantial scientific or commercial information" to mean the amount of information that would lead a reasonable person to believe that the proposed measure is warranted. The criteria used in making such determinations are found at 50 CFR 424.14. The Service will continue to use these criteria until regulations implementing the 1982 amendments to the Act are published.

Listing Factors and Basis for Determinations

Pursuant to Section (4)(a)(1) of the ESA, a species is determined to be Endangered or Threatened for any of the following factors: (1) Present or threatened destruction, modification, or curtailment of its habitat or range; (2) Overutilization for commercial, recreational, scientific, or educational purposes; (3) Disease or predation; (4) Inadequacy of existing regulatory mechanisms; or (5) Other natural or manmade factors affecting its continued existence.

Recent amendments to the ESA clarify that determinations concerning decisions on listings shall be made solely on the best scientific and commercial data available after conducting a status review of the species and after taking into account those efforts, if any, being made by any State, or foreign nation, or subdivision thereof, to protect such species. The purpose of these amendments is to insure that decisions in every phase of the process to list or delist species are made solely on biological criteria and to prevent non-biological considerations from affecting such decisions. H.R. Rep. No. 97–835, 97th Cong., 2d Sess. 19 (1982) (Conference Report).

Petitions Received

The Service received petitions from the following: (1) Dr. Mary K. Wicksten to list the pea crab, *Parapinnixia affinis*, as endangered or threatened; (2) Dr. John L. Mohr to list the monoplacophoran mollusc, *Vema hyalina*, as endangered; (3) California Trout to list large summer-run steelhead, *Salmo gairdneri*, in California as threatened; and (4) Defenders of Wildlife to list the Gulf of California Harbor porpoise, *Phocoena sinus*, as a threatened species.

The petitions from Drs. Wicksten and Mohr and California Trout do not present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Because these petitions do not meet the requirements of section 4(b)(3)(A), the Service will not conduct reviews to determine the status of the species in question.

The petition from Defenders of Wildlife to list *P. sinus* presents substantial scientific information indicating that the petitioned action may be warranted. Pursuant to Section 4 of the Act, this determination requires that a review of the status of *P. sinus* be conducted to determine if the petitioned action is warranted. In addition, Section 4 also requires that within 12 months of the date of the enactment of the 1982 amendments (October 13, 1982) the Secretary must make one of the following findings: (1) The petitioned action is not warranted; (2) the petitioned action is warranted; (3) the petitioned action is warranted, but pending listing proposals preclude immediate proposal and timely promulgation of a final regulation to implement the action. A Notice of the finding must be published in the **Federal Register** and in the case of (2) above the complete text of a proposed regulation to implement the action must be included.

Biological Information Solicited

To insure that the review is complete and is based on the best available scientific and commercial data concerning *Phocoena sinus*, the Service is soliciting data and information and comments concerning the biological status of the species from any interested party. The Service requests that such data, information and comments be accompanied by the following: (1) The scientific and common names of the species involved; (2) Supporting documentation, such as maps, bibliographic references, or reprints of pertinent publications; and (3) The Party's name, address, and any association, institution, or business that the Party represents. Receipt of all comments will be acknowledged in writing by the Service.

List of Subjects in 50 CFR Part 424

Administrative practice and procedure, Endangered and threatened wildlife.

Dated: May 27, 1983.

Richard B. Roe,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 83-14941 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 108
Friday, June 3, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1046

[Docket No. AO-123-A50]

Milk in Louisville-Lexington-Evansville Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision replaces the order's seasonal production incentive program known as the "Louisville plan" with a seasonal base-excess plan for distributing to producers their returns from the sale of milk. This change was proposed by Dairymen, Inc. (DI), a cooperative that represents a large portion of the dairy farmers that supply milk for the market.

Under the provisions of the base-excess plan adopted herein, each producer would establish a new "base" annually. It would be determined from the dairy farmer's milk deliveries during the base-forming months of September-December. During the following months of March through June, minimum payments to such producer would be based on the amounts of base and excess milk marketed by the dairy farmer. In the other months (July through February), producers would be paid not less than the marketwide uniform price for all of their milk deliveries. This new producer payment plan is intended to encourage level milk production throughout the year.

A referendum will be conducted to deermine whether producers favor the issuance of the proposed amended order. The amended order must be approved by at least two-thirds of the producers participating in the referendum or by producers supplying at least two-thirds of the volume of production represented in the referendum.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this section will not have a significant economic impact on a substantial number of small entities. It will have no effect on regulated handlers since the action affects only the manner in which the proceeds from milk sales are distributed to producers.

Prior documents in this proceeding:

Notice of Hearing: Issued January 25, 1983; published January 28, 1983 (48 FR 3992).

Recommended Decision: Issued April 22, 1983; published April 27, 1983 (48 FR 19030).

Suspension Order: Issued April 22, 1983; published April 27, 1983 (48 FR 19017).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Louisville, Kentucky, on February 15, 1983. Notice of such hearing was issued on January 25, 1983 (48 FR 3992).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on April 22, 1983, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issue, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modification:

The final paragraph of the Findings and Conclusions is revised.

The material issue on the record of the hearing relates to replacing the "Louisville" plan to pay producers under the order with a seasonal base-excess plan.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

The order should be amended to provide a seasonal base-excess plan to pay producers in place of the current "Louisville" plan. Under the present plan, 40 cents per hundredweight is withheld from payments to producers for milk delivered during the months of April through July when supplies are abundant. This money is paid back to producers through the marketwide pool during the following months of September through December when supplies are seasonally lower.

As in the case of the Louisville plan, the purpose of a base-excess plan is to provide an incentive for producers to even out their milk production throughout the year. Such a plan is designed to encourage more production in the months of seasonally low production and discourage production in the months of seasonally high production.

Dairymen, Inc. (DI), a cooperative that represents about 44 percent of the producers supplying the market, proposed that the order's current producer payment plan (Louisville plan) be replaced with a seasonal base-excess plan for use in distributing to producers their returns from the sale of milk. The DI witness testified that the proposed base-excess plan is needed to provide an enhanced inducement to dairy farmers to increase their production during the months of seasonally low milk production, which is when Class I demand is greatest, and to decrease their production during the months of seasonally high milk production, when fluid demand is somewhat lower.

In support of its proposal, the witness for the proponent cooperative testified that the current take-out rate under the Louisville plan is too low to effectively encourage desirable production patterns for the market. He also contended that increasing the withholding rate to a level which would make it effective was

not a practical solution because it would lower the blend prices too much in the take-out months. Hence, the cooperative proposed replacement of the Louisville plan with a seasonal base-excess plan to pay producers.

Southeastern Graded Milk Producers Association, another cooperative representing producers supplying the market, made a statement at the hearing in support of DI's proposed base-excess plan. Dean Milk Company, a proprietary handler under the order, also indicated support for DI's proposal at the hearing. Although the spokesman could not speak for the individual dairy farmers supplying the company's pool plant, he submitted a position statement on benalf of his company. In his view, the proposal would be beneficial to overall marketing conditions in the region from the standpoint of milk procurement between adjacent order areas. In addition, he recognized DI's concern about the declining influence in recent years of the Louisville plan adjustments on the blend prices dairy farmers receive.

No one testified in opposition to the proposed base-excess plan.

A base-excess plan should be provided for the Louisville-Lexington-Evansville market. The base plan will provide a means of encouraging a more level seasonal production pattern that will be beneficial to producers, handlers, and consumers.

The Louisville market has developed a good seasonal milk production pattern over the years. Nevertheless, milk production for the market does fluctuate seasonally, with supplies generally increasing in the spring and declining in the fall. This is evidenced, for example, by the market data for producer receipts for a recent 5-year period.

These data indicate that the 1978–82 average daily deliveries of producer milk in May, the peak production month, were 108 percent of the 5-year daily average. Downswings of comparable magnitude occurred with the 5-year daily average producer milk deliveries during October, when production is lowest, dropping to 94 percent of the daily average for the entire 5-year period.

Although the seasonal fluctuations in production are relatively small, the changes are more meaningful when viewed in terms of the somewhat opposite swings in Class I producer milk. When milk supplies were lower in the fall, average daily producer milk allocated to Class I was higher. For instance, the 1978–82 September daily average producer milk used in Class I was 114 percent of the daily average for the entire 5-year period. This compares to a 5-year daily average of Class I utilization of producer milk during June, which was 92 percent of the average for the entire 5-year period.

The National Farmers Organization (NFO) filed a posthearing brief urging that a base-excess plan not be adopted. One of the points raised by NFO was that the Louisville plan provides an adequate incentive for level production, and that it has, in fact, provided a "remarkably stable level of production throughout the year."

This market's favorable production pattern has been influenced somewhat by the seasonal incentive (Louisville) plan which has been used to pay producers supplying the market for many years. Since early 1968, the take-out rate has been 10 percent of the preceding year's average basic formula price, but not to exceed 40 cents per hundredweight.[1] Because of this 40-cent limitation, which has limited the deduction since 1968, the Louisville plan has been less effective in recent years in promoting level milk production.

When the take-out rate represented 10 percent of the basics formula price for the take-out months in 1968, it provided an adequate incentive for producers to level their production. Since 1968, the 40-cent limit has applied and has represented a steadily declining percentage of the basic formula price. Since 1975, the 40-cent take-out has been less than 5 percent of the basic formula price for the preceding calendar year.[2] The 40-cent withholding rate now represents only about 3 percent of the basic formula price. Such a rate is too low to effectively encourage level production by dairy farmers. Hence, a seasonal base-excess plan should be provided in place of the order's current Louisville plan to provide a better incentive for producers to maintain their level milk production patterns throughout the year.

NFO's brief also stated that the proponent's reasons offered in support of a base-excess plan were "speculative." While the impact of payment plans on production may be difficult to measure with any preciseness, the decline of the take-out rate as a percent of the basic formula price cannot be ignored. At the least, it can be presumed that the take-out rate currently provides a smaller incentive to level production than it did in 1968. It is important to note that the predominant view by producers in this market is that a base-excess plan will be more effective than the Louisville plan in maintaining a desirable seasonal pattern of production in the future.

Because of the declining effectiveness of the Louisville plan, proponent cooperative has operated seasonal incentive plans outside the order in each of the past two years to encourage to a greater extent the leveling of production. However, since the cooperative represents only about one-half of the market's producers, the effects of such programs are reflected in lower returns to the cooperative's members relative to other producers on the market. Other producers stand to benefit to the extent that they receive higher blend prices as a result of DI's curtailed production. The seasonal base-excess adopted herein would apply equally to all producers.

If milk production fluctuates widely on a seasonal basis, serious marketing problems could be created for producers, and especially for cooperatives that perform a major role in balancing the market's fluid needs. These problems would involve obtaining adequate supplies of milk for handlers' fluid needs during the months of seasonally low milk production and disposing of excess supplies during the months of seasonally high milk production. For example, if production declines too much in the short milk production season, cooperatives could find it necessary to import milk from beyond the local supply area to meet the shortage of the market's fluid processors. This could involve moving milk considerable distances, which is quite costly.

Another aspect of seasonal imbalances in milk production is the disposition of milk that is excess to the market's fluid needs. More marketing problems are experienced under this order in handling the excess supplies during the flush milk production season than with importing milk for the market during the short milk production season. This is because there is considerably more milk produced in this general area than is needed to meet the fluid needs. Hence, at times when local manufacturing plants are operating at or near capacity, excess milk must be transported to manufacturing plants at considerable distance from the major consumption areas of the market.

In addition, a more level milk production pattern during the year would reduce the amount of manufacturing capacity needed to handle the market's peak milk

[1] Official notice is taken of the Assistant Secretary's decision issued March 22, 1968 (33 FR 5040), with respect to the provisions of the current Louisville plan.

[2] Official notice is taken of "Federal Milk Order Market Statistics", December 1982, and Annual Summaries for 1968 through 1981, issued by the Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.

production and would allow area manufacturing plants to operate throughout the year with less seasonal fluctuation in the volumes of milk handled. This would improve the plants' operating efficiency, and in the case of cooperative manufacturing plants permit greater returns to members.

Hence, producers, handlers and consumers would benefit from a low variation in milk production primarily because of reduced marketing costs associated with disposing of excess supplies in the flush production months. In view of the foregoing, adoption of a base-excess plan applicable to all producers under this order is appropriate in the interest of maintaining reasonably level milk production for this market throughout the year.

The issue in this proceeding primarily concerns producers in that it deals with how the pool funds are to be divided among the producers supplying the market. In such case, the views of producers are an important consideration. The record in this proceeding clearly shows that a large portion of the producers associated with the Louisville market prefer a base-excess plan to the current Louisville plan as a means of encouraging more level milk production.

The base-excess plan adopted in this decision is very similar to that proposed by producers. Each producer would be assigned a base computed by dividing the producer's total pounds of producer milk in September through December (the base-forming period) by the number of days' production represented in such producer milk deliveries or by 100, whichever is more.

Bases would be computed, assigned, announced, and transferred on a daily basis (in terms of pounds per day). However, the milk of some dairy farmers may not be picked up each day. Hence, producers should be aware of the procedure that would be used by the market administrator to convert their every-other-day pickup to days of production. In that regard, if a producer's milk is regularly picked up every other day, a single pickup would be considered two days of production in computing such dairy farmer's base.

The market administrator would compute a new base for each producer annually. By February 1 of each year, he would notify each producer and the handler receiving the milk of the producer's base. If requested to do so by a cooperative, the market administrator would notify such cooperative of the amount of base assigned to each producer-member in lieu of sending a notice to each individual producer-member of the cooperative. It is noted that any producer who did not receive a notice could obtain the base information by contacting the market administrator.

At the hearing, DI modified its hearing notice proposal with respect to notifying its member-producers about their established bases. Under the original proposal the market administrator would have been required to notify all producers (both cooperative members and nonmembers).

Instead of notifying each of the cooperative's member-producers, DI asked that the market administrator notify the cooperative of each member's base if requested to do so by such association. The witness for the cooperative testified that the base on which DI pays a member-producer may be different from the base established by such producer under the order. It is concluded that the cooperative's wishes in this regard should be accommodated since the cooperative has been designated by its producer-members to act as the marketing agent for their milk.

The order should provide for the computation of a separate base by the market administrator for each dairy farm operated by a producer. Although the proposed provisions included in the hearing notice did not cover this point, it is reasonable to expect that a producer who is operating two or three dairy farms may wish to sell the base that is associated with the milk production of an individual farm if he sells that farm. Establishing a separate base for each farm would accommodate this situation. In cross examination at the hearing, the witness for DI stated that the cooperative intended that a separate base be computed for each farm of a producer.

As proposed by DI, the months of September through December should be the base-forming period. It is during these months that milk production tends to reach its lowest point and the market's Class I needs are greatest. In order to establish a production level for which they will receive payment at the higher uniform price for base milk in the base-paying months, producers will tend to establish a higher level of production in the base-forming months.

Record data show that the market's Class I utilization of producer milk during 1978–82 was greatest during the months of September–November. It was noted at the hearing that the supply-sales relationship was somewhat better in January than December during the 5-year period. Although there was little difference in the relationship in the two months as a whole, proponent indicated that the demand for milk in the first two-thirds of December is relatively higher. He also stated that in the last third of December, due to school closings and the holidays, the demand for milk falls off sharply. In view of the higher Class I use in the greater part of the month of December, it is appropriate that December be included with September, October, and November as the base-forming months.

The uniform (weighted average) price would be the minimum order price payable to producers for producer milk delivered during July through February.

The base-paying months should be March through June, as proposed by DI. These months form a period of time during the year when, in general, milk production is high and Class I utilization of milk is low. Thus, it is a period when the base plan should be discouraging excessive seasonal production. This would occur under the plan because during the base-paying months payments to producers would reflect a lower price for any excess producer milk delivered to the market. Operation of the base-excess plan should serve to maintain, or perhaps improve, the seasonal production pattern that producers desire.

Record data show that the market's producer receipts were substantially greater than Class I sales in the 5-year period of 1978–82 in April–June. The 5-year data also indicate that producer receipts exceeded Class I sales by a greater amount in July than in March. Nevertheless, March rather than July should be included as a base-paying month so that the base-paying months under the base plan for this order will conform with the base-paying period in the nearby Tennessee Valley market. The record also indicates that the local manufacturing plants in Kentucky, which are the normal outlets for this market's excess supplies, are utilized to dispose of the surplus milk of other markets in the Southeast where production tends to reach its seasonal peak earlier in the year. Because of this, DI has found it more difficult to secure a local outlet for surplus milk in the month of March than to do so in the month of July. In view of the foregoing, it is appropriate to include the month of March with the months of April through June in the base-paying period.

"Base milk" would be the producer milk of a producer in each month of March through June that is not in excess of the producer's base multiplied by the number of days in the month. "Excess milk" would be the producer milk of a producer in each such month that is in excess of the producer's base milk for the month. Excess milk would include all of the producer milk in March

through June of a producer who has no assigned base.

In computing the uniform prices for base and excess milk, Class III producer milk would be assigned to excess milk first. If there are more pounds of Class III producer milk in the market than there are pounds of excess milk deliveries by producers, the uniform price for excess milk will be the Class III price. In such case, the additional value for the remaining Class III producer milk as well as the values for Class I and Class II producer milk will be reflected in the uniform price for base milk.

As proposed by producers, the uniform price for excess milk should not be subject to a location adjustment. Since excess milk would represent basically producer milk classified in Class III (milk for manufacturing uses) to which no location adjustment is applicable, the uniform price for excess milk should not be subject to a location adjustment. There is practically no difference in the location value of milk for Class III uses. The Class III price under the Louisville order and other orders is equal to the average price per hundredweight for the month of manufacturing grade milk f.o.b. plants in Minnesota and Wisconsin. If a location adjustment were applied to the excess price, it could result in applying an excess price to the producer milk at various plant locations that is less than the value of manufacturing grade milk delivered to those same plant locations.

A producer generally would deliver milk continuously throughout the base-forming period. However, because of various circumstances (e.g., storm damage at the farm or to roads, temporary suspension of a health permit or temporary loss of market when cut off by a buying handler), a producer may be off the market for a limited number of days in the base-forming period. In recognition of this, proponent cooperative proposed that a producer who delivered at least 100 days' production during the 122 days in the base-forming period have the average daily delivery computed on the same basis as a producer who delivered continuously throughout the entire period (by dividing the total producer milk during the four-month period by the number of days' production represented in such producer's deliveries).

The requirement that a producer supply the market in the base-forming months in order to earn a base provides an incentive for a producer to ship milk to this market instead of to other markets in the months when production is lowest relative to the demand for Class I milk. A producer who ships at least 100 days' production during the four-month base-forming period can reasonably be considered as being fully associated with the market. A producer who delivered less than 100 days' production should have a base determined by dividing such person's total production in the base-forming period by 100. Thus, a producer who may have been supplying the Class I needs of another market for a substantial part of the base-forming period would receive a base that reflects the dairy farmer's contribution as a producer toward supplying the fluid needs of the Louisville market in such period.

In its brief, NFO maintained that a base-excess plan should not be adopted because it would restirct the movement of milk onto or off of the Louisville market. The testimony presented at the hearing was essentially silent with regard to whether a base-excess plan would restrict producer entry to the market more than would a Louisville plan. However, there is an indication that producers who shift from the Tennessee Valley or Nashville markets to the Louisville market (or vice-versa) would find a base-excess plan more compatible than the current Louisville plan.

The application of the base-excess plan adopted herein to new producers is essentially that proposed by DI. There are several types of new producers whose first association with this market could take place during the base-paying period. Two examples would be dairy farmers who had supplied the fluid milk needs of another order market or who had supplied an unregulated market in the preceding base-forming period. Milk produced on their farms in the base-paying months that becomes associated with this order would represent production that is surplus to the Class I needs of the market with which they had been previously associated. It is appropriate, therefore, that for their deliveries of such milk under the Louisville order in the base-paying months, such producers should receive only the excess milk price.

In other instances, persons who have not previously supplied a fluid milk market may become new producers for the Louisville market. Included in this category would be dairy farmers who had previously been shipping manufacturing grade milk and persons starting new dairy farm operations. Before coming onto the market as new producers, such persons would be expected to have planned their entry into the market in advance. If such dairy farmers choose to begin delivering as new producers in one of the four base-paying months, presumably that decision would be made in recognition of the fact that the excess price would be received for milk delivered to the market in such months by producers without bases.

As proposed, if a dairy farmer's milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period, a base should be assigned in the same manner as if the dairy farmer had been a producer during the entire base-forming period. Such base would be calculated from all of the dairy farmer's deliveries that would have qualified as producer milk (including diversions) if the nonpool plant had been a pool plant for the entire September through December base-forming period. The same procedure would apply to a producer-handler operation that qualified as a pool plant.

To acquire pool status under the order a plant must dispose of a certain percentage of its receipts on routes in the marketing area or to other pool plants. Hence, when a nonpool plant becomes a pool plant it will most likely add Class I sales to the pool relative to such sales in prior periods when it was a nonpool plant. It is appropriate, therefore, that those dairy farmers who had been supplying the plant have bases computed for them on the basis of their deliveries in the base-forming period.

Bases so assigned to such producers should not be transferable. Such producers would be receiving bases without having incurred any of the economic costs that the market's regular producers incurred in adjusting their operations to achieve more level production. Thus, any income received from the transfer of such bases in essence would be windfall gains, which should not be permitted.

The base earned by any producer who supplied the market during the preceding base-forming period should be transferable. This procedure will facilitate the transfer of property when a baseholder dies or when the diary farmer decides to go out of business. It will also permit dairy farmers to expand or contract their operations. However, proper safeguards should be provided so that the transfer provisions may not be exploited at the expense of producers regularly supplying the market.

The amount of base transferred could be in its entirety or in amounts of not less than 300 pounds. These limits, which were proposed at the hearing, are administratively practicable and should be adequate under current marketing conditions.

At the hearing, the witness for the proponent cooperative clarified its

intent with respect to transfers of base. In the cooperative's view, a producer should be permitted to transfer any remaining amount of base after transferring at least 300 pounds of base to another dairy farmer, even though such remainder might be less than 300 pounds. Such an interpretation would allow a dairy farmer to transfer all of the base earned by such person.

The order should specifically provide that base may only be transferred to a person who is or will be a producer by the end of the month that the base transfer is to become effective. Although the hearing notice proposal was not specific on this point, proponent's witness indicated that a base would only have value to a dairy farmer who delivers producer milk under the order, and expressed no opposition to having this limitation placed on transfers of base. Accordingly, the base rules specifically incorporate the necessary words to accomplish this.

Base transfers would be effective on the first day of the month following the date on which an application for transfer is received by the market administrator. Such application would be required to be on a form approved by the market administrator and signed by a baseholder or the baseholder's heirs and the person or persons to whom the base is to be transferred. If a base is held jointly, it would be required that the application be signed by all joint holders or their heirs. These provisions would insure that there will be no misunderstanding between the parties involved concerning transfers.

A producer who transferred base on or after February 1 would not be permitted to receive other base by transfer that would be applicable within the March–June period of the same year. Also, a producer who received base by transfer on or after February 1 would not be permitted to transfer a portion of the base assigned to such producer to be applicable within the March–June period of the same year, but would be permitted to transfer the entire base. Adoption of these provisions will tend to insure that the exchanges of base between producers are bona fide transfers. Absent such provisions, the transferring of base back and forth by two or more producers throughout the base-paying period could result in unwarrantedly increasing their share of the total payments under the order for producer milk at the expense of all of the other producers.

The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agree-upon division, signed by each partner, is received by the market administrator prior to the first day of the month in which the division is to be effective. This will facilitate the division of the assets of a partnership that is dissolved during the base-paying period. On the other hand, it will in no way affect the total quantity of base milk in the pool, irrespective of the manner in which the division of the base is made between the partners.

Likewise, the order should provide that two or more producers who decide to form a partnership may combine their separately established bases. As with the division of base in a partnership, it should be noted that the combination of individual bases by producers forming a partnership would not affect the total quantity of base milk in the pool. The partners would be required to notify the market administrator prior to the first day of the month in which such combination of bases is to be effective.

In some instances a "natural disaster" may cause a producer to suffer a significantly reduced rate of production or force such person to discontinue temporarily the production of milk. Unless provision is made in the order to give consideration to such occurrences in computing a producer's base, the producer would suffer an undue hardship. Thus, the order should specify certain conditions under which relief may be granted to a producer whose production was adversely affected in the base-forming period as the result of an occurrence beyond the control of such producer.

This can be achieved by providing that the base assigned to a person who was a producer in the preceding base-forming period may be increased by any amount up to 90 percent of the producer's average daily producer milk deliveries in the month immediately preceding the month during which such person's production was adversely affected by an allowable "hardship" condition. Such relief would be granted only after the producer submitted to the market administrator by March 1 a written statement that established to the satisfaction of the market administrator that the amount of milk produced on such dairy farmer's farm in the immediately preceding base-forming period was substantially reduced because of a condition beyond the producer's control, which resulted from:

(1) Loss by fire or windstorm of a farm building used in the production of milk on the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in the producer's milking herd, as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the dairy farmer from supplying milk from the farm of such producer to a plant.

The conditions under which hardship relief (in the form of an increased base) may be granted a producer encompass most natural disasters that could result in reduced production or in the temporary discontinuance of production on a dairy farm. Such a standard will provide the market administrator the guidance necessary for applying the provision in an objective manner.

Allowing hardship relief by assigning a producer a base equal to any amount up to 90 percent of such dairy farmer's average daily producer milk deliveries in the month immediately preceding the month during which the hardship occurred provides an equitable standard for this purpose. The order should indicate specifically that the market administrator could adjust a producer's base by any amount up to 90 percent of the dairy farmer's average daily producer milk deliveries. This would provide the market administrator with the flexibility necessary to administer the hardship provisions on the basis of each individual situation. Setting this forth in the order and the decision will let producers know how the provisions will be applied should such a situation occur.

In connection with replacing the order's "Louisville" plan with a seasonal base-excess plan, certain conforming changes in other sections of the order need to be made.

Under present order provisions, each handler is required to report on or before the 8th day of each month the total pounds of milk received from producers during the month. Since producers would be paid for base and excess milk deliveries only during the months of March–June, handlers should be required to report by the same date the total amount of base milk received from all producers during these months. Later, by the 20th day of each such month, handlers would be required to report the total amount of base milk received from each producer.

The entire section dealing with the computation of the uniform price is revised to provide that the market administrator compute a weighted average price each month. During the months of July through February the weighted average price also would be the uniform price and would be the minimum price to pay producers for all of their milk deliveries. In the other months (March–June) the market administrator would compute uniform prices for base milk and excess milk,

which would be the minimum prices to pay producers for their milk deliveries.

Following the computation of the uniform price or prices, the market administrator would be required to announce such uniform price or prices. Accordingly, the section dealing with such announcements is appropriately modified to reflect this change. In addition, certain other payment sections of the order are revised essentially for the purpose of referring to base and excess milk deliveries by producers and uniform prices for base and excess milk.

At the conclusion of the hearing, DI asked that a base-excess plan be incorporated in the order by September 1, 1983. Under the current provisions of the Louisville plan, money is withheld in paying producers for milk pooled during April through July and is distributed to producers through the "blend" prices for milk pooled in the following months of September through December. In view of this, the proponent cooperative requested that the take-out provisions of the order be suspended before any money is deducted from payments to producers during the 1983 take-out months. This is because the order provisions for distributing the withheld amounts plus interest would no longer exist if the base-excess plan adopted herein becomes effective by September 1983. For this reason, the take-out provisions of the Louisville plan were suspended concurrently with the issuance of the recommended decision.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

No exceptions were filed.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement[3] regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 *et seq.*), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Louisville-Lexington-Evansville marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be April 1983.

The agent of the Secretary to conduct such referendum is hereby designated to be Arnold Stallings.

List of Subjects in 7 CFR Part 1046

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 31, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order[4] Amending the Order, Regulating the Handling of Milk in the Louisville-Lexington-Evansville Marketing Area

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such

[3] Marketing Order filed as part of the original document.

[4] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Louisville-Lexington-Evansville marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on April 22, 1983, and published in the Federal Register on April 27, 1983, (48 FR 19030), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. A new paragraph (d) is added to § 1046.32 to read as follows:

§ 1046.32 Other reports.

* * * * *

(d) Each handler described in § 1046.9(a), (b) and (c) shall report to the market administrator on or before the 8th day after the end of each month of March through June the aggregate quantity of base milk received from producers during the month, and on or before the 20th day after the end of each month of March through June the pounds of base milk received from each producer during the month.

2. Section 1046.61 is revised to read as follows:

§ 1046.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) The market administrator shall compute the weighted average price for each month and the uniform price for each month of July through February per hundredweight for milk of 3.5 percent butterfat content as follows:

(1) Combine into one total the values computed pursuant to § 1046.60 for all handlers who filed the reports prescribed in § 1046.30 for the month and who made the payments pursuant to § 1046.71 for the preceding month;

(2) Add one-half the unobligated balance in the producer-settlement fund;

(3) Add an amount equal to the total value of the minus location adjustments and subtract an amount equal to the total value of the plus location adjustments computed pursuant to § 1046.75;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1046.60(f); and

(5) Subtract not less then 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the weighted average price for each month and the uniform price for the months of July through February.

(b) For each month of March through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class III milk by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk that does not exceed the total quantity of such handlers' producer milk assigned to Class II milk by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure, rounded to the nearest cent, shall be the uniform price for base milk.

§ 1046.62 [Amended]

3. In paragraph (b) of § 1046.62, the words "uniform price" are changed to "applicable uniform price(s) pursuant to § 1046.61".

§ 1046.71 [Amended]

4. In paragraph (a)(2)(i) of § 1046.71, the words "uniform price" are changed to "applicable uniform price(s)".

5. In § 1046.73, paragraphs (a), (b), (d) and (e) are revised to read as follows:

§ 1046.73 Payments to producers and to cooperative associations.

* * * * *

(a) On or before the last day of each month for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler, at not less than the Class III price for the preceding month or 90 percent of the weighted average price for the preceding month, whichever is higher. If the producer had no established base upon which to receive payments during the base-paying months of March through June, the applicable rate for making payments to such producer pursuant to this paragraph shall be the Class III price for the preceding month.

(b) On or before the 17th day of the following month, an amount equal to not less than the uniform price(s), as adjusted pursuant to §§ 1046.74 and 1046.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month subject to the following adjustments:

(1) Plus or minus adjustments for errors made in previous payments to such producer;

(2) Minus payments made to such producer pursuant to paragraph (a) of this section;

(3) Minus deductions for marketing services made pursuant to § 1046.86; and

(4) Minus proper deductions authorized by such producer which, in the case of a deduction for hauling, shall be in writing and signed by such producer or, in the case of members of a cooperative association which is

marketing the producer's milk, by such association.

* * * * *

(d) In making the payments to producers pursuant to paragraph (b) of this section, each handler shall furnish each producer a supporting statement which shall show the following:

(1) The month and identity of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) For the months of March through June the total pounds of base milk received from the producer;

(4) The minimum rate(s) at which payment to the producer is required under the order;

(5) The rate(s) used in making the payment if such rate(s) is other than the applicable minimum rate(s);

(6) The amount or rate per hundredweight and nature of each deduction claimed by the handler; and

(7) The net amount of payment to such producer.

(e) In making payments to a cooperative association pursuant to paragraph (c) of this section, each handler shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

(1) On or before the 20th day of the month, the total pounds of milk received during the first 15 days of such month;

(2) On or before the 7th day of the following month, the total pounds of milk received each month, together with the butterfat content of such milk and the amount of deductions by such handler; and

(3) On or before the 7th day after the end of each month of March through June, the total pounds of base milk received.

* * * * *

§ 1046.74 [Amended]

6. In § 1046.74, the words "uniform price" are changed to "uniform price(s)".

§ 1046.75 [Amended]

7. In paragraph (a) of § 1046.75, the words "uniform price for producer milk" are changed to "uniform price and the uniform price for base milk".

8. A new centerheading and five new sections (§§ 1046.90, 1046.91, 1046.92, 1046.93 and 1046.94) are added after § 1046.86 to read as follows:

Base-Excess Plan

§ 1046.90 Base milk.

"Base milk" means the producer milk of a producer in each month of March through June that is not in excess of the producer's base multiplied by the number of days in the month.

§ 1046.91 Excess milk.

"Excess milk" means the producer milk of a producer in each month of March through June in excess of the producer's base milk for the month, and shall include all the producer milk in such months of a producer who has no base.

§ 1046.92 Computation of base for each producer.

(a) Subject to § 1046.93, the base for each producer shall be an amount obtained by dividing the total pounds of producer milk delivered by such producer during the immediately preceding months of September through December by the number of days' production represented by such producer milk or by 100, whichever is more. If a producer operated more than one farm at the same time, a separate computation of base shall be made for each such farm.

(b) The base for a producer whose milk was delivered to a nonpool plant that became a pool plant after the beginning of the base-forming period (September-December) shall be calculated as if the plant were a pool plant for the entire base-forming period. A base thus assigned shall not be transferable.

§ 1046.93 Base rules.

(a) Except as provided in § 1046.92(b) and in paragraph (b) of this section, a base may be transferred in its entirety or in amounts of not less than 300 pounds effective on the first day of the month following the date on which an application for such transfer is received by the market administrator. Base may be transferred only to a person who is or will be a producer by the end of the month that the transfer is to be effective. An application for a base transfer shall be on a form approved by the market administrator and signed by the baseholder or the baseholder's heirs and the person or persons to whom the base is to be transferred. If a base is held jointly, the application must be signed by all joint holders or their heirs.

(b) A producer who transferred base on or after February 1 may not receive by transfer additonal base that would be applicable during March through June of the same year. A producer who received base by transfer on or after February 1 may not transfer a portion of the base to be applicable during March through June of the same year, but may transfer the entire base.

(c) The base established by a partnership may be divided between the partners on any basis agreed to in writing by them if written notification of the agreed-upon division of base signed by each partner is received by the market administrator prioir to the first day of the month in which such division is to be effective.

(d) Two or more producers in a partnership may combine their separately established bases by giving notice to the market administrator prior to the first day of the month in which such combination of bases is to be effective.

(e) The base assigned a person who was a producer during any of the immediately preceding months of September through December may be increased up to 90 percent of such producer's average daily producer milk deliveries in the month immediately preceding the month during which a condition described in paragraph (e)(1), (2), or (3) of this section occurred, providing such producer submitted to the market administrator in writing on or before March 1 a statement that established to the satisfaction of the market administrator that in the immediately preceding September through December base-forming period the amount of milk produced on such producer's farm was substantially reduced because of conditions beyond the producer's control, which resulted from:

(1) The loss by fire or windstorm of a farm building used in the production of milk on the producer's farm;

(2) Brucellosis, bovine tuberculosis or other infectious diseases in the producer's milking herd as certified by a licensed veterinarian; or

(3) A quarantine by a Federal or State authority that prevents the producer from supplying milk for the farm to a plant.

§ 1046.94 Announcement of established bases.

On or before February 1 of each year, the market administrator shall calculate a base for each person who was a producer during any of the immediately preceding months of September through December and shall notify each producer and the handler receiving milk from such producer of the base established by the producer. In lieu of notifying such individual producer-member of a cooperative association, the market administrator shall notify the cooperative association of each member's base if requested to do so by the cooperative association.

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DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

[Docket No. 83-23]

Indemnification of Directors, Officers, and Employees of National Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency is proposing to revise Interpretive Ruling 7.5217 (12 CFR 7.5217) to recognize that national banks may, with certain limitations, adopt articles of association to provide for the indemnification of their directors, officers, and employees in accordance with the standards reflected in the law of the state in which the bank is headquartered or in the Model Business Corporation Act. The proposed Ruling indicates that indemnification articles which substantially reflect the principles of either such alternative are presumptively within the corporate powers of a national bank. The proposed Ruling also denies indeminification when a supervisory action results in a final order assessing civil money penalties or requiring affirmative action in the form of payments by an individual to a national bank, and recognizes the Comptroller's authority to deny or modify an indemnification which appears to be inconsistent with the standards stated in the bank's indeminification article. While the Administrative Procedure Act does not require the solicitation of comments on interpretive rulings, they are being sought in this instance because the Office believes that they will prove beneficial in developing its position.

DATE: Comments must be received on or before August 2, 1983.

ADDRESS: Comments should be sent to Docket No. 83-23, Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219, Attn: C. Christine Jones. Telephone: (202) 447-1768. Comments will be available for inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Raija H. Bettauer, (202) 447-1880, or Andrew J. Levinson, (202) 447-1954, Senior Attorneys, Office of the Comptroller of the Currency, Washington, D.C. 20219, (202) 447-1880.

SUPPLEMENTARY INFORMATION: The principal drafter of this document was Raija H. Bettauer, Senior Attorney, Legal Advisory Services Division, Comptroller of the Currency, (202) 447-1880.

Special Analyses

Since the Regulatory Flexibility Act does not apply to interpretive rulings, no regulatory flexibility analysis has been prepared for this proposal.

The Office believes that the proposed Ruling is not a major regulation under Executive Order 12291 and, therefore, has not prepared a regulatory impact analysis. As proposed, the Ruling will not require national banks to expend any funds or file reports, and will not otherwise have an adverse effect on their prices and costs. It seeks to reduce administrative expenses with respect to drafting and implementing indemnification provisions. Futher, since the proposed Ruling would enable national banks to adopt indemnification provisions comparable to those observed elsewhere in the business community, it would not have an adverse effect on their competitive posture.

Background

On February 6, 1980, the Office of the Comptroller of the Currency ("Office") published an Advance Notice of Proposed Rulemaking ("Notice") which solicited comments on the perceived need for a change in the Office's current Interpretive Ruling 7.5217 (12 CFR 7.5217) regarding the indemnification of directors, officers, and employees of national banks. 45 FR 8025-26. As the Notice indicated, the Interpretive Ruling recognizes, in general terms, the legal authority of national banks to provide indemnification to directors, officers and employees "against legal and other expenses incurred in defending law suits brought against them by reason of the performance of their official duties." In addition, the Interpretive Ruling indicates that national banks may purchase, and pay the premiums on, insurance for such indemnification. A national bank may not in any manner provide indemnification to persons "guilty of, or liable for, willful misconduct, gross neglect of duty, or criminal acts."

The Notice also discussed certain aspects of indemnification which are not currently addressed in the Ruling.[1] Because the staff interpretations of this Office concerning indemnification have differed from specific state law regarding corporate indemnification or from general corporate law principles, national banks and their counsel have experienced difficulty in drafting articles of association regarding the indemnification of bank directors and personnel or applying the provisions of the current Ruling. Because of these difficulties, the Office concluded that a change or a clarification of the Ruling might be called for.

As alternative approaches, the Office proposed that national banks be authorized to adopt indemnification provisions (1) similar to those permitted by Section 5 of the Model Business Corporation Act ("MBCA") as drafted by the American Bar Association (see Appendix) or (2) consistent with local corporate law regarding indemnification.

Comments

In response to the Notice, the Office received thirty (30) comments. The consensus among the commenters was that the current Interpretive Ruling is not sufficiently specific in its wording to provide national banks and their counsel with the necessary guidance for its application, and that clarification of, and substantive changes in, the Ruling are desirable. In particular, a number of commenters felt that the Office's interpretations mentioned in the Notice should be brought into comformity with general corporate practice.

The majority of the commenters felt that there is no need to impose on bank directors and personnel an indemnification standard which, by its wordking, is stricter than that generally applicable to corporate directors or personnel. State law and the MBCA contain standards of care as prerequisites for indemnification (for instance, good faith performance of duties). But courts typically require bank directors to demonstrate higher degree of diligence than directors of non-financial institutions in similar circumstances before concluding that a given standard of care has been met. Therefore, the commenters felt that imposing a stricter indemnification standard for bank directors and personnel, in addition to the greater

[1] While the eight interpretive areas mentioned in the Notice (such as the applicable standard of care, mandatory indemnification, or the extent of indemnification) were intended to identify areas that in the past had been the subject of requests for Office legal opinions and might now need clarification, several commenters read the Notice as reflecting the Office's *current and uniform* views, *i.e.*, that an indemnification which conflicts with a position mentioned in the Notice would be impermissible. The Office emphasizes that the interpretations discussed in the Notice were not intended to represent any unalterable positions concerning indemnification of bank directors and personnel, and articles of association of a nationa bank which are currently properly filed with the Office are not to be regarded as *ultra vires* merely because they differ with any of the views expressed by the Office in the past.

substantive demands of any standard of care, would further impede the recruitment of competent and qualified directors for national banks, particularly when state banks and corporations following state corporate indemnification provisions are not subject to similar restrictions.

A number of commenters suggested that the Interpretive Ruling be revised to incorporate the standards stated in Section 5 of the MBCA. The commenters felt that the MBCA provision would provide a carefully considered and uniform standard for all national banks throughout the country. On the other hand, an equal number of commenters favored the alternative which would allow national banks to follow their state law regarding the indemnification of corporate directors and personnel. In the opinion of those commenters, such state law provisions reflect public policy positions which are generally acceptable and familiar to banks, their counsel, shareholders and depositors.

Proposed Revision

After considering the available alternatives, the Office proposes to revise Interpretive Ruling 7.5217 to recognize that national banks may, with certain limitations, adopt indemnification standards which reflect either general corporate law standards as evidenced by the law of the state in which it is headquartered or the standards suggested in MBCA § 5. An indemnification provisions which substantially follows either alternative will be regarded by this Office as presumptively falling within the corporate powers of a national bank. In order to avoid interpretive ambiguities, the Office would encourage national banks to review their current articles and to adopt either standard without change or with only minimal modifications. Such provisions, if adopted by a national bank, cannot allow indemnification in supervisory actions which result in a final order assessing civil money penalties or requiring individuals to take affirmative action in the form of payments to the bank. Also, in accordance with its supervisory responsibilities, the Office may review the suitability and the consistency of any indemnification with the standards stated in the bank's articles.

(a) *General rule.* The authority of a national bank to indemnify its directors and staff derives from 12 U.S.C. § 24, which, in general terms, outlines the corporate powers of a national bank. Since neither this provision nor any other provision of the National Bank Act provides further specific guidance on this point, the Office must interpret this provision in accordance with its supervisory responsibilities and the broad purposes of the act and other federal banking laws.

The Office has concluded that, as a general rule, national banks may adopt indemnification standards parallel to those observed elsewhere in the business community. The past experience of this Office indicates that local law regarding corporate indemnification is familiar and accessible to national banks and bank counsel. Therefore, small- and medium-sized banks in particular may find the state law option preferable. Also, the familiarity with, and ready reference to, state law will lead to reduced costs in drafting and implementing indemnification provisions. While some state statutes regarding indemnification may be ambiguous, the comments received and the review of the statutory language of such statutes did not indicate that, on their face, such standards would be inconsistent with the powers or responsibilities of national banks under federal law. Similarly, MBCA section 5 appears to provide a reasonable and equitable framework for the indemnification of the directors and personnel of a national bank.

To interpret 12 U.S.C. 24 to permit national banks to select indemnification provisions which might reflect two different sets of standards could result in non-uniform and inconsistent policies among national banks. However, in view of the comments received, the Office is persuaded that this apparent disadvantage is not significant and is outweighted by the benefits obtained by adopting a more flexible interpretation of 12 U.S.C. § 24. First, our review of current state law indicates that at least two-thirds of the states already incorporate all or most MBCA standards. Thus, national banks in such states electing to amend their indemnification articles in accordance with state corporate law will, to a large extent, have provisions similar to those adopted by banks referring to the MBCA.

Secondly, it appears that exclusive adoption by the Office of either the state law option or the MBCA option would create problems the revision efforts seeks to resolve. For instance, while the MBCA appears to provide an acceptable framework, it is not universally familiar or accessible to bankers and bank counsel, and could not therefore be incorporated merely by reference. Moreover, incorporating the entire standard as an Interpretive Ruling, with its subsequent follow-up and amendments, would add another layer to the existing bulk of federal regulations and to the administrative burden on national banks.

On the other hand, it does not appear feasible to adopt exclusively the state law option because certain state corporate statutes, on their face, exclude banks from their coverage without providing a separate statutory framework for indemnification of bank directors and personnel. In the absence of clear statutory guidance, national banks might be at a loss as to the general corporate law standards applicable to them. In addition, because some state indemnification statutes are not as specific as MBCA section 5, national banks located in such states may well prefer the MBCA's more fully developed standards and procedures.

In sum, our review of the relevant state indemnification provisions and MBCA section 5 has led the Office to the view that, subject to the provisions described below, it is conclusively presumed to be within the corporate powers of a national bank to adopt indemnification provisions consistent with either set of criteria.

(b) *Supervisory concerns.* Obviously, neither the state statutes nor the MBCA can anticipate or reflect the Office's unique supervisory concerns and responsibilities. Thus, they do not explicitly address the permissibility of indemnification in the context of supervisory proceedings or actions where national bank directors or personnel are assessed civil money penalties or held personally liable. *See, e.g.,* 12 U.S.C. 93, 1818(b).

Since certain supervisory actions may in part be punitive in character or may be comparable to actions brought by or in the right of the corporation, it would be inappropriate for a national bank to provide indemnification in such actions. For instance, under current Office practice a final order assessing civil money penalties frequently implies that a bank director or employee has willfully, flagrantly, or in a manner otherwise evidencing bad faith violated the applicable law. *See* Comptroller of the Currency Policy & Procedures Manual No. 5000-7. Consequently, the proposed Ruling indicates that a national bank cannot authorize indemnification of bank directors and personnel when the supervisory action or proceeding results in a final order assessing civil money penalties or otherwise holds them personally liable.

Further, it is possible that a national bank could propose to provide

indemnification which is inconsistent with the applicable standard of care, or would appear excessive in the circumstances. The statutory responsibilities of this Office for the safety and soundness of the national banking system may occasionally require that the Office review the suitability and consistency of an actual or proposed indemnification award with the applicable standards, and, if necessary, direct modifications through appropriate supervisory action. The proposed Ruling would explicitly recognize this authority.

Status of Current Indemnification Provisions

Some commenters inquired whether a change in the Interpretive Ruling would necessitate an amendment of articles of association which are not identical to the MBCA or relevant state laws. While recognizing that indemnification articles which substantially reflect the principles of local law or MBCA section 5 are presumed to be within the corporate powers of a national bank, the proposed Ruling implies that indemnification articles reflecting variations from either alternative may still be legally valid. Consequently, it is possible that current indemnification provisions of a national bank adopted in compliance with prior staff opinions may in substance reflect the local law of MBCA section 5 or otherwise be legally permissible. However, in order to avoid potential ambiguity, the Office would encourage national banks to review their current indemnification articles and, if necessary, to amend them to reflect explicitly either the state law or the MBCA Section 5 provisions.

List of Subjects in 12 CFR Part 7

National banks, Indemnifications.

PART 7—[AMENDED]

Accordingly, for the reasons stated above, the Office proposes to amend 12 CFR Part 7 by revising § 7.5217 to read as follows:

1. The authority for 12 CFR Part 7 reads as follows:

Authority: R.S. 324 et seq., as amended; 12 U.S.C. 1 et seq., unless otherwise noted.

2. Section 7.5217 is revised to read as follows:

§ 7.5217 Indemnification of directors, officers and employees.

(a) A national bank may provide in its articles of association for the indemnification of directors, officers, and employees for expenses reasonably incurred in actions to which the directors, officers, or employees are parties or potential parties by reason of the performance of their official duties. Indemnification articles which substantially reflect general standards of law as evidenced by the law of the state in which the bank is headquartered or the relevant provisions of the Model Business Corporation Act ("MBCA") are presumed by the Office of the Comptroller of the Currency to be within the corporate powers of a national bank.

(b) Such indemnification provisions shall not allow the indemnification of directors, officers, or employees of a national bank against expenses, penalties, or other payments incurred in an administrative proceeding or action instituted by an appropriate bank regulatory agency which proceeding or action results in a final order assessing civil money penalties or requiring affirmative action by an individual or individuals in the form of payments to the bank.

(c) In accordance with its supervisory responsibilities, the Office of the Comptroller of the Currency may, in its discretion, review the suitability of any indemnification or proposed indemnification of directors, officers, or employees by a national bank and the consistency of any such indemnification with the standards adopted by that bank in its articles of association. Based upon this review, the Office may direct a modification of a specific indemnification by a national bank through appropriate administrative action.

Appendix

Section 5 of the Model Business Corporation Act, as amended, 36 Bus. Law. 103 (1980), is published here for convenient reference. It will not be codified in the Code of Federal Regulations.

Section 5 Indemnification of Directors and Officers

(a) As used in this section:

(1) Director means any person who is or was a director of the corporation and any person who, while a director of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise or employee benefit plan.

(2) Corporation includes any domestic or foreign predecessor entity of the corporation in a merger, consolidation or other transaction in which the predecessor's existence ceased upon consummation of such transaction.

(3) Expenses include attorneys' fees.

(4) Official capacity means

(A) When used with respect to a director, the office of director in the corporation, and

(B) When used with respect a person other than a director, as contemplated in subsection (i), the elective or appointive office in the corporation held by the officer or the employment or agency relationship undertaken by the employee or agent in behalf of the corporation.

But in each case does not include service for any other foreign of domestic corporation or any partnership, joint venture, trust, other enterprise, or employee benefit plan.

(5) Party includes a person who was, is, or is threatened to be made, a named defendant or respondent in a proceeding.

(6) Proceeding means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

(b) A corporation shall have power to indemnify any person made a party to any proceeding by reason of the fact that he is or was a director if

(1) He conducted himself in good faith: and

(2) He reasonably believed

(A) In the case of conduct in his official capacity with the corporation, that his conduct was in its best interests, and

(B) In all other cases, that his conduct was at least not opposed to its best interests; and

(3) In the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful.

Indemnification may be made against judgments, penalties, fines, settlements and reasonable expenses, actually incurred by the person in connection with the proceeding; except that if the proceeding was by or in the right of the corporation, idemnification may be made only against such reasonable expenses and shall not be made in respect of any proceeding in which the person shall have been adjudged to be liable to the corporation. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, be determinative that the person did not meet the requisite standard of conduct set forth in this subsection (b).

(c) A director shall not be indemnified under subsection (b) in respect of any proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he shall have been adjudged to be liable on the basis that personal benefit was improperly received by him.

(d) Unless limited by the articles of incorporation,

(1) A director who has been wholly successful, on the merits or otherwise, in the defense of any proceeding referred to in subsection (b) shall be indemnified against reasonable expenses incurred by him in connection with the proceeding; and

(2) A court of appropriate jurisdiction, upon application of a director and such notice as the court shall require, shall have authority to order indemnification in the following circumstances:

(A) If it determines a director is entitled to reimbursement under clause (1), the court shall order indemnification, in which case the director shall also be entitled to recover the expenses of securing such reimbursement;

(B) If it determines that the director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he has met the standard of conduct set forth in subsection (b) or has been adjudged liable in the circumstances described in subsection (c), the court may order such indemnification as the court shall deem proper, except that indemnification with respect to any proceeding by or in the right of the corporation or in which liability shall have been adjudged in the circumstances described in subsection (c) shall be limited to expenses.

A court of appropriate jurisdiction may be the same court in which the proceeding involving the director's liability took place.

(e) No indemnification under subsection (b) shall be made by the corporation unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because he has met the standard of conduct set forth in subsection (b). Such determination shall be made:

(1) By the board of directors by a majority vote of a quorum consisting of directors not at the time parties to the proceeding; or

(2) If such a quorum cannot be obtained, then by a majority vote of a committee of the board, duly designated to act in the matter of a majority vote of the full board (in which designation directors who are parties may participate), consisting solely of two or more directors not at the time parties to the proceeding; or

(3) By special legal counsel, selected by the board of directors or a committee thereof by vote as set forth in clauses (1) or (2) of this subsection (e), or, if the requisite quorum of the full board cannot be obtained therefor and such committee cannot be established, by a majority vote of the full board (in which selection directors who are parties may participate); or

(4) By the shareholders.

Authorization of indemnification and determination as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination as to reasonableness of expenses shall be made in a manner specified in clause (3) in the preceding sentence for the selection of such counsel. Shares held by directors who are parties to the proceeding shall not be noted on the subject matter under this subsection (c).

(f) Reasonable expenses incurred by a director who is a party to a proceeding may be paid or reimbursed by the corporation in advance of the final disposition of such proceeding upon receipt by the corporation of

(1) A written affirmation by the director of his good faith belief that he has met the standard of conduct necessary for indemnification by the corporation as authorized in this section, and

(2) A written undertaking by or on behalf of the director to repay such amount if it shall ultimately be determined that he has not met such standard of conduct, and After a determination that the facts then known to those making the determination would not preclude indemnification under this section. The undertaking required by clause (2) shall be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment. Determinations and authorizations of payments under this subsection (f) shall be made in the manner specified in subsection (e).

(g) No provision for the corporation to indemnify or to advance expenses to a director who is made a party to a proceeding, whether contained in the articles of incoporation, the by-laws, a resolution of shareholders or directors, an agreement or otherwise (except as contemplated by subsection (j)), shall be valid unless consistent with this section or, to the extent that indemnity hereunder is limited by the articles of incorporation, consistent therewith. Nothing contained in this section shall limit the corporation's power to pay or reimburse expenses incurred by a director in connection with his apearance as a witness in a proceeding at a time when he has not been made a named dependant on respondent in the proceeding.

(h) For purposes of this section, the corporation shall be deemed to have requested a director to serve an employee benefit plan whenever the performance by him of his duties to the corporation also imposes duties on, or otherwise involves services by, him to the plan or participants or beneficiaries of the plan; excise taxes assessed on a director with respect to an employee benefit plan pursuant to applicable law shall be deemed "fines"; and action taken or omitted by him with respect to an employee benefit plan in the performance of his duties for a purpose reasonably believed by him to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the corporation.

(i) Unless limited by the articles of incorporation,

(1) an officer of the corporation shall be indemnified as and to the same extent provided in subsection (d) for a director and shall be entitled to the same extent as a director to seek indemnification pursuant to the provisions of subsection (d);

(2) A corporation shall have the power to indemnify and to advance expenses to an officer, employee or agent of the corporation to the same extent that it may indemnify and advance expenses to directors pursuant to this section; and

(3) A corporation, in addition, shall have the power to indemnify and to advance expenses to an officer, employee or agent who is not a director to such further extent, consistent with law, as may be provided by its articles of incorporation, by-laws, general or specific action of its board of directors, or contract.

(j) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or who, while a director, officer, employee or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust, other enterprise or employee benefit plan, against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section.

(k) Any indemnification of, or advance of expenses to, a director in accordance with this section, if arising out of a proceeding by or in the right of the corporation, shall be reported in writing to the shareholders with or before the notice of the next shareholders' meeting.

Dated: May 3, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 83-14670 Filed 6-2-83; 8:45 am]

BILLING CODE 4810-33-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Economic Regulation Docket 41496]

Tariffs

May 19, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to amend its tariff rules to require that U.S. and foreign air carriers justify fares or rates that are outside the zones of flexibility permitted by the Standard Foreign Fare Level or the Standard Foreign Rate Level. This amendment would also conform tariff-filing procedures to the changes made by the International Air Transportation Competition Act of 1979, which established zones of flexibility for foreign passenger fares, and a recent Board policy statement permitting zones of flexibility for cargo rates in foreign air transportation. This proposal is made at the Board's initiative in order to analyze more efficiently fares and rates submitted outside the zones.

DATES: Comments by: August 2, 1983.

Comments and other relevant information received after this date will be considered by the Board only to the extent possible.

Requests to be put on the Service List: June 13, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41496, Civil Aeronautics Board, 1825 Connecticut

Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Martha Langelan, International Fares and Rates Division, Bureau of International Aviation, (202) 673-5360, or Joanne Petrie, Office of General Counsel, (202) 673-5442, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The reasonableness of fares and rates in foreign air transportation is now partly governed by zones of flexibility. Sections 1002(j)(6)(B) and 1002(j)(6)(C) of the Federal Aviation Act (as amended by the International Air Transportation Competition Act of 1979, Pub. L. 96-192) state that the Board does not have authority to suspend any passenger fare for foreign air transportation that is not more than 5 percent higher or 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except in exceptional circumstances. The Board has by order supplemented the statutory zone with discretionary zones of flexibility keyed to particular geographic areas. This additional flexibility is updated periodically. Carriers that so choose may simply file a fare that is within these zones without economic justification or other supporting information. In almost all cases, the Board will accept the filing, and the fare will become effective.

At the same time, section 1002(j)(5)(G) of the Federal Aviation Act, as amended (49 U.S.C. 1482), requires the Board to take into consideration "reasonably estimated or foreseeable future costs and revenues for * * * air carrier[s] and foreign air carrier[s] for a reasonably limited future period during which the rate at issue would be in effect," when determining whether or not to permit passenger fares above or below the Standard Foreign Fare Level (SFFL) zones specified in section 1002(j)(6)(B) and 1002(j)(6)(C). We interpret these two sections as requiring the Board, in most cases, to accept any tariff filings that are within the SFFL flexibility zone without investigation. For fares outside the zone, the Act requires the Board to consider the economic justification before determining the reasonableness of the fare.

The Board has not amended all of its tariff-filing procedures to conform with the two sections of the Act. At present, U.S. carriers are required to submit supporting data for proposed passenger fares outside the applicable flexibility zones. Prior to the adoption of the International Air Transportation Competition Act, the Board was not required to take estimated or foreseeable future costs of foreign air carriers into consideration when determining whether or not to suspend their tariffs for international passenger fares. Therefore, paragraph (d)(2) of § 221.165, explanation and data supporting tariff changes and new matter in tariff publications, exempts foreign air carriers from the requirement of filing economic data supporting their proposed new fares or rates. At present, unless foreign air carriers voluntarily submit such documentation for their proposed prices that are outside the zone of flexibility, the Board must rely on secondary sources such as the current prices, prices in comparable markets, general cost increases and provisions of the applicable bilateral agreement to determine the reasonableness of those filings. Such secondary evidence is often inconclusive. Under our statute and present tariff regulations, in the absence of specific documentation that would support a favorable finding on proposed prices outside the zone, the Board may have no recourse but to invoke formal procedures to suspend the proposed tariffs—an unduly lengthy and burdensome process when a filing outside the zone could in fact have been supported by the submission of a simple economic justification.

We propose to amend paragraph (d)(2) of § 221.165 to require U.S. and foreign air carriers to supply economic data and information in support of their proposed passenger fares outside any applicable zone of pricing flexibility.

The subsection that would be amended lists exceptions to the requirement to file supporting data for new matter filed in tariffs. The exception would be changed from the current exemption granted to all foreign air carriers to only those foreign air carriers filing fares that are within (a) the statutory zone, (b) the applicable discretionary zone created by the Board, or (c) any pricing flexibility created by bilateral or multilateral pricing agreements between the U.S. and foreign governments. Neither U.S. nor foreign carriers are now required to submit supporting data for filings that simply match existing tariffs, and the proposed rule would not change that exemption for matching tariffs.

This amendment would benefit both the carrier proposing the new fare and any person wishing to oppose it. The Board would be able to approve such fares that are economically justified more quickly than under the current regime. If the fares were disapproved by the Board, the carrier would have the benefit of a quick determination so that it could submit and implement alternative, acceptable fares without undue regulatory lag. Persons wishing to challenge the filing would also be better able to pinpoint the source of their dissatisfaction so that a compromise or a final solution could be quickly reached.

The proposed amendment would not be burdensome. In deciding that it would like to change its fares, a carrier presumably would have to make some calculations of its future costs and revenues. In addition, for all multicarrier tariff changes outside the zone, the Board currently requires extensive cost documentation. The rule change would not require supporting data for unilateral tariff filings as detailed as that now required in support of multicarrier fare and rate proposals.

The Board is proposing an additional change in the exemptions from filing supporting data for price changes. The rules would be further amended to require economic justification for cargo rates above the Standard Foreign Rate Level (SFRL). In PS-109, 48 FR 4271, February 27, 1983, the Board adopted a policy of not suspending international cargo rates within a specified zone, except in extraordinary circumstances. This zone, like the one for passenger fares, will be adjusted periodically to take account of actual operating cost changes. As with foreign passenger fares, carriers would be required to file supporting documentation for rates above the zone, for the reasons discussed above. As the Board stated in PS-109: New rates that are above the flexibility ceiling will require justification and will not be assured the same expeditious treatment or assurance against suspension as those below it. But the fact that they are above the suspend-free ceiling does not mean that we will be predisposed to suspend them. They will receive prompt attention, and we intend to continue our generally flexible approach to cargo pricing even outside the suspend-free zone, if adequate justification is presented.

If this proposed amendment is adopted, Part 385, *Delegations and Review of Action Under Delegation: Nonhearing matters*, will be amended to give the Chief of the Board's Tariff Division authority to reject filings of fares or rates outside the flexibility zones if they are not accompanied by

adequate economic justification and supporting information.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that the proposed change will not have a significant economic impact on a substantial number of small entities. The rate would only apply to air carriers and foreign air carriers that want to file fares or rates that are outside the zones of flexibility. There are few carriers in foreign air transportation, the only entities covered by the Act, that use small aircraft (less than 60 seats). In addition, small aircraft users file very few tariffs with the Board, and therefore would generally not be subject to this rule.

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, and Handicapped.

PART 221—[AMENDED]

Accordingly, the Civil Aeronautics Board is proposing to revise paragraph (d)(2) of § 221.165 of 14 CFR Part 221, Tariffs as follows:

§ 221.165 Explanation and data supporting tariff changes and new matter in tariff publications.

* * * * *

(d) * * *

(2) The requirement for data or information in paragraph (b) of this section will not apply to air carriers or foreign air carriers in cases where the new or changed tariff matter proposes fares or rates that are within the zones of flexibility associated with: (i) the Standard Foreign Fare Level, as established by the CAB under section 1002(j) of the Federal Aviation Act of 1958, as amended, including any additional fare flexibility granted by the CAB, (ii) the Standard Foreign Rate Level as set forth in Part 399 of this chapter, including any additional rate flexibility granted by the CAB, or (iii) bilateral or multilateral pricing agreements between the United States and foreign governments.

* * * * *

(Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482.)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-14984 Filed 6-2-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 252

[Economic Regulations Docket: 41431]

Smoking Aboard Aircraft

May 19, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to ban smoking on small aircraft, ban the smoking of cigars and pipes on all U.S. airlines, ban smoking when the aircraft ventilation is not adequate, and provide special protections for those especially sensitive to smoke. The questions of whether the CAB should regulate smoking at all or whether it should ban all smoking, having been decided in an earlier proceeding, are not at issue here.

DATES: Comments by: September 1, 1983. Reply comments by: October 3, 1983.

Comments and other relevant information received after this date will be considered by the board only to the extent practicable.

Requests to be put on the Service List: July 20, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41431, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals, may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

Background

The Board first adopted a rule governing smoking aboard aircraft in 1973. ER-800, 38 FR 19146, September 13, 1973. This rule, set forth in 14 CFR Part 252, required airlines to establish a separate section for nonsmokers. In 1976, Action on Smoking and Health (ASH) petitioned the Board to change this rule by banning cigar and pipe smoking. The Board responded by issuing EDR-306, 41 FR 44424, October 8, 1976, in which it proposed a ban on cigar and pipe smoking, and other restrictions on smoking. The Cigar Association then submitted a petition of its own proposing several amendments that would allow continued cigar and pipe smoking on a restricted basis. These were consolidated in Order 78-5-139, May 22, 1978.

In ER-1091, 44 FR 5071, January 25, 1979, the Board adopted some of the proposed changes to the smoking rule but kept the proceeding open for further comments. The Board decided to provide for the special segregation of cigar and pipe smokers, require carriers to expand the no-smoking areas to accommodate all persons who wish to sit there, prohibit smoking when ventilation systems are not fully functioning, and add language to help ensure that nonsmokers were not unreasonably burdened by breathing smoke. There then followed four more notices of proposed rulemaking in which the Board proposed many options, ranging from leaving the matter to the discretion of the airlines to banning smoking aboard aircraft entirely. EDR-377, 44 FR 29846, May 21, 1979; EDR-377A, 44 FR 33410, June 11, 1979; EDR-399, 45 FR 26976, April 22, 1980; EDR-420, 46 FR 11827, February 11, 1981. These included banning smoking on short flights on small aircraft and providing unspecified special protections for those who were especially sensitive to smoke. Dozens of formal comments and thousands of individual letters were received in response to these proposals.

Also during this period, an important change in the Board's governing statute occurred. Congress passed the Airline Deregulation Act of 1978 (Pub. L. 95-504), which significantly altered the Federal Aviation Act of 1958. It altered the Board's mission from that of a tight regulator of the airline industry, and instead directed it to "place maximum reliance on competitive market forces * * * to provide the needed air transportation system." Section 102(a)(4), 49 U.S.C. 1302(a)(4).

In light of the conflicting views expressed in the comments and the change in its statutory mission, the Board, in November 1980, decided to take a fresh look at the smoking issue. An oral argument was held in May 1981, and in June the Board decided to issue an entirely new rule governing smoking aboard aircraft. ER-1245, 46 FR 45934, September 16, 1981. The only substantive requirement of the new rule was for airlines to provide a seat in the no-smoking section, for each class of service, on request by any passenger that met the airline's check-in deadline.

This new rule was challenged by ASH in Federal court. This suit was combined with earlier ones filed by ASH. On January 28, 1983, the Court issued its decision. *Action on Smoking and Health*

v. *CAB*, Nos. 79–1044 *et al.* (D.C. Cir., January 28, 1983). While leaving intact the heart of the Board's smoking rule, the Court focused on some provisions that had not been incorporated in the new rule. Specifically, it vacated ER–1245 to the extent that it had not continued the previous requirements that cigar and pipe smokers be specially segregated, that smoking be banned when the aircraft ventilation system is not fully functioning, and that nonsmokers not be unreasonably burdened by breathing tobacco smoke. It also remanded for further proceedings the Board's decision not to adopt proposals to ban smoking on short flights or small aircraft, or to require special provisions for persons especially sensitive to smoke. The Court held that the Board had failed to adequately explain the reasons for not taking these actions.

After that decision was issued, ASH filed two petitions with the Board. In the first, it asked the Board to hold an oral argument on the matters remanded by the Court. It stated that the change in Board membership and new evidence since ER–1245 justified holding an oral argument. The Regional Airline Association (RAA) filed an answer asking to be included if an oral argument was held. Senator Inouye of Hawaii wrote a letter supporting the ASH request. In its second petition, ASH called on the Board to republish the previous requirements concerning cigars and pipes, ventilation systems, and unreasonable burdens that had been dropped from the rule by ER–1245. In addition ASH asked the Board to institute a rulemaking to further consider the proposals on short flights, small aircraft, and especially sensitive persons that had not been adopted by ER–1245.

The Board has decided to institute a new rulemaking on the matters remanded by the Court. After the close of the comment period, we will hold another oral argument. This notice refines the earlier proposals in light of previous comments and experience under the old rule.

Small Aircraft

In EDR–377, the Board proposed a ban on smoking aboard aircraft of 30 seats or less. Two airlines that had prohibited smoking on their small aircraft supported the proposal based on their experience. Surburban Airlines had banned smoking on its 19-seat aircraft after a passenger survey indicated that most found smoke objectionable in that small a cabin area. It reported that the ban was not difficult to enforce, but did not consider it necessary to extend it to its 30-seat equipment. Hawaiian Airlines stated that its 2-month experiment with no-smoking flights on its 30-seat aircraft indicated that a ban on smoking on small aircraft would receive public acceptance, and would be less costly and administratively less burdensome than the current segregation requirements. Hawaiian urged the Board to adopt a ban that would apply to all small operators rather than leaving the matter to carrier discretion. Hawaiian was concerned that unilateral action on its part could place it at a competitive disadvantage relative to those who continued to allow smoking.

Other commenters supported the proposed ban on smoking on small aircraft because they were concerned that the small cabin area would make it more difficult for nonsmokers to avoid the smoke, and that the unsegregated cockpit on many of these planes could permit smoke to bother the pilots, imperiling passenger safety. The American Lung Association of Southeast Florida wanted the ban to apply to 40-seat equipment.

Opponents of the proposed ban considered such action to be inequitable and unsupportable by any data. Delta argued that banning smoking on small aircraft would place carriers who operate those at a competitive disadvantage. It was concerned that travelers would opt instead for ground transportation in the short-haul markets. The Tobacco Institute stated that such a ban may hinder air service at small communities, contrary to sections 102(a)(8) and 419 of the Federal Aviation Act, 49 U.S.C. 1302(a)(8) and 1389. It also found no reason to consider the ventilation less effective on small aircraft or nonsmokers subject to more discomfort on those planes.

The Board has decided to again propose a ban on smoking on small aircraft. Such a ban may be appropriate, considering the small cabin area and the possibility that the ventilation system on these aircraft is less sophisticated. The small cabin area makes it less practical to extend the segregation requirement for larger aircraft to the smaller ones. Nevertheless, if commenters can show that it is possible to effectively segregate smokers and nonsmokers on small aircraft, the Board will consider imposing that requirement rather than a total ban.

It appears doubtful that this ban would place small aircraft operators at a disadvantage or hinder air service at small communities. Since most people are nonsmokers, the larger group would be encouraged to fly on small planes by such a ban. Some individuals have written that the rougher ride combined with the smoke on small planes makes them nauseated. A ban on smoking would help to relieve that discomfort. A survey of carriers operating aircraft with 30 seats or less revealed that 57 percent of the air carriers surveyed already banned smoking on these aircraft.

This ban would also not create significant problems for smokers. Most small planes fly only short flights, often an hour or less. Most smokers are accustomed to not smoking for such short periods of time, as they must do when attending most theatrical and other public auditorium events.

For the purposes of this proposal, small aircraft are defined as those with 30 seats or less. In the alternative, the Board is also proposing to extend the ban to aircraft with 60 seats or less. Of the 33 carriers that operate 31 to 60 seat aircraft, 31 (94 percent) now allow smoking.

Many general allegations have been made, both in support and in opposition to a ban, about the ventilation on small aircraft. Those who wish to comment on this issue in this proceeding should provide specific facts or data about small aircraft ventilation systems rather than making general unsupported assertions.

Regional Airline Association Petition

On November 10, 1982, the Regional Airline Association (RAA) petitioned the Board to amend § 252.1, the applicability section of the smoking rule (Docket 41088). It asked that the smoking rule no longer be made applicable to aircraft with 31 to 60 seats. Currently the rule applies to all aircraft that are designed for more than 30 seats. RAA contended that drawing the line at 60 rather than 30 seats would be consistent with other Board rules, specifically Parts 250, 254, 298, and 399 (§ 399.73). It also argued that the current applicability provision creates problems for regional and commuter carriers by forcing them to have different rules for different flights depending on the size of aircraft being flown. ASH filed an answer opposing RAA's petition and calling for a ban on smoking on small aircraft. RAA replied by stating that the proper forum for consideration of its petition would be the Board proceedings in response to the Court of Appeals remand.

Making the change in § 252.1 requested by RAA would of course be inconsistent with the proposal above to ban smoking on small aircraft. The Board agrees with RAA, however, that its petition should be consolidated with this proceeding so that the Board can

consider the full range of issues with respect to smoking on small aircraft. Thus the Board is consolidating Docket 41068 with this proceeding and proposing, in the alternative, to limit the applicability of the smoking rule to operations with aircraft designed to have a passenger capacity of more than 60 seats.

In connection with this petition, the Board surveyed regional and commuter carriers that operate mixed fleets, that is, fleets that include some aircraft with 30 seats or less and some that are designed for 31 to 60 seats. It revealed that 12 airlines separate smokers and nonsmokers on their larger aircraft and ban smoking on their small ones, 8 separate smokers and nonsmokers regardless of aircraft size, and 4 separate smokers and nonsmokers only on their larger aircraft.

Especially Sensitive Persons

In EDR-377, the Board requested comments on whether persons who are unusually susceptible to physical ill effects from inhalation of tobacco smoke should be entitled to special accommodations or placed in the area that is the freest of smoke. Commenters were asked to address the issues of how the carriers should decide who is entitled to special accommodations, whether a medical certificate should be required, and whether carrier rules on the subject should be uniform.

The Chicago Heart Association, ASH, Pacific Southwest Airlines (PSA), and the Association of Flight Attendants favored special provisions for unusually susceptible people. ASH stated that the potential for serious physical impairment should carry more weight in this matter than any administrative problems that such a rule would cause for the airline. It suggested that most of the administrative problems could be overcome by requiring advance notice to the airline by the person seeking special seating. The Chicago Heart Association favored setting aside a sufficient number of seats in a smoke-free area for unusually susceptible persons. ASH and the Association of Flight Attendants stated that a statement from a doctor should be required. The Flight Attendants also favored uniform carrier rules on this matter.

The Air Transport Association (ATA), Delta Air Lines, Trans International Airlines (TIA), and the Tobacco Institute opposed any rule requiring special treatment for susceptible persons. Delta insisted that airlines already do all they can to accommodate the needs of this group. Seveal commenters claimed that any government-mandated solution to this problem would be unworkable and plague carriers with unnecessary, costly and delay-ridden requirements. The Tobacco Institute argued that airlines will not be able to determine the authenticity of a medical certificate claiming unusual susceptibility to tobacco smoke. It also was concerned that persons merely opposed to smoking would be able to obtain a medical certificate from a friendly doctor declaring them unusually susceptible. The Aviation Consumer Action Project (ACAP) did not favor special provisions for susceptible people because, in its view, a total ban was necessary and moving them far away from the smokers would not do them any good.

The Board considers it a highly desirable goal that persons who are unusually susceptible to physical ill effects from breathing tobacco smoke not undergo discomfort or illness. It is difficult, however, to develop standards for objectively determining who should be covered. Even if the problem of identification could be resolved, this proposal presents further difficulties, in that it is unclear what area of the plane is freest from smoke. The proposal in EDR-377 was general and did not provide solutions for these problems.

The Board has decided to seek further comments on this issue. In an effort to devise a more specific approach, it is proposing here that people who present evidence to the airline that they are especially sensitive to smoke must be given the seat most distant from the smoking section that is still available. The necessary evidence could be a medical certificate or a note from a doctor attesting to the person's medical problem. Providing the sensitive person with the farthest available seat from the smoking section would not require airlines to move people around or otherwise burden airline personnel. It would merely ensure what should be a matter of common courtesy in any event.

The Board recognizes that placement in an aircraft cabin is important enought to many people that is could be expected that there would be strong pressure to gain access to this favored class, by both legitimate and illegitimate means. Nevertheless, it tentatively finds this problem outweighed by the importance of protecting especially sensitive people from tobacco smoke.

Cigars and Pipes

Prior to ER-1245, § 252.1a of the Board's smoking rule required carriers to provide for special segregration of cigar and pipe smokers. As revised by ER-1245, the smoking rule no longer included this requirement. The Court of Appeals vacated this aspect of ER-1245. ASH has asked the Board to republish it in the light of the Court of Appeals decision.

In EDR-377, five alternative approaches for dealing with cigar and pipe smoke were proposed. These were: establishing a seven-row buffer zone between cigar and pipe smokers, permitting cigars and pipes to be smoked only by persons seated closest to the air vent in each row, prohibiting the smoking of cigars and pipes in any compartment where a passenger requested such a ban through a flight attendant, permitting the smoking of cigars and pipes only at the rear of the compartment, and banning the smoking of cigars and pipes altogether.

The Association of Flight Attendants, Air Cal, several antismoking groups, and many nonsmokers favored a total ban on cigar and pipe smoking aboard aircraft. Very little support was expressed for the other proposals. The Flight Attendants preferred a total ban over the other options because, in their view, placing cigar and pipe smokers in the rear would not solve the problem, and prohibiting them from smoking when a passenger so requested would place flight attendants in an awkward position. Several commenters supported a total ban on the grounds that cigars were more harmful and offensive to nonsmokers and less addictive to smokers than cigarettes. In their view, this made it easier for cigar and pipe smokers to refrain while on a plane and more imperative that they do so. The Airline Passenger Association (APA) submitted the results of a survey that indicated that 51 percent of its membership favored a total ban on cigar and pipe smoking aboard aircraft.

Several airlines and pro-smoking organizations opposed the proposed alternatives. The ATA stated that the Board's proposals were unworkable. It found no evidence that seating cigar and pipe smokers near air vents would provide any additional comfort for nonsmokers. A requirement that cigar and pipe smokers be seated at the rear would, in ATA's view, restrict carriers' ability to have different service levels in the same compartment and slow the check-in process. ATA considered extinguishing pipes and cigars upon passenger request to be a matter of common courtesy that carriers already attempt to provide, one that does not need to be regulated by the government.

The Cigar Association of America and the Tobacco Institute insisted that cigar and pipe smokers have the same right to adequate service under section 404(a) of the Act as nonsmokers, and that this right includes being free to smoke. The Cigar Association recognized that "the

right of smokers may not be absolute and that it must be tempered by the need to accommodate the corresponding right of non-smokers." It considered the Board's current rule requiring special segregation of cigar and pipe smokers as the appropriate resolution of the conflicting rights, viewing further regulatory action in this area as serving no useful purpose.

The Board recognizes that cigar and pipe smoke causes greater discomfort for some nonsmokers than cigarettes. The special segregation requirement, however, is not the best way to deal with this problem. This requirement creates practical difficulties for carriers in arranging seating aboard the aircraft. More importantly, it is a vague requirement and therefore difficult to effectively obey or enforce. The Board tentatively concludes that these difficulties outweigh any benefits of the special segregation requirement. Indeed, the benefits appear to be slight. The Board received the same number of complaints about cigars and pipes in the year after this requirement was eliminated as it had during the last year it was in effect. Most carriers have banned cigars and pipes on their own initiative in any event so that special segregation may be a step backward from the standpoint of protecting nonsmokers. The Board is therefore proposing to revoke the special segregation provision.

Instead of the special segregation requirement, the Board is proposing a total ban on cigar and pipe smoking aboard aircraft. A total ban would not suffer from the same deficiencies as the special segregation requirement. It would be easy for both the carriers and the Board to administer and enforce. It would not place any special burdens on carriers. Indeed, as noted above, most airlines have already instituted such a ban on their own. A survey of 27 large airlines revealed that 24 banned cigar and pipe smoking, one allowed it only on transatlantic flights, and one allowed only pipe smoking. A survey of smaller regional and commuter airlines indicated that 88 percent banned cigar and pipe smoking. A general ban would ensure that this protection now provided by airlines would continue.

Stricter control of cigars and pipes than of cigarettes is justified because they evidently are more offensive to many nonsmokers than cigarettes. This is borne out by the APA survey that found that a majority of frequent flyers favored a ban on cigar and pipe smoking, but not on all smoking.

While this rulemaking is pending the special segregation requirement will be in effect. See ER–1245A, issued simultaneously. We reserve the option of revoking this requirement after considering the comments even if the total ban is not adopted.

Ventilation

Section 252.2a formerly required airlines to prohibit smoking "whenever the ventilation system is not fully functioning." As revised by ER–1245, the smoking rule is silent on the issue of ventilation. The Court of Appeals directed the Board to provide further explanation for this nonaction and vacated it. Subsquently, ASH petitioned the Board to republish § 252.2a.

The Board has decided to republish § 252.2a but also to propose a new provision on aircraft ventilation in this rulemaking. The Board has tentatively concluded that the "fully functioning" language should not be continued. It has created confusion with little corresponding benefit. The confusion has revolved primarily around whether it requires all available ventilation units on an aircraft to be operating at all times. ASH has contended that it does while the airlines have argued to the contrary. The Board itself has not ruled on this question.

In the Board's view, a rule that prevents airlines from adjusting their ventilation to reflect the actual needs of a particular flight is unduly restrictive. To the extent that the former rule could be construed as preventing such adjustments, it should be revoked and replaced. Aircraft design, on-board conditions, and the number of passengers aboard should dictate ventilation rates, not an arbitrary rule. As in buildings, it is not always necessary to have all air conditioning units operating at full blast to provide the proper degree of comfort. The Board is therefore republishing the "fully functioning" language but is proposing to revoke it. We reserve the option of revoking this provision after considering the comments even if one of the alternatives described below are not adopted.

The Board is instead proposing language here that would require airlines to ban smoking whenever the ventilation system on an aircraft is not operating as designed to produce adequate ventilation under the conditions that are present. This rule would provide the needed protections for nonsmokers while allowing airlines to take into account the built-in capabilities of different aircraft and the characteristics of each flight in setting ventilation rates. It is justified by the reliance of many airlines on their ventilation systems as the reason for opposing efforts to ban or further restrict smoking. This rule would not require airlines to keep all their air packs running where that is not necessary to produce adequate ventilation.

The Board recognizes that the proposed ventilation standard suffers from some of the deficiencies of the former standard in that it is not precise. We have tried to delineate some of its limits above. Nevertheless, in the alternative, we are proposing a more limited requirement. Under this alternate proposal, airlines would be required to ban all smoking when the ventilation system has been turned off for any reason. The Board has received letters from nonsmokers complaining that when flights are delayed on the ground, smoking is often freely permitted. They claim that, at these times, the ventilation system is usually turned off. The result is that they experience extreme discomfort. This alternate proposal would prevent that. It also has the advantage of being an objective standard that can be more readily obeyed and enforced. It may, however, provide a lesser degree of protection for nonsmokers.

The Board is also aware that there are people who are dissatisfied with the air quality aboard aircraft and consider the ventilation systems to be generally inadequate. Some flight attendants in particular have raised concerns about aircraft ventilation. For example, one from Hawaii recently wrote that "even the air conditioning system is fully operating, it is unbearable."

It is important to keep in mind that the Board is here proposing to regulate only smoking. Ventilation becomes an issue only insofar as it has an impact on smoking and the protection of nonsmokers from the build-up of smoke in the aircraft cabin. To the extent that passengers and flight attendants have general objections about aircraft ventilation practices, that are outside the scope of this rulemaking. Indeed such objections may not be appropriate for Board consideration at all because technical details about aircraft ventilation systems are not within the Board's area of expertise. The Federal Aviation Administration (FAA), which does have this expertise, already has rules that generally cover this subject (14 CFR 25.831 and 121.219). They require passenger compartments to be "suitably ventilated" and limit the amounts of carbon monoxide and other fumes that may be present. In addition, Congress is now considering airlines industry practices regarding interior cabin air. See S. 197, introduced by Senator Inouye and S. Rep. No. 97–122 97th Cong., 1st Sess. (1982).

Other Matters

The issues of a ban on smoking on short flights and language prohibiting nonsmokers from being unreasonably burdened by breathing smoke, also remanded by the Court of Appeals, are dealt with in ER-1245A which is being issued simultaneously.

Since the issues of the Board's power to regulate smoking and its refusal to impose a general ban on smoking have been fully discussed and disposed of in the earlier proceedings, commenters should not address those issues here. Comments should be directed solely to the issues discussed above.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, Pub. L. 96-354, the Board concludes that this rule, if adopted, may have a significant economic impact on small air carriers. There are about 200 such carriers. As explained above, however, the impact is more likely to be positive than negative because most people are nonsmokers. The need and objective of the rule are described above. The legal basis is primarily section 404(a) of the Federal Aviation Act. It would not impose any reporting or recordkeeping requirements nor duplicate, overlap, or conflict with other Federal rules.

List of Subjects in 14 CFR Part 252

Air carriers, Consumer protection, Smoking.

Proposal

PART 252—[AMENDED]

Accordingly, the Board proposes to amend 14 CFR Part 252, *Smoking Aboard Aircraft*, as follows:

1. The Table of Contents would be revised to read:

Sec.
252.1 Applicability.
252.2 No-smoking sections.
252.3 Small aircraft.
252.4 Cigars and pipes.
252.5 Ventilation.
252.6 Enforcement.
252.7 Waivers.

2. Section 252.1 would be revised to read:

§ 252.1 Applicability.

(a) This part establishes rules for the smoking of tobacco aboard aircraft.

(b) This part applies to all operations of direct air carriers, except on-demand services of air taxi operators.

Alternate Proposal: Add at the end of this sentence: with aircraft designed to have a passenger capacity of more than 60 seats.

(c) Nothing in this part shall be deemed to require carriers to permit the smoking of tobacco aboard aircraft.

3. A new paragraph (a)(4) would be added in § 252.2 so that it would read as follows:

§ 252.2 No-smoking sections.

(a) * * *

(4) The seat, among those that are still available, that is farthest removed from all smoking sections, for any person that presents written medical evidence to the carrier of an unusual susceptibility to physical ill effects from breathing tobacco smoke.

* * * * *

4. A new § 252.3 would be added, to read:

§ 252.3 Small aircraft.

Carriers shall adopt and enforce rules prohibiting the smoking of tobacco on aircraft with 30 seats or less.

Alternate Proposal: Substitute "60" for "30".

5. A new § 252.4 would be added, to read:

§ 252.4 Cigars and pipes.

Carriers shall adopt and enforce rules prohibiting the smoking of cigars and pipes aboard aircraft.

6. A new § 252.5 would be added to read:

§ 252.5 Ventilation.

Carriers shall adopt and enforce rules prohibiting the smoking of tobacco whenever the ventilation system is not producing adequate ventilation for the conditions that exist aboard the aircraft.

Alternate Proposal: Carriers shall adopt and enforce rules prohibiting the smoking of tobacco aboard aircraft whenever the ventilation system is turned off.

§§ 252.3 and 252.4 [Redesignated as §§ 252.6 and 252.7, respectively]

7. Sections 252.3, *Enforcement*, and 252.4, *Waivers*, would be redesignated § 252.6 and § 252.7 respectively.

§§ 252.1a and 252.2a [Removed]

8. Sections 252.1a, *Special segregation of cigar and pipe smokers*, and 252.2a, *Ban on smoking when ventilation not fully functioning*, would be removed.

(Secs. 204, 404, 407, and 416 of Pub. L. 85-726, as amended, 72 Stat. 743, 760, 766, 771, 49 U.S.C. 1324, 1374, 1377, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-14983 Filed 6-2-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 291

[Economic Regulation Docket No. 41498]

Domestic Cargo Transportation

May 19, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is proposing to exempt domestic airlines providing cargo service from the statutory prohibition against unjust discrimination in their service. All direct and indirect air carriers are now exempt from this provision for domestic passenger service, as are all indirect carriers in domestic and international cargo service. The exemption would put these carriers in the same position as others with respect to this provision. The proposal would also clarify the exemption for U.S. cargo carriers from the statutory provision requiring approval for acquisitions and control.

DATES: Comments by: August 2, 1983.

Reply comments by: August 17, 1983.

Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: June 13, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41498, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: The Board has granted broad exemptions from the Federal Aviation Act (49 U.S.C. 1301 *et seq.*) for the operation of domestic cargo air transportation. These exemptions apply to combination (passenger and cargo) and all-cargo carriers in interstate (except for service within the States of Alaska and Hawaii) and overseas air transportation (14 CFR Part 291), and to all indirect air carriers in air transportation (Parts 296 and 380). Under the Airline Deregulation Act, domestic passenger transportation has been largely deregulated.

Section 404

As part of this deregulation of domestic passenger and cargo air service (whether by statute or regulation), passenger carriers and indirect carriers are no longer subject to the section 404(b) prohibition against unjust discrimination in air service. Domestic cargo carriers are, however, still subject to it. This proposal would exempt airlines in domestic cargo transportation from that provision, so that they would be in the same position as all other carriers in domestic air service.

Section 404 of the Act contains several provisions codifying the duties of common carriers. The prohibition against unjust discrimination is one of those provisions. Congress, by means of the Deregulation Act, has eliminated this statutory provision for the much larger business of passenger transportation. This provision has been used to hinder price competition, by inhibiting airlines and their potential customers from seeking the most favorable terms that they can arrange. The clear intent of the Deregulation Act is to give maximum freedom to market forces, of which price competition is the most important. Thus, the antidiscrimination provision for cargo is a vestige of an older system of pervasive governmental control that has been discarded.

The exemption for domestic cargo carriers in Part 291 would thus be amended by changing the reference to "404(a)" to "404", so that it would include an exemption from section 404(b).

Section 408

With respect to the wording of exemptions in Part 291, there has been some confusion about the extent of the exemption from the Act's requirement to obtain approval for certain acquisitions and control situations. This proposal would clarify that exemption, by stating that the exemption from section 408(a) applies to all direct air carriers in air transportation, including all domestic or international passenger or cargo air service, except for transactions involving two or more air carriers providing any passenger service.

The Board has consistently explained the applicability of the exemption in this manner. The proposed amendment would expressly state that interpretation in the rule.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that none of the proposed changes, if adopted, will have a significant economic impact on a substantial number of small entities. Small air carriers, such as air taxi operators, are already exempt from this provision. Because the exemption does not remove the common law discrimination jurisdiction, the effect on any small shippers should be small.

List of Subjects in 14 CFR Part 291

Air carriers, Antitrust, Freight, Insurance, and Reporting requirements.

Proposed Rule

PART 291—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 291, *Domestic Cargo Transportation*, as follows:

1. Paragraph (a)(2) and (b) of § 291.31 would be revised to read:

§ 291.31 Exemptions from the Act for direct air carriers.

(a) * * *

(2) Section 404, except for (i) air transportation of property within the State of Alaska or Hawaii, and (ii) (for all domestic cargo transportation) the requirement to provide safe and adequate service, equipment, and facilities in connection with that transportation.

* * * * *

(b) Each direct air carrier providing air transportation of passengers or property is exempted from section 408(a) of the Act, except that the exemption in this paragraph—

(1) Does not include section 408(a)(4),

(2) Does not apply to transactions that involve two or more carriers each holding authority to provide passenger air service, and

(3) Is subject to the notification requirement of § 291.33.

2. Paragraph (a) of § 291.32 would be revised to read:

§ 291.32 Exemptions from the Act for persons other than direct air carriers.

(a) Air freight forwarders, common carriers that are not air carriers, and persons substantially engaged in the business of aeronautics other than as air carriers, are exempted from section 408(a) of the Act, except section 408(a)(4), for all transactions that do not involve two or more air carriers providing passenger air service.

* * * * *

(Secs. 204(a), 401, 403, 408, 412, and 416(b), Pub. L. 85-726, as amended, 72 Stat. 743, 754, 758, 767, 770, 771; 49 U.S.C. 1324, 1371, 1373, 1378, 1382, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-14985 Filed 6-2-83; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 377

[Special Regulations Docket No. 41497]

Continuance of Expired Authorizations Pending Board Action on Renewal Requests

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to amend its rule that implements the Administrative Procedure Act provision for the automatic extension of certain expiring licenses. This amendment would clarify the rule and provide that foreign air carrier licenses would expire upon the happening of an event such as the expiration of a bilateral air service agreement.

DATE: Comments by: August 2, 1983.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: June 20, 1983

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41497, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Under various sections of the Federal Aviation (49 U.S.C. 1301 *et seq.*), the Board grants operating and other authority to air carriers and foreign air carriers. These authorizations may be limited for an indefinite duration. For some of those of a limited duration, the Administrative Procedure Act (APA), 5 U.S.C. 558(c), provides that the authority will automatically continue after its expiration date if the carrier has filed a timely and sufficient application for

renewal, even if the Board has not acted on that application. In part it states:

> When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

The Board's rules, 14 CFR Part 377, implement this section of the APA. Part 377 sets forth those authorizations that the Board considers to be "of a continuing nature" and thus covered by section 558(c). It also details the procedure for a carrier seeking to rely on the auomatic continuation rights available under that section.

When this rule was first adopted, ER-175, 17 FR 7137, August 6, 1952, it listed only two types of authorizations that were not for activities "of a continuing nature." These were (1) authorizations that were set to expire within 180 days and (2) authorizations that would expire by their own terms upon the happening of an event.

Since that time, Part 377 has been amended several times. SPR-7, 26 FR 11288, November 30, 1961, SPR-84, 40 FR 24998, June 12, 1975, SPR-184, 47 FR 7211, February 18, 1982. The result has been a confusing array of criteria upon which the automatic-continuation rights of section 588(c) of the APA will depend. For example, in some cases, whether an authorization is for an activity "of a continuing nature" under the APA will depend on whether an event occurs before or after a specified date. See § 377.4.

In March 1983, Ceskoslovenske Aerolinie filed a petition in Docket 41142 seeking clarification of Part 377, especially as it related to Board actions on its permit. The Board is treating this as a petition for rulemaking.

The purpose of this notice is to clarify which authorizations are for activities "of a continuing nature," and to state under which circumstances the Board will allow an authorization to continue beyond its expiration date. Under this proposal, authorizations for more than 180 days that are not subject to termination upon the happening of an event would be authorizations for an activity "of a continuing nature" under the APA. They would continue beyond their effective date if a timely and sufficient renewal application were filed. Authorizations that are for less than 180 days or that are subject to termination upon the happening of an event would not be considered such authorizations under the APA. They would expire on the specified date, or upon the happening of the event, respectively, even if a renewal application had been filed. Thus, as far as the definition of an "activity of a continuing nature" is concerned, this proposal reverts to the rule as originally issued by ER-175.

The further refinements in automatic-continuation rights will be by rule rather than by statutory interpretation. A new proposed § 377.4 would provide relief to U.S. airlines holding authorizations that expire upon the happening of an event. As explained above, these authorizations would normally expire when the event occurs. Proposed § 377.4 would, however, as a matter of Board policy rather than as a matter of law, allow them to continue if a timely renewal application were filed. The Board could restrict this relief in the order granting the authorization by stating there that the rights of § 377.4 would not apply.

Proposed § 377.4 would not provide similar relief to foreign airlines. Authorizations to foreign airlines that are set to expire upon the happening of an event would expire when that event occurred, even if the carrier had filed a renewal application. The only way for a foreign air carrier to continue such an authorization beyond its expiration date would be to apply for and receive an exemption under section 416(b) of the Federal Aviation Act (49 U.S.C. 1386(b)) from the Board.

Relying on its exemption power, rather than on automatic-continuation rights, to continue a foreign carrier's authority gives the Board added flexibility. The Board tentatively finds that automatically allowing a foreign carrier's authority to continue if a renewal application is filed unnecessarily restricts the U.S. government in dealing with the delicate foreign policy issues that are raised when certain events occur.

Although there are various types of events upon which the continuation of a foreign carrier's authority could depend, the one that the Board is primarily concerned with is the termination of a bilateral air service agreement with the foreign carrier's home country. Many foreign air carrier permits are subject to expiration upon the termination of a bilateral agreement.

The termination of a bilateral agreement usually indicates a serious problem in the aviation relations between the U.S. and the foreign nation involved. This is especially true when the termination occurs because one party has denounced the bilateral. In such cases, the Board frequently must defer action on a pending permit renewal application until the differences between the carrier's government and the United States have been resolved. Under the current rule, the foreign carrier could arguably continue service during the deferral by relying on section 558(c) of the APA. This would tend to undercut the United States bargaining position.

The Board has a responsibility under sections 102(a)(12) and 1102(b) of the Federal Aviation Act (49 U.S.C. 1302(a)(12) and 1502(b)) and under section 2(a) of the Fair Competitive Practices Act (49 U.S.C. 1159b(a)) to ensure equal competitive opportunities for U.S. carriers. To fulfill this responsibility, it may sometimes be necessary to allow a foreign carrier's authority to lapse with the expiration of the underlying bilateral agreement. The proposed rule would produce this result while maintaining the Board's discretion to allow the carrier to continue operating by granting it a temporary exemption under section 416 of the Act. Thus, this rule change would enhance the Board's ability to tailor its action on a foreign carrier's renewal application to the circumstances of each case.

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that this rule would not, if adopted, have a significant economic impact on a substantial number of small entities. The change proposed here will affect only foreign carriers engaging in international air service. These are primarily large airlines.

List of Subjects in 14 CFR Part 377

Administrative practice and procedure, Air carriers.

PART 377—[AMENDED]

Accordingly, the Board proposes to amend 14 CFR Part 377, *Continuance of Expired Authorizations Pending Board Action on Renewal Requests*, as follows:

1. Section 377.3 would be revised be revised to read:

§ 377.3 Authorizations not covered by 5 U.S.C. 558(c).

The following authorizations will expire as indicated unless the Board has taken action to extend them:

(a) Authorizations granted for a specified period of 180 days or less, at the end of the specified period;

(b) Authorizations that are subject to termination upon the happening of an event, fulfillment of a condition, or occurrence of a contingency, when the event, condition, or contingency occurs; and

(c) Any authorization that the Board determines under § 377.5 not to be covered by 5 U.S.C. 558(c), as specified in that determination.

2. Section 377.4 would be revised to read:

§ 377.4 Authorizations that will continue although not covered by a U.S.C. 558(c).

Unless otherwise specified in the authorization and notwithstanding § 377.3, an authorization to a U.S. air carrier that is subject to termination upon the happening of an event, fulfillment of a condition, or occurrence of a contingency will continue after that event, condition, or contingency occurs, even if the Board has not acted to extend it, if the carrier has filed a timely and sufficient renewal application under § 377.10. This section does not apply to foreign air carriers.

(Secs. 204, 402, 416, 1001, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 771, 788; 49 U.S.C. 1324, 1372, 1386, 1481; 5 U.S.C. 508, 559)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 10945 Filed 6-2-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 341

[Docket No. 76N-052B]

Metaproterenol Sulfate Metered-Dose Inhaler Drugs For Use as a Bronchodilator; Marketing Status; Proposed Rule-Related Notice

AGENCY: Food and Drug Administration.

ACTION: Notice; proposed rule-related.

SUMMARY: The Food and Drug Administration (FDA) is announcing that drug products containing metaproterenol sulfate in a metered-dose inhaler for use as a bronchodilator may not be marketed over-the-counter (OTC) at this time. Such products may be dispensed on prescription or administered by licensed practitioners, in accordance with the approved new drug application for metaproterenol sulfate metered-dose inhaler products. This announcement is made in accordance with FDA's enforcement policy applicable to prescription drugs undergoing review in the OTC drug review (see 21 CFR 330.13(b)(2)). Firms marketing metaproterenol sulfate OTC have advised the agency that they have initiated the steps necessary to limit the marketing of such products to prescription dispensing.

DATE: This announcement is effective June 3, 1983.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 26, 1982 (47 FR 47520), FDA published a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which OTC bronchodilator drugs are generally recognized as safe and effective and not misbranded. In that document, FDA proposed to establish conditions for the OTC marketing of metaproterenol sulfate as a bronchodilator in the form of a pressurized metered-dose inhalation aerosol (see 47 FR 47524). Before the proposal, metaproterenol sulfate in that dosage form had been marketed under an approved new drug application (NDA) for 9 years as a prescription drug product. The proposal to convert the product to OTC status was based on the agency's review of the published literature on metaproterenol sulfate's safe and effective use as a prescription drug and on the 9 years of safe use of the product as demonstrated by review of adverse reaction experiences reported to the agency.

Also on October 26, FDA issued a "Talk Paper" stating that metaproterenol sulfate in a metered-dose inhaler could be marketed OTC before publication of a final monograph based on the proposal. This decision was based on FDA's enforcement policy, under which a prescription drug may be marketed OTC if FDA reaches a tentative conclusion in the relevant OTC drug review proceeding that such marketing is safe and the drug otherwise qualifies for inclusion in Category I. In a comment dated December 2, 1982, Boehringer Ingelheim, the manufacturer of Alupent, a metaproterenol metered-dose inhalation aerosol, told FDA that it intended to market its product OTC. In January 1983, Boehringer Ingelheim commenced OTC marketing of Alupent. Dorsey Laboratories subsequently began OTC marketing of Metaprel, its version of the same product.

Shortly after OTC marketing of these products began, FDA received the first of many letters questioning the agency's decision to allow metaproterenol sulfate metered-dose inhaler to be marketed OTC. The letters criticized both the decision and the agency's failure to await comment, or seek the advice of its Pulmonary-Allergy Drugs Advisory Committee, before allowing the decision to take effect.

FDA did not, at the time it decided to allow metaproterenol sulfate metered-dose inhaler to be marketed OTC, anticipate the extensive and emphatic reaction to its decision provoked. Prescription products have been converted to OTC status through the enforcement policy mechanism since 1976, with little or no public comment or controversy. In fact, FDA received few comments on this matter during the first several months following the October 26, 1982 proposal. Moreover, the agency believed that metaproterenol sulfate provided a useful alternative drug therapy for asthma sufferers, who at that time were limited to epinephrine preparations if they chose to treat the sumptoms of asthma by an OTC inhaler drug. FDA had also proposed that epinephrine preparations in nebulizer and metered-dosage inhaler forms be classified in Category I (safe and effective) (47 FR 47524) on the basis of earlier recommendations made by the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic (CCABA) products (41 FR 38312; September 9, 1976). The panel did not review metaproterenol because data on the drug were not submitted to it for review and because the NDA for the drug was not approved until 1973, while the panel's deliberations were well underway. Epinephrine products, however, were already marketed OTC before they were reviewed by the panel.

At the time FDA proposed OTC marketing for metaproterenol sulfate metered-dose inhaler, the agency believed that the drug was as safe but more effective than currently available OTC epinephrine products. For this reason, the agency concluded that the conversion of metaproterenol sulfate metered-dose inhaler products to OTC status would improve the overall quality of the OTC drug thereapy available to persons suffering from asthma. The agency also concluded that it would be in the interest of the public health for this improvement to be effected immediately, rather than awaiting publication of a final monograph for OTC bronchodilator drugs, an event that might not occur for several years.

Those who criticized FDA's decision did so on several grounds. The agency was criticized for allowing metaproterenol sulfate metered-dose inhaler to be marketed OTC without awaiting formal comments on the proposal and for not notifying the professional community in advance. The decision was also criticized on substantive grounds. Individual physicians specializing in the treatment of asthma and other allergic conditions, as well as several professional organizations representing allergy

specialists, disagreed or had divided opinions on whether metaproterenol sulfate metered-dose inhaler is safe for unsupervised use. Pediatricians expressed strong concerns that the OTC availability of metaproterenol sulfate could result in misuse of the drug by children. Like many drugs, including OTC drugs, metaproterenol sulfate is capable of producing serious side effects if not properly used; criticism emphasized the potential for misuse of metaproterenol sulfate by asthma sufferers seeking more relief by exceeding the dosage instructions provided on the lable of the OTC product. Those critical of the decision also suggested that because metaproterenol sulfate is longer lasting than epinephrine, the drug could mask the symptoms of a serious asthma attack, thus deterring persons in need of immediate, more decisive medical intervention from seeking medical treatment in a timely fashion.

Some letters noted that metaproterenol sulfate has a slower onset of action than epinephrine; thus persons used to OTC epinephrine might be induced to overuse metaproterenol sulfate in the mistaken belief that the drug was not producing its intended effect at the recommended dosage. For these reasons, the letters of criticism said, metaproterenol sulfate metered-dose inhaler required the supervision of a physician and therefore should remain a prescription drug. At a minimum, the letters contended, these problems should have been addressed before metaproterenol sulfate was allowed to be marketed OTC. In particular, it was sugested that FDA should have consulted with its Pulmonary-Allergy Drugs Advisory Committee.

The critical letters also claimed there had been unsatisfactory experience with metaproterenol sulfate in other countries. Whereas in some countries the drug remains OTC, in Great Britain metaproterenol sulfate inhalers and other aerosol bronchodilators containing isoproterenol were converted from OTC to prescription status after health authorities became concerned that misuse or improper use of such products had been responsible for an observed increased mortality in asthmatics in the mid-1960s. In Great Britain at that time only 8 percent of the products contained metaproterenol sulfate; a majority of the products contained isoproterenol, 28 percent in a highly concentraed formulation. Some letters described specific examples of possible adverse reactions to metaproterenol sulfate occurring in this country in recent months.

In response to these criticisms, FDA scheduled a meeting of its Pulmonary-Allergy Drugs Advisory Committee to present the issue of the OTC marketing of metaproterenol sulfate. The advisory committee met on May 13. Presentations were made by FDA staff responsible for the decision, by several of the principal critics of the decision, by several proponents of the decision, and by representatives of Boehringer Ingelheim, who also favored the decision. Following these presentations, the advisory committee deliberated and, by a vote of 4 to 3, recommended to FDA that it rescind its decision to permit the OTC marketing of metaproterenol sulfate metered-dose inhaler at this time.

FDA has concluded that it should accept the advisory committees advice. The agency has reached this conclusion for two reasons. First, reservations exist within the medical community about whether metaproterenol sulfate metered-dose inhaler can be safely marketed without the safeguard of a prescription limitation and professional supervision of the drug's use in asthma patients. These reservations should be more fully considered before metaproterenol sulfate metered-dose inhaler is marketed OTC. Second, the procedure by which metaproterenol sulfate was permitted to enter the marketplace as an OTC drug has led to unintended confusion and controversy that, if allowed to continue, may disrupt the relationship between physicians and their patients and produce unnecessary anxiety among asthma sufferers seeking relief from their symptoms through OTC drug therapy. So that the agency's position on these matters is clear, these reasons are discussed more fully below.

1. *The safety of metaproterenol for OTC use.* FDA has thoroughly reviewed its decision to propose that metaproterenol sulfate be classified in Category I for OTC use. Its original decision, published in the proposed rule for OTC bronchodilator drug products on October 26, 1982 (42 FR 47524), was based on an extensive review of the literature and the experience with the drug during 9 years of marketing as a prescription drug. The decision was made in the context of an OTC bronchodilator market in which the only metered-dose inhaler products available were epinephrine preparations, which the agency believed to be no safer, and less effective, than metaproterenol sulfate. Since then, the agency has evaluated the critical comments made in response to the OTC marketing of metaproterenol sulfate metered-dose inhaler and the data and arguments presented at the May 13, 1983, advisory committee meeting.

Despite the advisory committee's vote, FDA continues to believe that a careful weighing of risks and benefits supports the proposal that metaproterenol sulfate metered-dose inhaler should be made available to asthma sufferers without a prescription. Metaproterenol sulfate is a safe and effective drug, and nothing in the criticisms submitted to FDA or voiced at the advisory committee meeting is inconsistent with that judgment. Whether the drug is "safe" for OTC use is a matter of judgment, and that judgment relates to one's expectations about patient behavior. There seems to be little or no controversy about whether adequate directions for the safe use of metaproterenol sulfate can be written for lay persons. There is controversy, however, about whether patients can be depended on to follow carefully those directions. FDA believes that persons who suffer from severe asthma are capable of understanding and heeding instructions for the safe use of metaproterenol sulfate. Concern has been expressed that some patients are likely to overuse metaproterenol sulfate, or to encounter a life-threatening asthmatic attack and fail to seek immediate medical intervention because metaproterenol sulfate may conceal the gravity of the attack. The agency believes, however, that these patients are most likely to be under close medical supervision, and thus have the readiest access to professional advice on the appropriate use of any drugs they may be taking. Under these circumstances, the OTC availability of metaproterenol sulfate metered-dose inhaler does not appear to pose a serious threat that the patient will overuse the drug or rely inappropriately on the drug's relief-giving properties.

FDA also shares the concern expressed by some that the product, if marketed OTC, may be misused by children. However, the labeling of the marketed products specifies that they should not be used for children under 12 years of age except on the advice of a physician. This age limitation is the same as that in effect when the products are marketed as prescription drugs. Also, metaproterenol sulfate is not known to have qualities typically sought by young persons who abuse or misuse drugs. It is possible, of course, that in the absence of State or local laws restricting sales, young children could purchase and use the drug without parental authority or supervision. FDA notes, however, that the drug was very widely prescribed. FDA believes that

essentially the same potential exists for children using the product without parental supervision whether the product is marketed OTC or on prescription. FDA believes that the key to preventing misuse by children is not the marketing status of the drug; rather, it is the degree of informed and effective control exercised by parents.

Nevertheless, FDA cannot fail to respect the judgment of specialists in the field who believe that OTC availability of metaproterenol sulfate metered-dose inhaler poses a health risk. These practitioners have made clear that they have important reservations about FDA's decision to propose that metaproterenol sulfate be marketed OTC. FDA believes, therefore, that it would be inappropriate to allow metaproterenol sulfate metered-dose inhaler to be marketed OTC at this time, before resolution of the safety issues.

2. *The procedure that allowed OTC marketing of metaproterenol sulfate.* Throughout the OTC drug review, FDA has encouraged manufacturers of drugs under consideration in the review to reformulate and relabel their products in line with OTC panel recommendations before completion of the rulemaking proceeding of which the recommendations are a part. It is, by now, well known that the OTC drug review will be a lengthier proceeding than basis of panel recommendations, the public realizes the benefits of the review—the elimination of ingredients of questionable safety or effectiveness, the deletion of exaggerated labeling claims—before the issuance of final regulations, which often require years of additional procedure before they are completed. Such changes are permissible because FDA has the discretion to withhold enforcement under the Federal Food, Drug, and Cosmetic Act. Because these changes depend on enforcement policy, FDA may issue a final monograph that requires manufacturers to abandon those changes and comply with different requirements.

In 1975, FDA issued a statement of enforcement policy specifically directed to changes made in the marketing status of prescription drugs under consideration in the OTC drug review. The OTC drug review was from its inception designed for consideration of prescription drugs for OTC marketing, along with other conditions of OTC drug use. Changing a prescription drug to an OTC drug, however, is a more significant modification in the conditions of drug marketing than, for example, the elimination of an ineffective ingredient. For this reason, FDA concluded that its enforcement policy for prescription to OTC switches should include an opportunity for FDA review of such changes before they occurred.

The enforcement policy was issued in 1975 and codified as 21 CFR 330.13 in the **Federal Register** of August 4, 1976 (41 FR 32580), after an opportunity for comment. The enforcement policy, as amended in 1982 (47 FR 17738; April 23, 1982), permits a prescription drug to be marketed OTC if the drug is classified by an OTC advisory review panel in Category I and FDA does not dissent in the preamble to the panel report or thereafter. Also, a prescription drug may be marketed OTC if FDA subsequently concludes that a drug not classified by a panel in Category I later tentatively qualifies for classification in Category I and so states in a **Federal Register** announcement. As stated earlier, because such marketing is allowed in the exercise of FDA's enforcement discretion, permission to market a formerly prescription drug OTC may be immediately withdrawn if FDA adopts a different position from the one that originally authorized OTC marketing (21 CFR 330.13(b)(2)). Over 20 drugs or elevated dosage strengths have been "switched" from prescription to OTC status in accordance with this procedure.

The enforcement policy stated in 21 CFR 330.13 describes both a specific procedure and a general principle. The specific procedure relates to drugs originally considered by an OTC advisory review panel. The general principle is that a prescription product can be marketed OTC if it is included in the OTC drug review and FDA tentatively concludes that it qualifies for classification in Category I.

Metaproterenol sulfate metered-dose inhaler was not considered by the OTC advisory review panel responsible for bronchodilator drugs. Apparently because the drug was still quite new at the time the panel met and concluded its deliberations in 1976, no submissions concerning the drug were made to the panel. By 1982, when FDA published the proposed rule for OTC bronchodilator drug products, metaproterenol sulfate metered-dose inhaler had been widely used as a prescription drug for a substantial period of time. FDA medical staff evaluated the recommendations of the panel regarding OTC bronchodilator drug products and decided that metaproterenol sulfate metered-dose inhaler should be proposed for inclusion in the final monograph. This decision brought into play the generl principle that a drug tentatively considered by FDA as qualified for Category I in an OTC drug monograph can be marketed after FDA publishes its conclusion. Hence, after publication of the proposed rule for OTC bronchodilator drug products, metaproterenol sulfate metered-dose inhaler was permitted to enter the OTC market, subject to the same restrictions applicable to other formerly prescription drugs marketed OTC in accordance with this procedure.

FDA now believes that the use of the enforcement policy to allow interim marketing of metaproterenol sulfate metered-dose inhaler was inappropriate. Other prescription drugs have been converted from prescription to OTC status by the procedure specified in 21 CFR 330.13 without controversy. The lack of controversy may have been the result of widespread agreement with the decisions themselves. It may also have reflected the fact that those decisions were forecast to the affected professional communities, other interested groups, and the public at large during the panel deliberations in the OTC drug review proceedings. Not only would the panel's deliberations afford notice that a "switch" of an ingredient was under consideration but those who might object to the switch could convey their concerns to the panel. Finally, any prescription drug converted to OTC status after initial consideration by an advisory review panel was necessarily reviewed by outside experts (i.e., the panel members), in addition to FDA medical staff, before any conversion was allowed to take place.

As mentioned elsewhere in this document, the possible OTC use of metaproterenol sulfate metered-dose inhaler was not considered by the CCABA panel. Accordingly, there was no public awareness that this drug might be marketed OTC before issuance of a final monograph for bronchodilator drug products. Nor was the OTC use of the drug evaluated by outside experts, who could have represented the views of physicians specializing in the treatment of allergic conditions. The agency can readily appreciate, therefore, the reaction of practitioners and professional organizations suddenly faced with a significant change in the marketing status of an important drug widely used for the treatment of a serious condition.

The controversy provoked by the unanticipated appearance of metaproterenol sulfate metered-dose inhaler as an OTC drug is undesirable irrespective of the merits of the decision on whether OTC status is appropriate for the drug. The controversy cannot but create doubts among practitioners and

confusion and anxiety among asthma patients concerning this drug. In FDA's view, it is important that any decision to convert metaproterenol sulfate to an OTC drug be reached in a way that takes into account the views and concerns of practitioners and patients so that the decision has the confidence and support of those who will be most affected by it. Although metaproterenol sulfate metered-dose inhaler may not be marketed OTC at this time, FDA is continuing in effect its proposal to include metaproterenol sulfate in the final monograph for OTC bronchodilator drugs. If, at the conclusion of the monograph development process, it appears to the agency that it would be inappropriate to permit the OTC marketing of metaproterenol sulfate metered-dose inhaler, the drug will remain limited to prescription use.

It is important to emphasize that although FDA agrees that additional public procedure is necessary before a final decision is reached regarding the marketing status of metaproterenol sulfate metered-dose inhaler, the agency does not believe that all drug decisions require the prior involvement of an advisory committee or the use of notice-and-comment procedures. FDA has been given the statutory responsibility to make a broad range of decisions involving the suitability of drugs for use by the American public. These decisions involve the safety and effectiveness of drugs, their status as a prescription or OTC drug, the indications for their use, and other vital labeling information. In general these decisions are made without rulemaking. Moreover, although many important decisions affecting drug approval are made with the assistance of advisory committees, many are not. FDA's advisory committees cannot, as a practical matter, be involved in all important decisions affecting drug approval or drug use. Even if they could be, it would be inappropriate for FDA to refrain in all cases from exercising its statutory responsibility to regulate drugs and their uses unless and until an advisory committee approved the agency's intended actions. Congress has given the duty of approving drugs to FDA, not to advisory committees. The agency believes that advisory committees are an important adjunct to its decisionmaking, but it does not believe that advisory committees should be viewed as an indispensable part of all FDA procedures for regulating drugs. Less than a decade ago, a Congressional subcommittee strongly criticized FDA for relying too often and too heavily on advisory committees in deciding important drug issues. Although FDA believes that that criticism was misplaced given the factual background against which it was made, the subcommittee's underlying point is valid: FDA is responsible for making decisions about drugs, and the agency must therefore exercise restraint in the extent to which it uses advisory committees to improve its decisionmaking process, making sure that committee advice supplements FDA's expertise without displacing the agency's authority.

This principle is fully applicable to the decision whether to convert metaproterenol sulfate metered-dose inhaler from prescription to OTC status. FDA will be guided by the advice of the Pulmonary-Allergy Drugs Advisory Committee, but, ultimately, the agency is responsible for the final decision. Because the marketing status of metaproterenol sulfate metered-dose inhaler is also involved in the OTC drug rulemaking proceeding, FDA will also be guided by public comment on the propriety of converting the drug to OTC status. In a future of the **Federal Register**, FDA will announce that the administrative record for the OTC bronchodilator tentative final monograph will be reopened to admit new data and comments relating to the proposal to permit OTC marketing of metaproterenol. FDA may reach a final decision regarding the status of metaproterenol sulfate metered-dose inhaler in the OTC drug review. Alternatively, or in addition, the provisions of 21 CFR 310.200 may be invoked to consider the issue by a procedure separate from the OTC drug review.

However, until such additional procedures are completed, the status of metaproterenol sulfate metered-dose inhaler at this time is, by this announcement, that of a prescription drug to be marketed in accordance with the terms and conditions specified in the approved NDA's for metaproterenol sulfate metered-dose inhaler products. Boehringer Ingelheim and Dorsey Laboratories have advised the agency that they have undertaken a program by which existing retail inventory of metaproterenol sulfate metered-dose inhaler products for OTC use will be withdrawn from OTC retail sale (i.e., removed from retail shelves), placed under the control of pharmacists, and dispensed only on prescription.

Dated: May 27, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-14834 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Permanent State Regulatory Program of Oklahoma

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by Oklahoma to satisfy certain conditions imposed by the Secretary of the Interior on the approval of the Oklahoma State program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment consists of a set of modifications to Oklahoma's surface and underground coal mining statute and regulations, and is intended, in part, to satisfy the four conditions of approval. These conditions relate to (a) citizen access to courts, (b) rules of practice and procedure for hearings, (c) the awarding of the costs and expenses (including attorney and expert witness fees), and (d) Oklahoma's ability to provide for the administration of the Small Operator Assistance Program.

The amendment also consists of other changes to the Oklahoma statute and rules which are not related to the conditions of approval. These proposed changes are discussed below under "**SUPPLEMENTARY INFORMATION.**"

This document sets forth the times and locations that the Oklahoma program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment (OK-466), and information pertinent to the public hearing.

DATES: Written comments relating to Oklahoma's proposed modification of its program not received on or before 4:00 p.m. on July 5, 1983, will not necessarily be considered in the Secretary's decision on whether the proposed program amendment satisfies the above conditions.

If requested, a public hearing will be held on June 28, 1983, beginning at 10:00 a.m. at the location shown below under "**ADDRESSES.**"

ADDRESS: Written comments should be mailed or hand-delivered to: Mr. Robert L. Markey, Director, Tulsa Field Office.

Office of Surface Mining, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103.

If a public hearing is held, its location will be at: Tulsa Field Office, Office of Surface Mining, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Markey, Director, Tulsa Field Office, Office of Surface Mining, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Oklahoma program, the Secretary's notice conditionally approving the Oklahoma program (together with the Secretary's findings), a listing of any scheduled public hearing or meeting and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240

Office of Surface Mining, Tulsa Field Office, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103

Oklahoma Department of Mines, Suite 107, 4040 N. Lincoln, Oklahoma City, Oklahoma 73105.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" of at locations other than Oklahoma City, Oklahoma, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business three working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the Proposed amendment may request a meeting at the OSM office listed in "**ADDRESSES**" by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**"

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made part of the Administrative Record.

II. Background on Conditional Approval

Under 30 CFR 732.13(j), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with the steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval.

III. Background on the Oklahoma Program

Information pertinent to the general background on the Oklahoma State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Oklahoma program can be found at 46 FR 4910 (January 19, 1981), 47 FR 14152 (April 2, 1982), and 47 FR 37080 (August 25, 1982).

At the time of the Secretary's conditional approval, Oklahoma agreed to meet four minor conditions. Briefly, these conditions are:

1. Condition (a) requires Oklahoma to provide citizens with the same access to courts (i.e., without having to exhaust administrative remedies) as provided under section 520 of SMCRA.

2. Condition (b) requires Oklahoma to amend its rules of practice and procedures for hearings to make the public participation aspects of those rules no less effective than the Federal requirements of SMCRA, 30 CFR Chapter VII, and 43 CFR Part 4.

3. Condition (c) requires Oklahoma to provide for the award of costs and expenses, including attorney's fees, in administrative proceedings in accordance with 43 CFR 4.1294 (b) and (c).

4. Condition (d) requires Oklahoma to provide for the administration of the small operator assistance program in accordance with section 507(c) of SMCRA and 30 CFR Part 795.

The deadline for Oklahoma to submit program modifications to meet the four conditions was May 15, 1983.

IV. Discussion of the Proposed Amendment

On May 13, 1983, the Oklahoma Department of Mines (ODOM) transmitted a set of statutory and regulatory amendments intended to meet all four conditions. See OK-466.

Oklahoma has: (1) Proposed changes to its statute at 45 O.S. 1981, section 774C, to meet condition (a); (2) submitted new rules of practice and procedure (sections 4.1000 through 4.1400) to meet condition (b); (3) proposed changes to its statute at 45 O.S. 1981, section 786E and submitted new rules of practice and procedure (sections 4.1290 through 4.1296) to meet condition (c); and (4) proposed changes to its statute at 45 O.S. 1981, section 745.16.1 and submitted amended rules at Part 795 to meet condition (d).

In addition, Oklahoma has proposed changes to other statutory and regulation sections that are unrelated to the conditions. These provisions are:

1. Changes to the statute at 45 O.S. 745.2 and rules at sections 788.17 through 788.19 to provide for the transfer, assignment, or sale or rights under permits.

2. Changes to section 816.64 of the State's rules to correct an erroneous statement requiring blasting schedule notices to be published for at least ten days prior to blasting, rather than one notice at least ten days prior, as originally intended.

3. Changes to Parts 842, 843 and 845 of the State's rules governing inspection and enforcement to incorporate changes made to the Federal rules announced on August 16, 1982 (see 47 FR 35620).

Thus, the Secretary requests comments on the substantive adequacy of the proposed amendments to satisfy conditions listed above and on the substantive adequacy of the proposed changes to the other Oklahoma program provisions.

V. Other Information

The Director, OSM, recently notified the Governor of Oklahoma that he had reason to believe that the State is not adequately implementing, administering, maintaining and enforcing its approved program pursuant to 30 CFR Part 733. See 48 FR 23414 (May 25, 1983). Actions surrounding proceedings under the rulemaking being announced in this notice are being conducted separately from the ongoing OSM investigation of Oklahoma's program implementation.

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act.* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *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 would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act.* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 936

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 31, 1983.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*))

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 83–14927 Filed 6–2–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[OPP–00165] PH–FRL 2375–5]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a three-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to review the Agency's proposed strategy for the control of pesticides in ground water and to consider certain scientific data in connection with the question of whether or not to grant food tolerances for the pesticide active ingredient 2,3-dihydro-5,6-dimethyl-1,4-dithiin-1,1,4,4-tetraoxide. The meeting will be open to the public.

DATES: Tuesday, Wednesday, and Thursday, June 21, through 23, 1983. The meeting will begin at 1:00 p.m. on June 21, and will conclude by mid-afternoon on June 23.

ADDRESS: The meeting will be held at: Crystal Mall Building #2, Rm., 1112, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, Executive Secretary, FIFRA Scientific Advisory Panel (TS–766C), Office of Pesticide Programs, Rm. 1115B, CM#2, 1921 Jefferson Davis Highway, Arlington, Va 22202, (703–557–7096).

SUPPLEMENTARY INFORMATION: The agenda for the meeting is:

1. A review of the Agency's proposed approach to the problem of pesticides in ground water.

2. Consideration by the Panel on certain scientific data bearing on risk to public health and the environment in connection with the question of whether or not to continue food tolerances and registrations for 2,3-dihydro-5,6-dimethyl-1,4-dithiin-1,1,4,4-tetraoxide, a pesticide compound developed by Uniroyal Company.

3. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents concerning item 1 may be obtained by contacting: David Severn, Hazard Evaluation Division (TS–769C), Rm. 816J, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–3710).

Copies of draft documents concerning item 2 may be obtained by contacting: Christine Chaisson, Hazard Evaluation Division (TS–769C), Rm. 803, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7560).

Interested persons wishing to attend or submit a paper should contact Philip H. Gray, Jr., at the address or phone number listed above to confirm the meeting and agenda. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements, to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons wishing to make oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than June 17, 1983.

Individuals who wish to file written statements are requested to submit 12 copies by June 17, 1983, in order to ensure appropriate consideration by the Panel.

(Sec. 25, Pub. L. 92–516, 86 Stat. 973 as amended; (7 U.S.C. 136 et seq.))

Dated: May 25, 1983.

Edwin J. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83–14895 Filed 6–2–83; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 65

[A–9–FRL 2374–4]

Termination of Proposed Delayed Compliance Order for Hawaiian Electric Company, Inc., Kahe, Oahu, Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Termination of Proceedings.

SUMMARY: On January 8, 1982, EPA published a proposed Delayed Compliance Order (DCO) to be issued to the Hawaiian Electric Company, Inc., (HECO) power plant in Kahe, Hawaii. On January 20, 1983, HECO informed EPA that it desired to terminate the proceedings leading to the issuance of a final Delayed Compliance Order. On January 21, 1983, EPA informed HECO that it would terminate such proceedings. Today's notice provides the public with notice of the termination.

ADDRESSES: The proposed DCO and supporting ma erials, including the

transcripts of public hearings and public comments received, may be inspected and copied at:

Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105

Environmental Protection Agency, Pacific Islands Contact Office, 300 Ala Moana Blvd., Room 1302, Honolulu, Hawaii

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8250

SUPPLEMENTARY INFORMATION: The Hawaiian Electric Company (HECO) operates a power plant at Kahe, approximately 18 miles west of the Honolulu metropolitan area on the island of Oahu, Hawaii. The plant consists of six oil-fired steam generating units.

On January 8, 1982 [46 FR 969] EPA published a notice of a proposed Delayed Compliance Order to be issued to HECO for Units 1–5 at the Kahe power plant. EPA proposed to issue an Innovative Technology Order under the Clean Air Act in order for HECO to achieve compliance with sulfur dioxide emission limits through the use of a new means of emissions control technology—a seawater scrubber. An Innovative Technology Order is a specific type of Delayed Compliance Order authorized under § 113 of the Clean Air Act.

HECO's existing Prevention of Significant Deterioration permit, issued by EPA on January 25, 1979, requires HECO to burn fuel oil containing no more than 0.5 percent sulfur. During the term of the Order as proposed, HECO would have been allowed to burn fuel oil containing up to 2 percent sulfur in Units 1–5 at the Kahe power plant.

EPA held a public hearing in Hawaii on February 11, 1982, and also received written comments from the public.

In a letter dated January 20, 1983, HECO advised EPA that it did not wish to proceed with the Innovative Technology Order. The letter requesting termination of the proceedings is reprinted below in its entirety:

January 20, 1983.

Ms. Sonia F. Crow,
Regional Administrator, Region IX, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105

Dear Ms. Crow: On January 8, 1982, you published a proposed delayed compliance order (DCO) applicable to Units 1–5 of Hawaiian Electric Company's (HECO) Kahe Power Plant. As we interpreted this Order, proposed pursuant to § 113(d)(4) of the Clean Air Act, it would have required HECO to examine the feasibility and need for seawater scrubbers and install them if found to be technically and economically feasible and necessary to insure that national ambient air quality standards for SO_2 would be met. This would have been an alternative to the current control measure required at Kahe—low sulfur fuel oil—which has resulted in an unreasonable economic burden for HECO ratepayers. However, since that time, you have made it clear to us that, after review of the public comments received, EPA would consider it necessary to revise the Order to require the unconditional installation of a complete seawater scrubber system for Kahe Units 1–5. HECO is extremely concerned about the tremendous financial exposure to our ratepayers presented by such a required shift to the untried seawater scrubber technology. These reservations make it unlikely that we can reach agreement with EPA on conditions to a final DCO which would adequately protect the interest of the ratepayers.

The technical and economic problems presented by a mandatory seawater scrubber program coupled with the significant additional information produced by the monitoring program indicate that the proposed Order is not the most efficient or appropriate means to address the problems presented by the excessive requirements currently imposed on Kahe Units 1–5. For these reasons, we believe the delayed compliance order proceeding should be terminated.

More importantly, however, HECO has during this same period undertaken a comprehensive EPA approved air quality monitoring program and performed additional analyses to develop more data regarding emission levels necessary to meet ambient air quality standards near Kehe. The additional data support HECO's original position that seawater scrubbers are not needed, and the permit conditions applicable to Units 1–5 are unnecessarily stringent. This over-control can be addressed more effectively in the context of a proceeding to reconsider those permit conditions, and it is HECO's intention to seek reconsideration of the permit by EPA based upon these data at the earliest possible time. HECO met with you in September to discuss these data and at that time urged you to take immediate action to revise the permit and allow the Company to burn fuel with a higher sulfur content.

My staff will be available to work with your staff on any further issues presented by the monitoring program and permit proceeding.

Very truly yours,

[Signed] C. Dudley Pratt

In a letter dated January 21, 1983, EPA responded to Mr. Pratt's letter of January 20, 1983. The letter is reprinted below in its entirety:

January 21, 1983.

Mr. C. Dudley Pratt,
President, Hawaiian Electric Company, P.O. Box 2750, Honolulu, HI 96840

Dear Mr. Pratt: I have received your letter of January 20, 1983, setting forth the reasons why you believe the delayed compliance order proceeding for Kahe Units 1–5 should be terminated. In accordance with your request, EPA will terminate the proceeding and will issue a Federal Register notice announcing that decision.

I would also like to respond to your earlier request for clarification of the Agency's position regarding the monitoring study which HECO has undertaken in connection with its analysis of the impact of the Kahe facility on ambient air quality. The Agency understands that HECO intends to submit the results of the study in order to justify a change in its outstanding permit for the facility which would allow the use of higher sulfur fuel.

EPA is prepared to propose a revision of the outstanding permit if the results of the monitoring study, based on a full year's data, justify such a revision and all other applicable requirements of the Clean Air Act are met.

An exception to the one year monitoring requirement would be possible only if at least a normal year of adverse meteorological conditions occurred prior to the scheduled March 15, 1983 compeletion of the monitoring study. In that event, an immediate decision could be made regarding sulfur limits for the plant and revision of the permit could expeditiously proceed. However, such an exception to the one year study would require the following safeguards to protect the health based NAAOS.

1. When evaluating the baseline and current year weather records, Barbers Point Naval Air Station should be used, since it is the only nearby location with long term weather records. Adverse meteorological conditions are defined as the number of hours of stable onshore flow (SSW–NW) that occur at Barbers Point Naval Air Station. A normal year is based upon the average number of adverse cases during the 1964–1980 period, and can be established using either 24 observations/day or 8 observations/day as long as the method is consistent with the calculation of current year cases.

2. HECO will continue SO_2 monitoring at the elevated terrain locations until March 15, 1983. If subsequent monitoring data indicate that a lower sulfur limit is necessary the permit will be revised again based upon the new data.

3. All available ambient SO_2, meteorological, and Kahe Plant emissions data will be submitted to EPA on a monthly basis up to March 15, 1983, even if data collected before that date are determined to constitute a normal year's date.

4. HECO will be credited for the number of hours of adverse meteorology that occurred during the January 1 to March 15, 1982 monitoring period. Since only one of the five elevated terrain monitors was operational credit will be applied at a rate of 20 percent of the observed adverse meteorology hours that occurred during this period.

If you have any further questions regarding these matters please don't hesitate to call.

Cordially yours,

[Signed] Sonia F. Crow,

Regional Administrator.

If HECO requests a permit modification, EPA wil evaluate the request and publish notice of any proposed action in appropriate newspaper announcements and any final action in the **Federal Register.**

List of Subjects in 40 CFR Part 65

Air pollution control.

(Sections 113 and 301 of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601))

Dated: May 20, 1983.

John Wise,

Acting Regional Administrator, Environmental Protection Agency, Region 9

[FR Doc. 83-14740 Filed 6-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 86

[AMS-FRL-2372-8]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Evaporative Emission Regulation and Test Procedure for 1985 and Later Model Year Gasoline-Fueled Heavy-Duty Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Grant Petition for Reconsideration and to Make Technical Amendment.

SUMMARY: This Notice sets forth the Environmental Protection Agency's (the Agency) intent to respond afirmatively to a petition from General Motors Corporation and change the implementation date of the heavy-duty evaporative emission regulation (48 FR 1430, January 12, 1983) from the start of the 1985 gasoline-fueled heavy-duty vehicle model year (approximately September 1984) to the start of the 1985 gasoline-fueled heavy-duty engine model year (approximately January 1985). This delay of approximately four months would allow manufacturers to synchronize the introduction of evaporative emission control systems with engine modifications required for the 1985 model year.

This Notice also sets forth the Agency's intent to issue a Technical Amendment to lower the minimum test fuel temperature from 50° to 45° F. This change will be applicable to the evaporative emission test procedures for both heavy-and light-duty vehicles.

Comments will be accepted for a period of 30 days after publication of this Notice, following which time the Agency will publish a final notice assessing any comments received and announcing its final decision on these matters.

All relevant comments postmarked on or before July 5, 1983 will be considered.

ADDRESSES: Interested persons should submit written comments (in duplicate if possible) to: Public Docket No. OMSAPC-79-1 at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. The docket is open to the public and may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy D. Mott, Emissions, Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105 (313) 668-4387.

SUPPLEMENTARY INFORMATION: On March 14, 1983, the Agency received a petition from General Motors Corporation (GM) (a copy of which is in Public Docket No. OMSAPC-79-1) requesting that the implementation date of the "Evaporative Emission Regulation and Test Procedure for 1985 and Later Model Year Gasoline-Fueled Heavy-Duty Vehicles; Final Rule" (48 FR 1430, January 12, 1983) be delayed from the start of the 1985 vehicle model year to the start of the 1985 engine model year. General Motors stated that it planned to introduce 1985 model year gasoline-fueled heavy-duty vehicles (HDGVs) in September of 1984, as usual. However, its 1985 model year HDGVs would not be introduced until a few months later because of the additional leadtime necessary to comply with new 1985 gasoline-fueled heavy-duty engine (HDGE) test procedures and exhaust emission standards. Thus, GM's 1985 model year HDGVs would be powered by 1984 model year HDGEs for about four months, whereupon the 1985 model year engines would then be available.

As it now stands, the HDGV evaporative emission control regulation would require that all 1985 model year HDGVs meet the new evaporative emission standards. General Motors stated that it would have to develop and produce separate evaporative emission control systems for those 1985 HDGVs with 1984 engines and for those 1985 HDGVs with 1985 engines, because engine changes dictated by the 1985 HDGE exhaust emission regulation will substantially affect the evaporative emission control systems. General Motors claimed, therefore, that similar costs to those incurred to develop and produce the evaporative emission control systems for those 1985 HDGVs with 1984 engines would again be necessary in order to develop and produce the evaporative emission control systems for those 1985 HDGVs with 1985 engines. If the implementation date of the evaporative emission regulation were changed to coincide with the introduction of the 1985 engines, then the evaporative emission control system development and production costs would only be incurred once (i.e., for 1985 model year HDGVs with 1985 model year engines).

A delay in the implementation date of the evaporative emission regulation to coincide with the introduction of 1985 model year engines would allow approximately 30 percent of one year's industry sales to be uncontrolled for evaporative emissions. This is estimated to be approximately 121,600 HDGVs. The air quality impact of such a delay would be greatest in 1985 because HDGV mileage accumulation rates are typically highest for the first year. Average HDGV mileage decreases each successive year and at approximately eight years, average annual HDGV mileage has declined to only half of that of the first year. Furthermore, after the first year, a certain number of HDGVs are scrapped each year, and by the eighth year, over half of the HDGVs originally sold in a particular model year have been scrapped. Thus, the air quality impact of this delay would be greatest in 1985 and would decline fairly rapidly thereafter. The Agency estimates that total nationwide non-methane hydrocarbon (NMHC) emissions in 1985 would increase approximately 0.05 percent due to this delay. Total mobile source 1985 NMHC emissions are estimated to increase about 0.16 percent.

The Agency at this time believes the request from GM to be reasonable and intends to grant the petition and change the implementation date of the heavy-duty evaporative emission regulation to the start of the 1985 HDGE model year. However, no final decision has yet been made, and the Agency will accept comment on this issue for a period of 30 days following publication of this Notice. In addition, if a hearing is requested under Section 307(d)(5) of the Clean Air Act, one will be scheduled. After close of the comment period, the Agency will analyze any comments received and then publish, either separately or as part of the upcoming heavy-duty engine final rulemaking, a final notice announcing its decision on this matter.

In addition, this Notice provides vehicle manufacturers with advance knowledge of the intent of the Agency to

issue a Technical Amendment to lower the minimum test fuel temperature from 50° to 45° F. This change will be made in 40 CFR 86.1233–85 of the heavy-duty evaporative emission test procedure and 40 CFR 86.133–78 of the light-duty vehicle evaporative emission test procedure. The change is being made to reduce temperature-related test problems which have occurred at the EPA Motor Vehicle Emissions Laboratory. Eliminating these problems will reduce test costs for both the Agency and for motor vehicle manufacturers. There are no other known consequential effects of this change. Although this technical amendment does not require prior notice or comment, the Agency will consider any comments received before the Technical Amendment is issued.

Since these actions will not result in any significant adverse impact on the national economy, prices, competition, employment, innovation, or productivity, they are not "major" actions under Executive Order 12291. Therefore, the preparation of a Regulatory Impact Analysis is not required.

List of Subjects in 40 CFR Part 86

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

Dated: May 20, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-14894 Filed 6-2-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 403

[OW-FRL 2329-5]

General Pretreatment Regulations; Denial of Petition for Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Denial of petitions for rulemaking.

SUMMARY: On August 4, 1982, Ford Motor Company filed a petition requesting EPA to initiate a rulemaking to repeal a rule known as the "combined wastestream formula," found at § 403.6(e) of the General Pretreatment Regulations (40 CFR Part 403). On August 10, 1982, General Motors Corporation petitioned the Agency to commence a rulemaking to stay or suspend the effective date of the conbined wastestream formula, and to take appropriate action to ensure that integrated electroplating facilities will have a full three years to comply with the electroplating pretreatment standards. The Administrator has denied these petitions. The Administrator's decisions appear below.

FOR FURTHER INFORMATION CONTACT: Craig Jakubowics, Permits Division (EN-336), 401 M Street, SW., Washington, D.C. 20460, (202) 426–4793.

SUPPLEMENTARY INFORMATION: EPA has established a public record for these decisions which is available for inspection by contacting the person named above. This record includes the petitions and attachments submitted by Ford and GM, and EPA's responses to them. Additionally, it includes the administrative records for the January 28, 1981 rulemaking promulgating the amendments to the General Pretreatment Regulations (46 FR 9404), and for the October 13, 1982 rulemaking establishing the effective date of those amendments. (46 FR 50502–50503).

The decisions of the Administrator appearing below were sent to Ford and GM.

Dated: May 18, 1983.

Lee L. Verstandig,

Acting Administrator.

Environmental Protection Agency, Washington, D.C.

In the matter of Ford Motor Company, Dearborn, Michigan

Response to the Petition of Ford Motor Company for Rulemaking on the Combined Wastestream Formula

The Administrator has been petitioned to initiate a rulemaking to repeal the "Combined Wastestream Formula" (40 CFR 403.6(e)), and in its place issue a revised rule. For the reasons set out below, the petition is denied.

Introduction

On August 4, 1982, Ford Motor Company (Ford) filed a petition under the Administrative Procedure Act, 5 U.S.C. 553(e). Ford requested that EPA begin a rulemaking procedure to repeal a rule known as the "Combined Wastestream Formula" and issue a new rule revised according to recommendations submitted by Ford. Ford argued that the present formula is flawed in that

* * * it allows no consideration of wastestream treatability and sets limits that will change whenever pretreatment standards are set on previously unregulated industrial processes, reduces limits in inappropriate ways, and because that flawed Formula has been made effective retroactively to March 30, 1981 by court order due to an administrative procedural error, and because industry should be provided the full three year compliance period EPA intended.

The combined wastestream formula presently in the General Pretreatment Regulations resulted from an extensive and complex rulemaking proceeding. All significant comments raised during that proceeding that pertained to the formula, including those submitted by the petitioner, were reviewed and considered at that time. In its current petition, no new information that contradicts the Agency's earlier findings regarding the substance of the formula is brought to light by Ford. Hence, EPA has been provided no reasons for reconsidering the substance of the promulgated formula. However, because the Agency recognizes the importance of the combined wastestream formula and the complexity of the issues it raises, a detailed response to Ford's petition with respect to the substance is set forth below.

Furthermore, this response addresses Ford's argument that the combined wastestream formula should be repealed to extend the deadline for compliance with the electroplating pretreatment standards. Ford contends this is necessary because of the holding of the United States Court of Appeals for the Third Circuit in *NRDC* v. *EPA*, No. 81-2068 (July 8, 1982), that the formula be made effective retroactively to March 30, 1981.

The Administrator has decided not to repeal the combined wastestream formula because it has been the object of lengthy and intense scrutiny and review; because the Agency believes it is sound in its present form; and because an extension of time for compliance with the electroplating pretreatment standards would be both unlawful and unwarranted by the facts.

Background

A combined wastestream formula is needed to meet the Agency's statutory obligation under section 307(b) of the Clean Water Act to establish mandatory national pretreatment standards to prevent the discharge of any pollutant through publicly owned treatment works (POTWs) which interferes with, passes through, or is otherwise incompatible with such works. EPA fulfills this obligation in part through promulgation of pretreatment standards for particular industrial categories and subcategories. This approach enables EPA to account for differences in wastestreams, treatability, and industry-specific facility and economic characteristics. But there are a number of industrial facilities engaged in activities that are covered by several

different categories or subcategories, and that combine their various process wastestreams prior to or at the point of treatment. As a result, they have discharges that are covered by several different pretreatment standards or that are not covered by any pretreatment standards. These are primarily large, diversified industrial users of POTWs with many manufacturing processes utilized to produce an end product. For these "integrated" industrial facilities,[1] there is a need for a means to translate the applicable categorical standard or standards to an equivalent end of the pipe limit applicable to the combined waste water from these different processes. The combined wastestream formula is the tool to establish that discharge limitation.

The first time the Agency addressed the combined wastestream issue was in the development of the original General Pretreatment Regulations, promulgated June 26, 1978 (43 FR 27736). The regulations did not include a combined wastestream formula. Instead, a formula was incorporated as guidance in an appendix to the regulations. It adjusted categorical limits by lowering standards in proportion to the flow of all other streams mixed with a single regulated process wastestream. This "guidance only" approach, however, proved inadequate. EPA received numerous inquiries expressing confusion as to how this formula would work and uncertainty as to whether it would be applied uniformly.

In response to these concerns, EPA proposed in the amendments to the pretreatment regulations to move the combined wastestream formula from the appendix to the text of 40 CFR Part 403 (44 FR 62260, October 29, 1979). The formula proposed in 1979 was identical to that found in the appendix to the 1978 pretreatment regulations.

Public comments on the proposal were extensive and nearly unanimous in criticizing the formula. The principal criticism was that the formula would establish a *de facto* zero discharge limit for all unregulated process streams because it failed to account for the presence of regulated pollutants in unregulated streams. Furthermore, commenters argued the formula assumed that the wastestream from only one regulated process would be mixed into the combined wastestream. If adopted in this form, commenters claimed that the new limits would be technically impossible to achieve, thus forcing segregation of wastestreams at a substantial number of plants. This contradicted the purpose of the formula to reduce the need for segregation of compatible wastestreams. Commenters also claimed that the costs of segregating and separately treating compatible process wastestreams would be very high, and not outweighed by the potential effluent reductions.

After carefully evaluating the comments on the proposed formula, EPA acknowledged that it was flawed. Numerous alternative approaches were carefully studied and considered to deal with combined wastestream discharges. The formula finally selected appeared in § 403.6(e) of the amendments to the pretreatment regulations promulgated January 28, 1981 (46 FR 9404). It eliminated the defects of the 1978 formula by permitting combined treatment in almost all cases. The formula contained some restrictions on the combination of certain streams to protect against dilution and the combination of incompatible wastestreams. This formula ensured that similar facilities will be subject to comparable discharge limits, thus providing equity among the facilities in a given industrial category.

The combined wastestream formula promulgated January 28, 1981, divides the universe of wastewater streams into three types: (1) Regulated (2) unregulated, and (3) dilution (wastestreams containing few if any regulated pollutants). Alternative limits, either concentration or mass based, are calculated in a two-step process. First, the formula averages each of the individual categorical limits which apply to the regulated wastestreams. In other words, the formula computes a flow-weighted average of the categorical limits for each of the regulated streams. Second, if these regulated wastestreams are combined with dilution streams prior to treatment, the average calculated above is reduced in proportion to the flow of these streams to account for dilution. Unregulated streams are not calculated into the formula.

Calculation of the alternative limits may be performed by the Control Authority or the industrial user with the written concurrence of the Control Authority. The Control Authority is either EPA or the NPDES State, where a POTW's pretreatment program has not been approved, or the POTW itself, where it has an approved pretreatment program. These alternative discharge limits must be complied with by the industrial user in lieu of the promulgated national categorical standards and are enforceable as such.

Several calculations may be necessary to establish the alternative limits under the formula. An alternative categorical limit must be established for each regulated pollutant in each regulated process stream that is treated in the combined treatment facility. For each regulated pollutant, both an alternative daily maximum limit and an alternative monthly average limit must be calculated. These calculations will use the values set forth in the appropriate categorical standard.

Amendments to the General Pretreatment Regulations that were promulgated January 28, 1981 were to become effective on March 13, 1981. However, acting in accordance with the President's memorandum of January 29, 1981, EPA postponed their effective date until March 30, 1981 (46 FR 11972, February 12, 1981). Subsequently, the Agency indefinitely deferred the effective date of the amendments, pursuant to Executive Order 12291, on March 27, 1981 (46 FR 19936, April 2, 1981). The deferral was instituted in order to enable the Agency to conduct a Regulatory Impact Analysis of the entire pretreatment program.

Subsequent to EPA's indefinite postponement of the effective date of the pretreatment amendments, the Natural Resources Defense Council (NRDC) filed suit in the United States Court of Appeals for the Third Circuit, challenging the suspension (*NRDC* v. *EPA*, No. 81-2068 (3d Cir. 1982)). On October 13, 1981, while the NRDC suit was pending, the Agency took two related administrative actions. First, EPA established January 31, 1982 as the effective date of all the pretreatment amendments (46 FR 50502). Second, EPA initiated a rulemaking to determine whether all or portions of the amendments should be deferred beyond the January 31 effective date (46 FR 50503).

During this time, EPA analyzed the combined wastestream formula for the third time. This included a review of the comments received during the October 13 rulemaking. No new facts or information were presented in those comments. On January 27, 1982, the EPA Administrator signed a Federal Register notice announcing that the effective date of four pretreatment amendments would continue to be deferred, but that the remainder of the amendments would be put into effect as scheduled (47 FR 4518, February 1, 1982). One of the four amendments which continued to be deferred was § 403.6(e)—The combined wastestream formula. The Agency

[1] The term "integrated facility" is defined at § 413.02(h) of the electroplating standards (46 FR 9462, January 18, 1981).

took this action in response to requests for a fourth evaluation of the formula.

Over the next five months, the Agency reevaluated the four amendments that continued to be deferred. A great deal of this time was spent scrutinizing the combined wastestream formula. Various alternative formulas and options again were studied. All previous comments and submissions were reconsidered. After conducting this extensive review, it was again concluded that the formula as promulgated January 28, 1981 should be implemented because it represented the best approach for determining alternative categorical limits for combined wastestreams. It further balanced the concerns identified by the affected parties with the need to ensure equitable regulation between plants treating single or uncombined wastestreams and those treating combined wastestreams.

On July 8, 1982, the Third Circuit Court of Appeals issued its opinion in NRDC's suit contesting EPA's original indefinite deferral of all the pretreatment amendments (*NRDC* v. *EPA*, No. 81–2068). Concluding that EPA's October 13, 1981 rulemaking did not render NRDC's action moot, the court ruled that EPA's original indefinite deferral violated the notice and comment provisions of the Administrative Procedure Act. As a remedy, the court ordered the Agency to retroactively reinstate all the amendments effective March 30, 1981. The court's decision came before the Agency was able to take any formal action on the formula. However, the ruling accomplished the same result EPA intended: to put the combined wastestream formula into effect.

EPA is presently involved in litigation concerning the electroplating pretreatment standards and several provisions of the General Pretreatment Regulations (which includes the combined wastestream formula). *NAMF et al.* v. *EPA*, Nos. 79–2256 *et seq.* (3d Cir.). On October 4, 1982, the court issued an order extending for 90 days certain compliance, application and reporting deadlines contained in the electroplating and pretreatment regulations. By virtue of the court order, the final deadline for compliance with the electroplating pretreatment standards has been extended. Integrated facilities now have until June 30, 1984 to achieve compliance. The non-integrated segment of the electroplating industry has until April 27, 1984 to achieve compliance. A Federal Register notice announcing the order was published on January 21, 1983 (48 FR 2774).

Denial of Ford's Petition To Rescind the Combined Wastestream Formula

In its petition requesting the Agency to rescind the combined wastestream formula, Ford presented three central arguments to support its position. These are considered below in turn.

1. Extension of Compliance Deadline for Ford's Integrated Facilities

Ford points out that EPA originally gave integrated facilities a full three years from the effective date of the combined wastestream formula to achieve compliance with the electroplating pretreatment standards.[3] Ford claims that, as a result of the *NRDC* v. *EPA* decision, integrated facilities now have only 18–19 months in which to plan, purchase, and install the necessary treatment equipment. Ford claims this contradicts EPA's intent to give integrated facilities the full three years. Ford contends that compliance will be costly and complex, and therefore the loss of compliance time will prove detrimental. In addition, Ford argues that the Agency should complete another reevaluation of the combined wastestream formula before putting it into effect. Money expended to comply with the electroplating pretreatment standards will be wasted, Ford asserts, if the formula and the alternative limits it produces are determined later to be improper and must be revised.

Pared down to its essentials, Ford's argument is that even if EPA rejects Ford's argument that the combined wastestream formula is substantively flawed, EPA should suspend the formula (after notice and comment) to provide Ford more time to comply with the electroplating standards. Thus, Ford is in essence asking EPA to grant it more than the statutorily mandated three years from the effective date of those standards (March 30, 1981) to attain compliance.

EPA lacks the legal authority to extend statutory deadlines. Such an extension may be accomplished only by the Congress or, as in this situation, a court exercising its equity powers. A suspension or withdrawal of the combined wastestream formula, unless to correct fatal flaws in the formula, would in essence be an extension of a statutory deadline. For this reason alone, EPA must reject Ford's argument. [4]

Moreover, as a practical matter, Ford has not provided the Agency with any specific information to demonstrate that the 24-month compliance period (from the July 8, 1982 court decision to the June 30, 1984, judicially-established compliance deadline) fails to provide adequate time to achieve compliance. Thus, Ford has not provided a factual basis for the relief requested.

Furthermore, a limited case history study of eight plants (most of which are integrated plants) conducted by the Agency demonstrates that on the average, given an appropriate state of preparation (including the completion of a plant assessment, engineering study, engineering design work and bid awards), facilities can install the necessary equipment in approximately 16 months and can complete the whole process, including plant assessment, design work, construction and start-up, in approximately 32 months. However, the information in the study indicates that for a plant subject to a tight compliance deadline, this time can be considerably compressed and that the whole process, including design work and engineering studies, could be completed in 24 months if necessary. Information previously submitted by industry tends to substantiate this estimate of average installation time and total project length.

The electroplating standards were promulgated September, 1979, and, after taking into consideration the terms of the settlement agreement entered into with other portions of the industry, amended and made final in January, 1981. The technology required to meet these standards has been known by the affected industries for a number of years. A good deal of the initial planning and preparation necessary to put this technology in place should have been completed or be near completion at this time. Ford itself acknowledges that wastewater treatment systems are either completed or are in the process of being installed at a substantial number of its affected industries (Ford Petition, Appendix A, p. 58). In addition, as noted above, Ford representatives have at no time submitted concrete evidence of Ford's inability to achieve compliance within the required time period.

An inequity could possibly result from recission of the formula and further postponement of the compliance date for

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[3] Ford erroneously cited a March 25, 1980 Federal Register notice (45 FR 19245) as providing for a three year compliance deadline. That notice only corrected § 413.01 of the electroplating regulations to tie the deadline for compliance by integrated facilities with electroplating pretreatment standards to the effective date of the combined wastestream formula. EPA made the compliance deadline three years from the effective date of the combined wastestream formula in the January 28, 1981 amendments to the electroplating regulations (46 FR 9463).

[4] Ford's argument, that it faces a reduced compliance period as a result of EPA's improper procedural actions, does not provide the Agency with legal authority to extend the statutory three year deadline, which is based upon the effective date of a categorical standard. However, it does provide legitimate grounds for EPA to exercise its enforcement discretion in a favorable manner to adversely affected plants, as discussed below.

integrated electroplating facilities. Non-integrated facilities, whose compliance date is not affected by the combined wastestream formula, must comply with the electroplating standards by April 27, 1984. Maintaining a deadline of June 20, 1984 for integrated facilities may avoid a competitive inequity between them and their smaller, more economically vulnerable counterparts that may result from widely varying compliance deadlines.

The Agency believes the 1984 deadlines are achievable. However, in the event individual facilities are unable to comply § 309(a)(5)(A) of the Clean Water Act does provide the Agency a mechanism for exercising its discretion with respect to remedies when enforcing the compliance deadline. If the Agency determines that a facility is unable to comply, despite its best good faith efforts, § 309(a)(5)(A) permits the Administrator to issue an administrative order which specifies "* * * a time [she] determines to be reasonable in the case of a violation of a final deadline" in which compliance shall be achieved. In making this determination, the Administrator may take into account "the seriousness of the violation and any good faith efforts to comply with applicable requirements" (e.g., meeting compliance deadlines). EPA believes that if the petitioner, or any other party, experiences actual difficulties in meeting the compliance deadlines, § 309(a)(5)(A) of the Clean Water Act provides the Agency with the necessary enforcement flexibility to deal with such occurrences.

Ford's request for an extension of the compliance deadline is based not only on the contention, which we reject, that there is insufficient time to achieve compliance, but also on the assertion that the Agency is still studying the formula and that this ongoing review may result in a significant alteration of Ford's discharge requirements. This second assertion is erroneous. Over the past three years, EPA conducted numerous reevaluations of the formula. The present formula was extensively restudied. Other solutions to the combined wastestream problem, including alternative equations previously offered by industry, were carefully reviewed. These analyses were conducted independent of the Regulatory Impact Analysis (RIA) of the entire pretreatment program undertaken in 1981–1982 referred to by Ford. The RIA focused on the overall general pretreatment program and a range of possible statutory, regulatory and administrative alternatives to the current Agency approach to pretreatment. This study examined in depth the need to protect the operations of POTWs from industrial discharges, the potential contamination of POTW sludge, and the need to control pass through of toxic pollutants. The RIA was not concerned with analyzing the individual components of the pretreatment regulations. Based on the entirely separate reevaluations of the combined wastestream formula, the Agency has decided to retain the formula in its present form. We do not intend to consider the formula yet another time.

2. Treatability of Pollutants in Unregulated Streams

Ford contends that the formula is flawed because it "sets arbitrary limits on wastes from unregulated processes" (Ford Petition, p.5). It is unrealistic to assume, Ford argues, that the technology treating an integrated industrial facility's regulated process streams can treat the facility's unregulated streams to the same level. Ford asserts that the presence of other pollutants in a facility's unregulated streams, not considered by EPA in setting the standards for the regulated streams, may make it technically impossible for the model treatment technology to achieve the limits for those pollutants controlled in the regulated streams. In a related vein, Ford argues that the formula sets limitations on unregulated streams without consideration of appropriate statutory criteria (treatability, economic achievability, etc.).

The use of the formula is optional. A facility may choose to combine its wastestreams or to segregate unregulated streams and provide separate treatment for its regulated streams. By allowing treatment of combined wastestreams, the formula increases the flexibility for many industrial users of POTWs in deciding on the best treatment alternative for its facility. The Agency believes that the formula, as promulgated and put into effect by the *NRDC* v. *EPA* decision, balances environmental protection with the concern, as raised by the petitioner, for feasible control of pollutants. No actual data of treatment performance has been submitted to the Agency to indicate that the limits as calculated by the combined wastestream formula are unachievable in situations where *compatible* unregulated wastestreams are combined with regulated wastestreams. In fact, the Agency repeatedly asked for actual examples that could contradict this conclusion. No new information was included in Ford's recent petition; instead, Ford has raised only theoretical problems.

The key inquiry is whether wastestreams are compatible. If a wastestream contains very few pollutants, it may act to dilute the regulated process wastewaters and make the efficient removal of pollutants in the regulated stream more difficult and expensive. Such dilution would be incompatible with proper treatment. The combined wastestream formula incidentally regulates combined unregulated streams to ensure that existing limits are fairly met, without inappropriate dilution.

Under the authority of the Clean Water Act, EPA is directed to develop technology-based standards to control the discharges from specific industrial subcategories. Thus, where an industry choose to combine process effluent from various regulated wastestreams with unregulated streams prior to treatment, the Agency has the discretion to impose reasonable conditions to ensure that the proper level of treatment is provided for the regulated streams.[4] The Agency believes that the current combined wastestream formula accomplishes this while allowing unregulated streams to be combined with regulated streams whenever technically appropriate.

In some instances, the concentration level of a certain pollutant found in an unregulated wastestream may be greater than the categorical pretreatment standard for the same pollutant in a facility's regulated process wastestream. In such cases, combining regulated and unregulated streams may result in treatment of the unregulated wastestream in order to meet the alternative limit calculated by the formula. In other instances, mixing unregulated wastestreams may make it easier for an industrial facility to comply with alternative discharge limits. This will be the case when the concentration level of a pollutant in the unregulated stream is lower than the discharge limit in the categorical standard for the same pollutant controlling a regulated process wastestream.

The primary alternative to the promulgated

[4] This is true whether the pretreatment standards are, like the current electroplating standards, analogous to best practicable control technology currently available (BPT) or, like the proposed metal finishing standards, analogous to best available technology economically achievable (BAT) effluent limitations guidelines.

formula—the so-called "full credit" approach—is less satisfactory. This approach, which was proposed by some commenters to the 1981 amendments, would calculate a limit for the combined wastestream which would exactly take into account the presence of regulated pollutants in unregulated streams. If, for example, an unregulated wastestream had a concentration of 2 mg/l of regulated pollutants, the "full credit" formula would calculate a limit for the combined stream which exactly gave allowance for this 2 mg/l, but no more. The result would be a limit which avoided incidental regulation of unregulated streams—i.e., which achieved the same net reduction of pollutants as if the regulated and unregulated streams were being discharged separately, and only the regulated streams were being treated. However, as noted in the January 28, 1981 preamble and as Ford itself pointed out in its comments on the 1981 regulation, such a formula would, on many occasions, make combined treatment more difficult and thus in effect force segregation of individual wastestreams. This would occur when the unregulated stream contained regulated pollutants at a level substantially lower than the categorical limit, resulting in alternative limits lower than the treatability level of the combined wastestream. This approach would thus operate to the ultimate detriment of some industrial users.

Another alternative, which was suggested by Ford in earlier comments, would be for the Agency to assign limits to the unregulated streams through consideration of the statutory factors of treatability and costs. This suggested approach would require the Agency to conduct a plant-by-plant study of the feasibility of combined treatment and the appropriate limitations to be assigned to unregulated streams. In the absence of any convincing showing that Ford's integrated facilities cannot achieve the applicable pretreatment standards, EPA rejects such an approach. It would require a tremendous effort by the Agency and industry which is not justified by the facts presented and which is inconsistent with the implementation of nationally applicable pretreatment standards in a timely manner. It would serve the purpose only of substantially delaying the pretreatment of combined wastestreams.

In any event, the Agency has a mechanism for ensuring that a facility is not required to comply with alternative limits set by the combined wastestream formula that are unachievable. This is the fundamentally different factors (FDF) variance (§ 403.13 of the General Pretreatment Regulations). The Agency made this point explicitly in the preamble to § 403.13 of the January 28, 1981 amendments to the pretreatment regulations: "Where an adjusted Pretreatment Standard has been calculated in accordance with § 403.6(e), the Industrial User may apply for a fundamentally different factors variance from this adjusted standard in accordance with this section". 46 FR at 9412. Section 403.13 of the General Pretreatment Regulations sets out the criteria and procedures for a FDF. Factors which may be considered fundamentally different include the nature of quality of pollutants contained in the raw wasteload of an industrial user's process wastewater; volume of process wastewater and effluent discharged; age, size, land availability, and configuration as they relate to the user's equipment; engineering aspects of the application of control technology; processes employed; process changes; and cost of compliance with required technology. The latter three reasons are the type of issues petitioner is most concerned with.

In establishing categorical pretreatment standards, EPA considers the technology and costs required to achieve those standards. This includes the segregation of incompatible streams from regulated streams and the cost of such segregation. Thus, the fact that a facility has incompatible wastestreams which, when combined with a regulated stream, fails to meet the alternative pretreatment standard calculated by the formula, does not automatically entitle the plant to an FDF variance. However, if the facility believes that the cost of segregating its incompatible streams from its regulated stream is wholly disproportionate to the costs considered by EPA in establishing a pretreatment standard for the regulated stream, then it may apply for an FDF variance.

In an attachment to its petition, Ford recommends that an alternative variance provision be established for this specific situation. Under Ford's proposal, "[w]henever an Industrial User shows that the achievable concentration of [combined regulated wastestreams], is materially greater" than the alternative limit calculated by using the combined wastestream formula, then the formula's alternative limit should be modified by multiplying this limit "by the ratio of the achievable concentration in the combined streams * * * to the limit determined [by using the formula]." If Ford's plan were implemented, it would have the effect of cancelling any alternative limit calculated by the formula, and replacing it with the "achieveable concentration" as shown by the industry. An example will clearify this point. If the alternative limit from using the formula is 5 mg/l for a certain pollutant, and the achievable limit is shown by the industrial plant to be 8 mg/l for the same pollutant, then multiplying the formula's limit of 5 "by the ratio of the achievable concentration * * * to the limit determined [by the formula]," i.e., 8/5, the new limit would be 8 mg/l. Using Ford's "ratio" will, therefore, always result in implementation of the pretreatment limit the industry shows to be achievable. This "bootstrap" argument would improperly allow a plant to combine incompatible unregulated wastestreams with a regulated stream and make it difficult or impossible to assure that the regulated stream is being adequately treated in accordance with the pretreatment standard.

Ford's proposal also is vague in that it fails to specify the type of showing required of an industrial facility to justify modification of the alternative limitation derived from the formula. The language Ford submitted to establish such a variance mechanism lacks specifically delineated criteria that must be met before such a variance could be granted. Modifying Ford's recommended provision to make it clear would likely result in language paralleling that already contained in the FDF provision of the General Pretreatment Regulations. As there has been no demonstration why the FDF provision is inadequate to deal with the situation raised by the petitioner, the Agency believes it is unnecessary to implement a parallel and redundant variance mechanism.

Finally, Ford's recommended provision presents the same problem as did Ford's alternative combined wastestream formula discussed above: a plant-by-plant determination of alternative limits would be needed, which would require a tremendous effort which is not justified and likely would be administratively impossible.

3. *Uncertainty/Repose*

Ford argues that each time a new categorical pretreatment standard applicable to an unregulated stream is promulgated, a recalculation of the alternative discharge limit set by the combined wastestream formula will be required. Ford contends that this would undoubtedly create uncertainty for an industrial user with regard to adequate planning for the required treatment technology needed to meet applicable discharge limits for its combined wastestreams. Faced with the uncertainty of such a moving target, "long-range planning and construction of combined waste

treatment facilities [will be] difficult, if not impossible" (Ford Petition, p.6). Ford recommends language to amend the combined wastestream formula to eliminate this uncertainty and provide industry with "repose." Ford's proposal would permit no modification of the alternative pretreatment discharge limit once it is calculated to account for a newly regulated wastestream. In other words, once an alternative limit is set the first time, subsequently promulgated pretreatment standards would not be factored into the combined wastestream formula, and thus the first alternative limit calculated by the formula would remain in effect. Ford's proposal is aimed at eliminating all uncertainty in planning pollution control.

Ford's complaint about the formula's failure to provide "repose" treats repose as if it were an integral feature to the Clean Water Act. In fact, the opposite is to a large extent true. Under section 301(b) of the Act, facilities which discharge directly to navigable waters must engage in a two-step reduction of their effluents. By 1977, they must comply with effluent limitations based upon best practicable technology (BPT) and, by 1984, with effluent limitations based upon best available technology (BAT) or best conventional technology (BCT). Under section 301(d), the BAT and BCT effluent limitations are then required to be reviewed at least every five years and, if appropriate, revised.

Similarly, under section 307(b)(2) of the Act, the Administrator has issued pretreatment standards analogous to BPT and BAT, and plans to continue issuing standards which are analogous to BAT levels of control. Under § 307(b)(2) of the Act, all pretreatment standards are to be revised by the Agency from time to time, as control technology, processes, operating methods or other alternatives change. Thus, far from providing repose, the Act expressly calls for industrial facilities to periodically upgrade their treatment systems to meet newly promulgated standards.

In fulfilling its obligations to promulgate effluent limitation guidelines and standards for direct and indirect dischargers, EPA has been guided by a consent decree entered into with the Natural Resources Defense Council in 1976, and amended in 1979 and 1982. *NRDC* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified sub nom., NRDC* v. *Costle*, 12 ERC 1883 (D.D.C. 1979), *modified sub nom. NRDC* v. *Gorsuch*, 8/25/82 and 10/26/82 (Memorandum Orders). This consent decree requires EPA to promulgate, in sequential fashion, various effluent limitations guidelines and pretreatment standards. Under the decree, EPA was required to promulgate BPT-level pretreatment standards for eight categories of industrial users, including electroplaters, by 1977. EPA was then required to develop BAT-level pretreatment standards for up to 34 categories of industrial users, all of which are scheduled to be promulgated by June, 1984. In similar fashion, EPA was required to develop BAT effluent limitations guidelines for up to 34 categories of direct dischargers within this same time frame. Inherent in this sequential promulgation of effluent limitations guidelines and standards, sanctioned by the consent decree, is the possibility of shifting compliance obligations as new limitations and standards are promulgated.

The one small measure of repose afforded by law, and the feature which most serves to distiguish the direct discharge program from the indirect discharge program is the NPDES permit system created by section 402 of the Act. Under this system, permits are issued to direct dischargers for a term not exceeding five years. If, at the time of permit issuance, any of the facilities' wastestreams are not subject to national effluent limitations, the permit writer devises a limitation for these "unregulated" wastestreams, applying his best professional judgment. These "BPJ" limitations generally remain applicable to the facility throughout the term of the permit. At the end of the permit term, however, these BPJ limitations must be changed to conform to any newly promulgated national limitations applicable to the unregulated streams. Moreover, even this limited five year repose may be unavailable where the permit contains a "reopener" clause requiring incorporation of any subsequently promulgated national limitation into the permit during the permit term. The limited repose provided by the NPDES permit system is unavailable to industrial users of sewage treatment works because Congress, in establishing the pretreatment program, rejected a permit-based approach. Instead, Congress made categorical pretreatment standards directly binding upon industrial users and provided no permit mechanism to temporarily insulate them from compliance with these standards.

Given this underlying statutory and regulatory framework, it is clear that the prospect of shifing, and possibly more stringent, compliance obligations cannot be remedied simply by application, of some other formula. For, at bottom, the moving target "problem" (to the extent there is one) is a product of the sequential promulgation of categorical pretreatment standards and the absence of a permit mechanism to cushion facilities from the necessity of complying with categorical pretreatment standards within the statutorily-mandated three years. For even if there were no formula, and a facility were free to decide for itself the appropriate limitations for its unregulated streams, the facility might still be subject to shifting compliance obligations as new standards applicable to its unregulated streams were promulgated—unless the facility were clairvoyant enough to perceive in advance what its ultimate end of pipe limit was going to be.

Ford's proposed solution to the moving target "problem" can not be reconciled with the existing statutory scheme. Under Ford's proposal, the formula would be amended to prevent modification of the limit for unregulated streams upon the promulgation of new categorical standards. In effect, the original limit calculated by the formula for unregulated streams would continue for an indefinite time. EPA, however, does not have the authority under the statute to waive compliance with newly promulgated categorical standards. Under the statute, these standards must be complied with no later than three years after their date of promulgation. Additionally, Ford's solution would tend to greatly favor integrated facilities over nonintegrated facilities (by exempting the former from new categorical standards), and would result in inequitable regulatory treatment between the two. Furthermore, it would tend to give indirect dischargers considerably more "repose" than their direct discharge counterparts, who are at best protected by their NPDES permits for a period five years from compliance with newly promulgated limitations.

Ford's rejoinder to this (which is contained in an attachment to its petition) is that Congress intended EPA to promulgated categorical standards which regulate all the processes found at a given plant—i.e. "whole plant" regulation—and did not intend piecemeal regulation of particular processes. In Ford's view, if EPA's categorical standards addressed themselves to the whole plant, the moving target problem, would disappear, or at least be brought within acceptable bounds. The problem with Ford's contention is that as shown in Ford's own previous submissions

document. American industry is extremely diverse and does not always fit neatly into standard industrial classifications. Steel plants, for instance, perform a number of industrial operations aside from steel, including electroplating. Porcelain enamel manufacturers often engage in plastics manufacturing. Auto manufacturers perform a multitude of operations. Given the extreme diversity of processes performed by most industries, Ford's injunction against regulating anything but the whole plant would be a recipe for plant-by-plant regulation—something Congress clearly wanted EPA to avoid. *Legislative History of the Water Pollution Control Act Amendments of 1972*, Vol. 1, p. 800 (1973).

In any event, it is not at all clear that Ford has a real moving target problem. The technology required to comply with the existing electroplating standards is nearly identical to that needed to comply with the proposed metal finishing standards, which will cover most if not all of Ford's integrated facilities. The essential features of these metal finishing standards were widely known by the interested public even before they were formally proposed in the **Federal Register** on August 31, 1982 (47 FR 38461). Promulgation of the metal finishing standards will eliminate or greatly reduce the need to use the combined wastestream formula in a number of cases because these standards represent an end of pipe discharge limit for a number of different, though related, operations. At no time has Ford presented information to EPA indicating that once the metal finishing standards become final, Ford's integrated facilities will have any problem using the formula. In addition, standards for other metal-bearing streams, which will be the ones most likely to apply to integrated plants subject to the electroplating standards, have been or soon will be proposed. These standards are based on nearly identical technology to that which EPA relied on in the electroplating and metal finishing standards.

Moreover, and perhaps most importantly, if the staggered promulgation of standards does create a significant problem, this would be an appropriate area for comment during the rulemaking process involving proposed categorical pretreatment standards and might provide cause for adjusting the proposed standards before their final promulgation. Ford's underlying concern is that newly instituted standards, when factored into the combined wastestream formula, might result in a limit which would require wholesale renovation or replacement of existing treatment technology. This concern is totally theoretical and assumes that EPA will promulgate new regulations without regard to the regulations that are already in place. In actuality, as in the case of the metal finishing regulations, EPA will pay close attention to the capabilities of already installed treatment technologies.

Miscellaneous

Ford is concerned with how the Agency classifies certain process wastestreams. Where a wastestream regulated for a particular pollutant by a categorical pretreatment standard is combined before treatment with a second process wastestream containing only trace amounts of that particular pollutant, but a high concentration of another pollutant, Ford believes the Agency would classify this second wastestream as a dilution stream. For argues that this dilution effect would be factored into the alternative discharge limit calculated by using the combined wastestream formula, making this limit more stringent.

Ford's concern grew out of a misunderstanding of how the formula works. At a meeting held on August 4, 1982 at EPA Headquarters in Washington, D.C., EPA staff explained to Ford representatives that in the situation described above, the second process wastestream is considered as unregulated, and not as a dilution stream. Unregulated streams are not factored into the combined wastestream formula. Thus, the alternative limit would not be made more stringent by combining these two process wastestreams.

Although not included in its petition, at the August 4 meeting Ford expressed concern as to the combined wastestream formula's definition of dilution streams, specifically, § 403.6(e)(1) (i) and (ii). In these paragraphs, a dilution stream is defined as "the average daily flow (at least a 30-day average) from * * * process wastestreams which were *or could have been* entirely exempted from categorical Pretreatment Standards pursuant to paragraph 8 of the *NRDC* v. *Costle* Consent Decree * * *" (emphasis added). Ford contended that the words "or could have been" make it unclear just who makes the determination that a wastestream be exempted under paragraph 8, and confusing as to which streams are exempted.

EPA agrees that the regulations could be improved in this one respect, and plans to propose amendments to clarify the § 403.6(e) definition. The Agency does not view such a change as significant, and therefore it is not a reason to suspend the combined wastestream formula or alter the deadline for compliance with the electroplating pretreatment standards.

Petition of General Motors Corporation

General Motors Corporation also has petitioned the Agency to conduct a rulemaking to stay the combined wastestream formula. EPA has responded separately to that petition. Although some of the issues raised by GM are identical to those raised by Ford in its petition, several are not. EPA's consideration and response to these different issues may be relevant to Ford's concerns about the formula, though not specifically raised by Ford in its petition.

Conclusion

For the reasons stated above, the petition of Ford Motor Co. is denied.

Dated: May 18, 1982.

Lee V. Verstandig,

Acting Administrator.

Environmental Protection Agency, Washington, D.C.

In the matter of General Motors Corporation, Detroit, Michigan.

Response to the Petition of General Motors Corporation For Rulemaking on the Combined Wastestream Formula.

The Administrator has been petitioned to initiate a rulemaking to stay or suspend the effective date of the "Combined Wastestream Formula" (40 CFR 403.6(e)), and to take appropriate action to ensure that integrated electroplating facilities will have a full three years to comply with the electroplating pretreatment standards. For the reasons set out below, the petition is denied.

Introduction

On August 10, 1982, General Motors Corporation (GM) filed a petition requesting that EPA begin a rulemaking procedure to stay or suspend the effective date of a rule known as the "Combined Wastestream Formula". GM argued that, if the formula is allowed to remain in effect, GM will be unable to meet the deadline for compliance with the electroplating pretreatment standards because its compliance date has been reduced by 15 months. GM asserted a full three years is needed to achieve compliance. GM further contended there are a number of uncertainties surrounding the formula that must be cleared up before it can be put into effect. GM also argued that the combined wastestream formula itself is flawed, and that the Agency must complete its reevaluation of it before it can become effective.

The combined wastestream formula presently in the General Pretreatment Regulations resulted from an extensive and complex rulemaking proceeding. All significant comments raised during that proceeding that pertained to the formula were reviewed and considered at that time.

In its current petition, no new information that contradicts the Agency's earlier findings regarding the substance of the formula is brought to light by GM. Hence, EPA has been provided no reasons for reconsidering the substance of the promulgated formula. However, because the Agency recognizes the importance of the combined wastestream formula and the complexity of the issues it raises, a detailed response to GM's petition with respect to the substance is set forth below.

Furthermore, this response addresses GM's argument that the combined wastestream formula should be suspended to extend the deadline for compliance with electroplating pretreatment standards. GM contends this is necessary because of the holding of the United States Court of Appeals for the Third Circuit in *NRDC* v. *EPA*, No. 81-2068 (July 8, 1982) that the formula be made effective retroactively to March 30, 1981.

The Administrator has decided not to stay the combined wastestream formula because it has been the object of lengthy and intense scrutiny and review; because the Agency believes it is sound in its present form; and because an extension of time for compliance with the electroplating pretreatment standards would be both unlawful and unwarranted by the facts.

Background

A combined wastestream formula is needed to meet the Agency's statutory obligation under section 307(b) of the Clean Water Act to establish mandatory national pretreatment standards to prevent the discharge of any pollutant through publicly owned treatment works (POTWs) which interferes with, passes through, or is otherwise incompatible with such works. EPA fulfills this obligation in part through promulgation of pretreatment standards for particular industrial categories and subcategories. This approach enables EPA to account for differences in wastestreams, treatability, and industry-specific facility and economic characteristics. But there are a number of industrial facilities engaged in activities that are covered by several different categories or subcategories, and that combine their various process wastestreams prior to or at the point of treatment. As a result, they have discharges that are regulated by several different categorical pretreatment standards or that are not covered by any pretreatment standards. These are primarily large, diversified industrial users of POTWs with many manufacturing processes utilized to produce an end product. For these "integrated" industrial facilities,[1] there is a need for a means to translate the applicable categorical standard or standards to an equivalent end of the pipe limit applicable to the combined waste water from these different processes. The combined wastestream formula is the tool to establish that discharge limitation.

The first time the Agency addressed the combined wastestream issue was in the development of the original General Pretreatment Regulations, promulgated June 26, 1978 (43 FR 27736). The regulations did not include a combined wastestream formula. Instead, a formula was incorporated as guidance in an appendix to the regulations. It adjusted categorical limits by lowering standards in proportion to the flow of all other streams mixed with a single regulated process wastestream. This "guidance only" approach, however, proved inadequate. EPA received numerous inquiries expressing confusion as to how this formula work and uncertainty as to whether it would be applied uniformly.

In response to these concerns, EPA proposed in the amendments to the pretreatment regulations to move the combined wastestream formula from the appendix to the text of 40 CFR Part 403 (44 FR 62260, October 29, 1979). The formula proposed in 1979 was identical to that found in the appendix to the 1978 pretreatment regulations.

Public comments on the proposal were extensive and nearly unanimous in criticizing the formula. The principal criticism was that the formula would establish a *de facto* zero discharge limit for all unregulated process streams because it failed to account for the presence of regulated pollutants in unregulated streams. Furthermore, commenters argued the formula assumed that the wastestream from only one regulated process would be mixed into the combined wastestream. If adopted in this form, commenters claimed that the new limits would be technically impossible to achieve, thus forcing segregation of wastestreams at a substantial number of plants. This contradicted the purpose of the formula—to reduce the need for segregation of compatible wastestreams. Commenters also claimed that the costs of segregating and separately treating compatible process wastestreams would be very high, and not outweighed by the potential effluent reductions.

After carefully evaluating the comments on the proposed formula, EPA acknowledged that it was flawed. Numerous alternative approaches were carefully studied and considered to deal with combined wastestream discharges. The formula finally selected appeared in § 403.6(e) of the amendments to the pretreatment regulations promulgated January 28, 1981 (46 FR 9404). It eliminated the defects of the 1978 formula by permitting combined treatment in almost all cases. The formula contained some restrictions on the combination of certain streams to protect against dilution and the combination of incompatible wastestreams. This formula ensured that similar facilities will be subject to comparable discharge limits, thus providing equity among the facilities in a given industrial category.

The combined wastestream formula promulgated January 28, 1981, divides the universe of wastewater streams into three types: (1) Regulated, (2) unregulated, and (3) dilution (wastestreams containing few if any, regulated pollutants). Alternative limits, either concentration or mass-based, are calculated in a two-step process. First, the formula averages each of the individual categorical limits which apply to the regulated wastestreams. In other words, the formula computes a flow-weighted average of the categorical limits for each of the regulated streams. Second, if these regulated wastestreams are combined with dilution streams prior to treatment, the average calculated above is reduced in proportion to the flow of these streams to account for dilution. Unregulated streams are not calculated into the formula.

Calculation of the alternative limits may be performed by the Control Authority or the industrial user with the written concurrence of the Control Authority. The Control Authority is either EPA or the NPDES State, where a POTW's pretreatment program has not been approved, or the POTW itself, where it has an approved pretreatment program. These alternative discharge limits must be complied with by the industrial user in lieu of the promulgated national categorical pretreatment standards and are enforceable as such.

Several calculations may be necessary to establish the alternative limits under the formula. An alternative categorical limit must be established for each regulated pollutant in each regulated process stream that is treated in the combined treatment facility. For each regulated pollutant both an alternative daily maximum limit and an alternative monthly average limit must be calculated. These calculations use the values set forth in the appropriate categorical standard.

Amendments to the General Pretreatment Regulations that were promulgated January 28, 1981 were to become effective on March 13, 1981. However, acting in accordance with the President's memorandum of January 29, 1981, EPA postponed their effective date until March 30, 1981 (46 FR 11972, February 12, 1981). Subsequently, the Agency indefinitely deferred the effective date of the amendments, pursuant to Executive Order 12291, on March 27, 1981 (46 FR 19936, April 2, 1981). The deferral was instituted in order to enable the Agency to conduct a Regulatory Impact Analysis of the entire pretreatment program.

Subsequent to EPA's indefinite postponement of the effective date of the pretreatment amendments, the Natural Resources Defense Council (NRDC) filed suit in the United States Court of Appeals for the Third Circuit, challenging the suspension (*NRDC* v. *EPA*, No. 81-2068 (3d Cir. 1982)). On October 13, 1981, while the NRDC suit was pending, the Agency took two related administrative actions. First, EPA initiated January 31, 1982 as the effective date of all the pretreatment amendments (46 FR 50502). Second, EPA established a rulemaking to determine whether all or portions of the amendments should be deferred beyond the January 31 effective date (46 FR 50503).

During this time, EPA analyzed the combined wastestream formula for the third time. This included a review of the comments received during the October 13 rulemaking. No new facts or information were presented in those comments. On January 27, 1982, the EPA Administrator signed a Federal Register notice announcing that the effective date of four pretreatment amendments was again deferred, but that the remainder of the amendments would be put into effect as

[1] The term "integrated facility" is defined at § 413.02(h) of the electroplating standards (46 FR 9462, January 28, 1981).

scheduled (47 FR 4518, February 1, 1982). One of the four amendments which continued to be deferred was § 403.6(e) the combined wastestream formula. The Agency took this action in response to requests for a fourth evaluation of the formula.

Over the next five months, the Agency reevaluated the four amendments that continued to be deferred. A great deal of this time was spent scrutinizing the combined wastestream formula. Various alternative formulas and options again were studied. All previous comments and submissions were reconsidered. After conducting this extensive review, it was again concluded that the formula as promulgated January 28, 1981 should be implemented, because it represented the best approach for determining alternative categorical limits for combined wastestreams. If further balanced the concerns identified by the affected parties with the need to ensure equitable regulation between plants treating single or uncombined wasterstreams and those treating combined wastestreams.

On July 8, 1982, the Third Circuit Court of Appeals issued its opinion in NRDC's suit contesting EPA's original indefinite deferral of all the pretreatment amendments (*NRDC* v. *EPA*, No. 81–2068). Concluding that EPA's October 13, 1981 rulemaking did not render NRDC's action moot, the court ruled that EPA's original indefinite deferral violated the notice and comment provisions of the Administrative Procedure Act. As a remedy, the court ordered the Agency to retroactively reinstate all the amendments effective March 30, 1981. The court's decision came before the Agency was able to take any action on the formula. However, the ruling accomplished the same result EPA intended: to put the combined wastestream formula into effect.

EPA is presently involved in litigation concerning the electroplating pretreatment standards and several provisions of the General Pretreatment Regulations (which includes the combined wastestream formula). *NAMF et al* v. *EPA*, Nos. 79–2256 *et seq.* (3d Cir). On October 4, 1982, the court issued an order extending for 90 days certain compliance, application and reporting deadlines contained in the electroplating and pretreatment regulations. By virtue of the court order, the final deadline for compliance with the electroplating pretreatment standards has been extended. Integrated facilities now have until June 30, 1984 to achieve compliance. The non-integrated segment of the electroplating industry now has until April 27, 1984 to achieve compliance. A **Federal Register** notice announcing the court order was published on January 21, 1983 (48 FR 2774).

Denial of GM's Petition To Rescind the Combined Wastestream Formula

In its petition requesting the Agency to rescind the combined wastestream formula, GM presented several arguments to support its position. These are considered below in turn.

1. *Extension of Compliance Deadline for GM's Integrated Facilities.* GM argues that EPA originally gave intgrated facilities a full three years from the effective date of the combined wastestream formula to achieve compliance with electroplating pretreatment standards. GM claims that, as a result of the *NRDC.* v. *EPA* decision, the deadline for compliance by integrated facilities with the electroplating pretreatment standards has been shortened by 15 months. GM argues that "[d]esigning, installing, and debugging the treatment facilities that may be necessary to meet these adjusted standards cannot be completed in this amount of time" (FM Petition, p. 3). GM further argues that "even if one or two plants could be completed in this time frame, the design and manufacturing capacity of the Nation's pretreatment contractors is insufficient to deal with the complexities of these projects given the number of plants involved" (GM Petition, p. 21).

Pared down to its essentials, GM's argument is that even if EPA rejects GM's argument that the combined wastestream formula is substantively flawed, EPA should suspend the formula (after notice and comment) to provide GM more time to comply with the electroplating standards. Thus, GM is in essence asking EPA to grant it more than the statutorily mandated three years from the effective date of those standards (March 30, 1981) to attain compliance.

EPA lacks the legal authority to extend statutory deadlines. Such an extension may be accomplished only by the Congress or, as in this situation, a court exercising its equity powers. A suspension or withdrawal of the combined wastestream formula, unless done to correct fatal flaws in the formula, would in essence be an extension of a statutory deadline. For this reason alone, EPA must reject GM's argument.[2]

Moreover, as a practical matter, GM has not provided the Agency with any specific information to demonstrate that the 24 month compliance period (from the July 8, 1982 court decision to the June 30, 1984 judicially-established compliance deadline) fails to provide adequate time to achieve compliance. Thus, GM has not provided a factual basis for the relief requested.

Furthermore, a limited case history study of eight plants (most of which are integrated plants) conducted by the Agency demonstrates that on the average, given an appropriate state of preparation (including the completion of a plant assessment, engineering study, engineering design work and bid awards), facilities can install the necessary equipment in approximately 16 months and can complete the whole process, including plant assessment, design work, construction and start-up in approximately 32 months. However, the information in the study indicates that for a plant subject to a tight compliance deadline, this time could be considerably compressed and that the whole process, including design work and engineering studies, can be completed in 24 months if necessary. Information previously submitted by industry tends to substantiate this estimate of average installation time and total project length.

The electroplating standards were promulgated September, 1979, and, after taking into consideration the terms of the settlement agreement entered into with other portions of industry, amended and made final in January, 1981. The technology required to meet these standards has been known by the affected industries for a number of years. A good deal of the initial planning and preparation necessary to put this technology in place should have been completed or be near completion at this time. Indeed, in its petition, GM acknowledges that "virtually all [of its] plants already have some level of treatment, and, by and large, the discharge levels exceed the adjusted electroplating standards by small increments for particular pollutants" (GM Petition, p. 26). GM, therefore, should have little trouble making the necessary adjustments to achieve compliance. In addition, as noted above, GM representatives have at no time submitted convincing evidence of GM's inability to achieve compliance within the required time period.

An inequity could possibly result from recision of the formula and further postponement of the compliance date for integrated electroplating facilities. Non-integrated facilities, whose compliance date is not affected by the combined wastestream formula, must comply with the electroplating standards by April 27, 1984. Maintaining the deadline of June 30, 1984 for integrated facilities may avoid a competitive inequity between them and their smaller, more economically vulnerable counterparts that may result from widely varying compliance deadlines.

The Agency believes that the 1984 deadlines are achievable. However, in the event individual facilities are unable to comply, section 309(a)(5)(A) of the Clean Water Act does provide the Agency a mechanism for exercising its discretion with respect to remedies when enforcing the compliance date. If the Agency determines that a facility is unable to comply, despite its best good faith efforts, section 309(a)(5)(A) permits the Administrator to issue an administrative order which specifies "* * * a time [she] determines to be reasonable in the case of a violation of a final deadline" in which compliance shall be achieved. In making this determination, the Administrator may take into account "the seriousness of the violation and any good faith efforts to comply with applicable requirements" (e.g., meeting compliance deadlines). EPA believes that if the petitioner, or any party, experiences actual difficulties in meeting the compliance deadlines, section 309(a)(5)(A) of the Clean Water Act provides the Agency with the necessary enforcement flexibility to deal with such occurrences.

GM's request for an extension of the compliance deadline is based not only on the contention, which we reject, that there is insufficent time to achieve compliance, but also on the assertion that the Agency is still studying the formula and that this ongoing

[2] GM's argument, that it faces a reduced compliance period as a result of EPA's improper procedural actions, does not provide the Agency with legal authority to extend the statutory three year deadline, which is based upon the effective date of a categorical standard. However, it does provide legitimate grounds for EPA to exercise its enforcement discretion in a favorable manner to adversely affected plants, as discussed below.

review may result in a significant alteration of GM's discharge requirements. This second assertion is erroneous. Over the past three years, EPA conducted numerous reevaluations of the formula. The present formula was extensively restudied. Other solutions to the combined wastestream problem, including alternative equations previously offered by industry, were carefully reviewed. These analyses were conducted independent of the Regulatory Impact Analysis (RIA) of the entire pretreatment program undertaken in 1981–1982. The RIA focused on the overall General Pretreatment Regulations and a range of possible statutory, regulatory administrative alternatives to the current Agency approach to pretreatment. This study examined in depth the need to protect the operations of POTWs from industrial discharges, the potential contamination of POTW sludge, and the need to control pass through of toxic pollutants. The RIA was not concerned with analyzing the individual components of the pretreatment regulations. Based on the entirely separate reevaluations of the combined wastestream formula, the Agency has decided to retain the formula in its present form. We do not intend to consider the formula yet another time.

2. *Technological Feasibility of Alternative Discharge limits.* GM contends that the formula is flawed because it may set alternative discharge limits that cannot be achieved. At no time, petitioner argues, did EPA consider whether these limits are reasonable or technologically feasible (GM Petition, p. 4).

The use of the formula is optional. A facility may choose to combine its wastestreams or to segregate unregulated streams and provide separate treatment for its regulated streams. By allowing treatment of combined wastestreams, the formula increases the flexibility for many industrial users of POTWs in deciding on the best treatment alternative for its facility. The Agency believes that the formula, as promulgated and put into effect by the *NRDC v. EPA* decision, balances environmental protection with the concern, as raised by the petitioner, for feasible control of polluants. No actual data of treatment performance has been submitted to the Agency to indicate that the limits as calculated by the combined wastestream formula are unachievable in situations where *compatible* unregulated streams are combined with regulated streams. In fact, the Agency repeatedly asked for actual examples that could contradict this conclusion. No new information was included in GM's petition; instead, GM has raised only theoretical problems.

The key inquiry is whether wastestreams are compatible. If a wastestream contains very few pollutants, it may act to dilute the regulated process waste waters and make the efficient removal of pollutants in the regulated stream more difficult and expensive. Such dilution would be incompatible with proper treatment. The combined wastestream formula incidentally regulates combined unregulated streams to ensure that existing limits are fairly met, without inappropriate dilution.

Under the authority of Clean Water Act, EPA is directed to develop technology-based standards to control the discharges from specific industrial subcategories. Thus, where an industry chooses to combine process effluent from various regulated wastestreams with unregulated streams prior to treatment, the Agency has the discretion to impose reasonable conditions to ensure that the proper level of treatment is provided for the regulated streams.[3] The Agency believes that the current combined wastestream formula accomplishes this while allowing unregulated streams to be combined with the regulated streams whenever technically appropriate.

In some instances, the concentration level of a certain pollutant found in an unregulated wastestream may be greater than the categorical pretreatment standard for that same pollutant in a facility's regulated process wastestream. In such cases, combining regulated and unregulated streams may result in treatment of the unregulated wastestream in order to meet the alternative limit calculated by the formula. In other instances, mixing regulated and unregulated wastestreams may make it easier for an industrial facility to comply with alternative discharge limits. This will be the case when the concentration level of a pollutant in the unregulated stream is lower than the discharge limit in the categorical standard for that same pollutant controlling a regulated process wastestream.

The primary alternative to the promulgated formula—the so-called "full credit" approach—is less satisfactory. This approach, which GM suggested as a possible option in its comments to the 1978 rulemaking and which other commenters proposed during the 1981 rulemaking, would calculate a limit for the combined wastestream which would exactly take into account the presence of regulated pollutants in unregulated streams. If, for example, an unregulated wastestream had a concentration of 2 mg/l of regulated pollutants, the "full credit" formula would calculate a limit for the combined stream which exactly gave allowance for this 2 mg/l, but no more. The result would be a limit which avoided incidental regulation of unregulated streams—i.e., which achieved the same net reduction of pollutants as if the regulated and unregulated streams were being discharged separately. However, as we noted in the January 28, 1981 preamble, such a formula would, on many occasions, make combined treatment more difficult and thus in effect force segregation of individual wastestreams. This would occur when the unregulated stream contained a regulated pollutant at a level substantially lower than the categorical limit, resulting in alternative limits lower than the treatability level of the combined wastestream. This approach would thus operate to the ultimate detriment of some industrial users.

Another alternative would be for the Agency to assign limits to the unregulated streams through consideration of the statutory factors of treatability and costs. This suggested approach would require the Agency to conduct a plant-by-plant study of the feasibility of combined treatment and the appropriate limitations to be assigned to unregulated streams. In the absence of any convincing showing that GM's integrated facilities cannot achieve the applicable pretreatment standards, EPA rejects such an approach. It would require a tremendous effort by the Agency and industry which is not justified by the facts presented and which is inconsistent with the implementation of nationally applicable pretreatment standards in a timely manner. It would serve the purpose only of substantially delaying the pretreatment of combined wastestreams.

In any event, the Agency has a mechanism for ensuring that a facility is not required to comply with unachievable alternative limits set by the combined wastestream formula. This is the fundamentally different factors (FDF) variance (§ 403.13 of the General Pretreatment Regulations). The Agency made this point explicitly in the preamble to § 403.13 of the January 28, 1981 amendments to the pretreatment regulations: "Where an adjusted Pretreatment Standard has been calculated in accordance with § 403.6(e), the Industrial User may apply for a fundamentally different factors variance from this adjusted standard in accordance with this section." 46 FR at 9412. Section 403.13 of the General Pretreatment Regulations sets out the criteria and procedures for a FDF. Factors which may be considered fundamentally different include the nature or quality of pollutants contained in the raw wasteload of an industrial user's process wastewater; volume of process wastewater and effluent discharged; age, size, land availability, and configuration as they relate to the user's equipment; engineering aspects of the application of control technology; processes employed; process changes; and cost of compliance with required technology.

In establishing categorical pretreatment standards, EPA considers the technology and costs required to achieve those standards. This includes the segregation of incompatible streams from regulated streams and the cost of such segregation. Thus, the fact that a facility has incompatible wastestreams which, when combined with a regulated stream, fails to meet the alternative pretreatment standard calculated by the formula, does not automatically entitle the plant to a FDF variance. However, if the facility believes that the cost of segregating its incompatible streams from its regulated stream is wholly disproportionate to the costs considered by EPA in establishing a pretreatment standard for the regulated stream, then it may apply for a FDF variance.

3. *Uncertainty.* GM argues that each time a new categorical pretreatment standard applicable to an unregulated stream is promulgated, a recalculation of the alternative discharge limit set by the combined wastestream formula may be required. GM contends that this would undoubtedly create uncertainty for an in industrial user with regard to adquate planning for the required treatment technology needed to meet applicable discharge limits for its combined

[3] This is true whether the pretreatment standards are, like the current electroplating standards, analogous to best practicable control technology currently available (BPT) or, like the proposed metal finishing standards, analogous to best available technology economically achievable (BAT) effluent limitations guidelines.

wastestreams. GM argues that, under the current scheme, changing limits "will render earlier compliance efforts insufficient over-designed or unnecessary altogether. The integrated facility must then modify its control efforts so as to meet the new requirements, only to shortly thereafter have the requirements change again when another standard is promulgated" (GM's Memorandum in Support of Petition, p. 11). In its November 1 submission of "Additional Information" in support of its petition, GM listed 39 of its facilities affected by more than one categorical standard as a means to emphasize the moving target problem it confronts.

As a remedy for this uncertainty, GM suggests that "integrated facilities be exempted from all categorical pretreatment standards at least until: (1) All categorical standards for each of the process wastestreams combined by a particular facility have been promulgated and (2) the Agency has reviewed whatever standards result from the combination of those streams and standards to determine that they are technologically achievable and otherwise consistent with the requirements of the [Clean Water] Act" (GM's Memorandum in Support of Petition, p. 28). In other words, the approach recommended by GM would exempt an integrated facility from any categorical pretreatment standard applicable to it until the last standard affecting that facility was promulgated. Not until that time could an alternative limit be calculated by the combined wastestream formula.

GM's complaint that the formula leads to uncertainty fails to recognize that the Clean Water Act itself creates a degree of uncertainty. Under section 301(b) of the Act, facilities which discharge directly to navigable waters must engage in a two-step reduction of their effluents. By 1977, they must comply with effluent limitations based upon best practicable technology (BPT) and, by 1984, with effluent limitations based upon best available technology (BAT) or best conventional technology (BCT). Under section 301(d), the BAT and BCT effluent limitations are then required to be reviewed at least every five years and, if appropriate, revised.

Similarly, under section 307(b)(2) of the Act, the Administrator has issued pretreatment standards analogous to BPT and BAT and plans to continue issuing standards which are analogous to BAT levels of control. Also under section 307(b)(2) of the Act, all pretreatment standards are to be revised by the Agency from time to time, as control technology, processes, operating methods or other alternatives change. Thus, rather than providing certainty, the Act expressly calls for industrial facilities to periodically ungrade their treatment systems to meet newly promulgated standards.

In fulfilling its obligations to promulgate effluent limitations guidelines and standards for direct and indirect dischargers, EPA has been guided by a consent degree entered into with the Natural Resources Defense Council in 1976, and amended in 1979 and 1982. *NRDC* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified sub nom., NRDC* v. *Costle*, 12 ERC 1833 (D.D.C. 1979), *modified sub nom., NRDC* v. *Gorsuch*, 8/25/82 and 10/26/82 (Memorandum Orders). This consent decree requires EPA to promulgate, in sequential fashion, various effluent limitations guidelines and pretreatment standards. Under the decree, EPA Was requried to promulgate BPT-level pretreatment standards for eight categories of industrial users, including electroplaters, by 1977. EPA was then required to develop BAT-level pretreatment standards for up to 34 categories of industrial users, all of which are scheduled to be promulgated by June, 1984. In similar fashion, EPA was required to develop BAT effluent limitations guidelines for up to 34 categories of direct dischargers within this same time frame. Inherent in this sequential promulgation of effluent limitations guidelines and standards, sanctioned by the consent decree, is the possibility of shifting compliance obligations as new limitations and standards are promulgated.

The one small measure of certainty afforded by law, and the feature which most serves to distinguish the direct discharge program from the indirect discharge program, is the NPDES permit system created by section 402 of the Act. Under this system, permits are issued to direct dischargers for a term not exceeding five years. If, at the time of permit issuance, any of the facilities' waste streams are not subject to national effluent limitations, the permit writer devises a limitation for these "unregulated" wastestreams, applying his best professional judgment. These "BPJ" limitations generally remain applicable to the facility throughout the term of the permit. At the end of the permit term, however, these BPJ limitations must be changed to conform to any newly promulgated national limitations applicable to the unregulated streams. Moreover, even this limited certainty of five years may be unavailable where the permit contains a "reopener" clause requiring incorporation of any subsequently promulgated national limitation into the permit during the permit term. The limited certainty provided by the NPDES permit system is unavailable to industrial users of sewage treatment works because Congress, in establishing the pretreatment program, rejected a permit-based approach. Instead, Congress made categorical pretreatment standards directly binding upon industrial users and provided no permit mechanism to temporarily insulate them from compliance with these standards.

Given this underlying statutory and regulatory framework, it is clear that the prospect of shifting, and possibly more stringent, compliance obligations cannot be remedied simply by application of some other formula. For, at bottom, the moving target "problem" (to the extent there is one) is a product of the sequential promulgation of categorical pretreatment standards and the absence of a permit mechanism to cushion facilities from the necessity of complying with categorical pretreatment standards within the statutorily-mandated three years. For even if there were no formula, and a facility were free to decided for itself the appropriate limitations for its unregulated streams, the facility might still be subject to shifting compliance obligations as new standards applicable to unregulated streams were promulgated—unless the facility were clairvoyant enough to perceive in advance what its ultimate end of pipe limit was going to be. GM recognizes as much, because its suggested alternative is directed at the standards-setting process rather than the formula itself.

GM's proposed solution to the moving target "problem" cannot be reconciled with the statutory requirements. Under GM's proposal, integrated facilities would be entirely exempted from compliance with any categorical standards until all of that facility's wastestreams became subject to regulation. Integrated facilities would thus be relieved of any compliance obligation based solely on whether they provided combined or separate treatment of their wastestreams. EPA, however, does not have the authority under the statute to waive compliance with newly promulgated categorical standards. Under the statute, these standards must be complied with no later than three years after their date of promulgation.

GM's proposed solution to the moving target "problem' also is unacceptable as a matter of regulatory policy. Its proposal would create a discrepancy in the Agency's treatment of integrated and non-integrated facilities (by exempting the former from categorical standards), absent any environmental justification for doing so. This difference in regulatory treatment might prejudice non-integrated plants. Also, this difference in regulatory treatment would create a strong incentive for plants to combine their unregulated streams, solely for the purpose of escaping regulation. Plants would, in short, be able to indefinitely escape regulations simply through a rearrangement of their interior plumbing.

In any event, it is not clear that GM has as much of a moving target problem as it asserts. In its submission of "Additional Information" supporting the petition, GM listed 90 plants which are subject to the electroplating standards. Three of these plants do only electroplating, while a fourth does electroplating and another operation, but segregates the process waste water and separately treats them. Fifty-three of these plants perform operations other than electroplating, but these operations will all be covered by the proposed metal finishing standards. Thirty-three plants will be subject to the metal finishing standards, but combine their metal finishing wastestreams with other wastestreams slated for regulation.

It would thus appear, on the basis of GM's own assertions, that fully two thirds of their facilities subject to electroplating will be relieved of any moving target "problem" by promulgation of the metal finishing regulations. These regulations will provide comprehensive coverage of the wastestreams combined for treatment at fifty-seven of the facilities subject to electroplating. The technology required to comply with the metal finishing standards is, moreover, nearly identical to the technology upon which the electroplating standards were based. Thus, complying with the metal finishing requirements should not require a significant reworking or upgrading of the electroplating technology. All that may be required are

changes to a facility's operation and maintenance procedures.

GM, in anticipation of this argument, contends that metal finishing standards *create*, rather than resolve, a large portion of GM's moving target problem, both because the final metal finishing standards have not yet been promulgated and because there is a good possibility that the final metal finishing standards will be significantly different than the electroplating standards. According to GM, achieving compliance with the electroplating standards in the absence of final metal finishing standards might preclude it from adopting less expensive means of compliance with those two standards because of the lack of assurance that the control strategy dictated by electroplating would be compatible with the strategy dictated by metal finishing. In addition, GM argues that, in their proposed form, the metal finishing standards will require significant modifications of the control strategy GM adopts for the electroplating standards.

GM's complaints about the moving target problems associated with the metal finishing standards are, however, belied by its acknowledgment in the petition that virtually all plants have some level of treatment and that generally the discharge levels exceed the adjusted electroplating standards only by small increments for particular pollutants. Consequently, in devising its control strategy for compliance with the electroplating and metal finishing standards, GM is not writing on a clean slate; its control technology is to a large degree already installed and is close to achieving full compliance with the standards. The slight inconvenience which GM might experience by having to comply with the electroplating standards before complying with the metal finishing standards is really no different than the "inconvenience" which plants regularly experience in having to upgrade their BPT-level treatment system to meet a BAT-level standard.

There also is a substantial question as to whether GM faces a moving target "problem" at the 33 plants which combine metal finishing wastestreams with other wastestreams slated for regulation. GM's underlying concern with respect to these 33 plants is that newly instituted standards for the non-metal finishing streams, when factored into the combined wastestream formula, might result in a limit which would require wholesale renovation or replacement of existing treatment technology. This concern is totally theoretical and assumes that EPA will promulgate new regulations without regard to the regulations that are already in place. In actuality, as in the case of the metal finishing regulations, EPA will pay close attention to the capabilities of already installed treatment technologies. But if the staggered promulgation of standards does create a significant problem, this would be an appropriate area for comment during the rulemaking process involving proposed contegorical pretreatment standards, and might provide cause for adjusting the proposed standards before their final promulgation.

Moreover, GM appears to have overstated the extent to which the non-metal finishing streams will influence the selection of control technology. Of the 33 plants GM listed as subject to metal finishing and other categorical standards, thirteen have wastewaters from only one other process subject to categorical standards—plastics molding and forming. Twelve others combine metal finishing streams with plastics molding and forming streams and one or two other streams. However, survey data submitted by GM to the Agency, covering a number of its plants, indicates that some of those facilities performing plastics operations have no wastewater discharges from those processes. Furthermore, some of these plants discharge very small amounts of wastewater from their plastics processing relative to other categorical operations conducted at the facility. Thus, GM is already in compliance with the plastics molding and forming standards in some instances, and compliance is unlikely to cause a problem in others. Although this data is not fully comprehensive of all of GM's plants performing plastics operations, it is sufficient to indicate a substantial overstatement of the problem by GM.

Miscellaneous

In the memorandum supporting its petition, GM raised several other matters related to the combined wastestream formula. GM claimed that where one process wastestream is regulated by a categorical standard expressed in terms of 30-day average values and another process stream is regulated by a different standard expressed in terms of 4-day average values (i.e., electroplating standards), conversion of the 4-day limits to 30-day limits, as required by the formula, will result in a more stringent standard.

Because the same methodology is used to calculate both 4-day and 30-day values, conversion of 4-day limits to 30 day limits will not result in a more stringent discharge limitation. The limits may appear to be lower only because of a statistical variability factor attributable to the lower number of samples as compared to the 4-day limit.

GM also contended that where one wastestream is regulated by a categorical standard expressed only in terms of mass-based limits and a second wastestream is regulated by another categorical standard expressed only in terms of concentration-based limits, it will not be possible to reconcile these different limits for purposes of calculating alternative limits by the combined wastestream formula. Although this question is not addressed by the combined wastestream formula provision (§ 403.6(e)), the answer may be logically inferred when that provision is read in conjunction with the provision prohibiting dilution as a substitute for treatment (§ 403.6(d)). If the situation described by GM arises, a mass-based limit should be applied to the combined flow. To accomplish this under the formula, the concentration limit would be converted to a mass limit by multiplying the concentration limit by the flow of the regulated stream to which it applies.

GM argues that it is impossible to establish an alternative limit by the formula "where one standard regulates a combination of streams, assigning that combined stream an end-of-pipe limit (as in the case of the metal finishing standards), while another regulates a single stream assigning it a segregation limit . . ." (GM's Memorandum in Support of Petition, p. 14). This issue arises from a misunderstanding of the metal finishing limits. These limits represent a single number for a combined flow and apply only to the metal finishing flow, not to the end of the pipe discharging to the POTW (unless only metal finishing wastes are discharged to the POTW). Thus, for purposes of calculating alternative limits by the combined wastestream formula, the metal finishing limits are considered like any other categorical limit, and a single alternative limit can be established for each regulated pollutant.

Finally, GM asserts that it is unclear how the formula is to be used "where two regulated streams do not limit the same class of pollutants. Is the stream which does not limit pollutant A to be deemed an unregulated stream, a regulated stream, or a dilute stream with regard to that pollutant?" (GM's Memorandum in Support of Petition, p. 14). Where two regulated streams are combined prior to treatment but only one of the streams is regulated for a certain pollutant, the wastestream not regulated for that pollutant is to be considered an unregulated stream for purposes of calculating an alternative discharge limit using the combined wastestream formula. Hence, using GM's example, the stream not limited for "pollutant A" is to be considered an unregulated stream in calculating an alternative limit for "pollutant A".

Petition of Ford Motor Company

Ford Motor Company also has petitioned the Agency to conduct a rulemaking to stay the combined wastestream formula. EPA has responded separately to that petition. Although some of the issues raised by Ford are identical to those raised by GM in its petition, several are not. EPA's consideration and response to these different issues may be relevant to GM's concerns about the formula, though not specifically raised by GM in its petition.

Conclusion

For the reasons stated above, the petition of General Motor Corporation is denied.

Dated: May 18, 1983.

Lee L. Verstandig,

Acting Administrator

[FR Doc. 83-14734 Filed 6-2-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 22

[Gen. Docket No. 80-183; RM-2365; RM-2750; RM-3047; RM-3068]

Amendment of the Commission's Rules To Allocate Spectrum in the 928-941 MHz Band and To Establish Other Rules, Policies, and Procedures for One-Way Paging Stations in the Domestic Public Land Mobile Radio Service; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: In Gen Doc. 80-183 which concerns spectrum allocation and establishment of rules, policies, and procedures for one-way paging stations, appearing at page 21354 in the issue of May 12, 1983, 47 CFR Parts 2 and 22, the language after Action and in line 10 of the summary should be corrected by changing "Further notice of proposed rulemaking and Further Notice" to read "Second Further notice of proposed rulemaking and Second Further Notice."

FOR FURTHER INFORMATION CONTACT: Lisa Wershaw, Common Carrier Bureau, (202) 632-6450.

Erratum

In the matter of amendments of Parts 2 and 22 of the Commission's rules to allocate spectrum in the 928-941 MHz Band and to establish other rules, policies, and procedures for one-way paging stations in the domestic public land mobile radio service; Gen. Doc. No. 80-183 Rm-2365, RM-2750, RM-3047, RM-3068, (5-12-83; 48 FR 21354).

Released: May 24, 1983.

On May 4, 1983, the Commission released a *Further Notice of Proposed Rulemaking*, FCC 83-145, in the captioned proceeding. The title of this document, and the reference to it in line 17, page 1, should be corrected to read *Second Further Notice of Proposed Rulemaking.*

William F. Adler

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83-14903 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 73

[BC Docket No. 82-536]

Use of the Subsidiary Communications Authorizations; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Extension of comment/reply comment period.

SUMMARY: The extension of time in Docket No. 82-536, concerning Subsidiary Communication Authorizations, is granted to obtain additional information on increased modulation levels.

DATES: Comments must be filed on or before July 1, 1983, and reply comments on or before August 1, 1983.

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

FOR FURTHER INFORMATION CONTACT: Brian F. Fontes, Mass Media Bureau, (202) 632-6302.

In the matter of amendments of Parts 2 and 73 of the Commission's rules concerning the use of the subsidiary communications authorizations; BC Docket 82-536, (8-19-82; 47 FR 36235).

Order Extending Time for Filing Comments to Notice of Proposed Rule Making

Adopted: May 19, 1983.
Released: May 27, 1983.

By the Chief, Policy and Rules Division.

1. On August 4, 1982, the Commission adopted a *Notice of Proposed Rule Making*, BC Docket 82-536, proposing to amend Parts 2 and 73 of its rules to eliminate restrictions on the use and availability of subcarrier signals in the transmissions of FM broadcast stations. The *Notice* was released on August 19, 1982 and reply comments were to be received by November 17, 1982.

2. On September 24, 1982, the Telocator Network of America (Telocator) requested that the time for filing comments and replies to be extended until February 18, 1983, and April 18, 1983, respectively. As an alternative, Telocator suggested that the issue of providing paging service on FM broadcast subcarrier channels be separated from the remaining issues in the proceeding and that the period for filing comments and replies be extended solely with respect to this issue.

3. On October 4, 1982, an *Order Extending Time for Filing Comments to Notice of Proposed Rule Making* was granted for issues related to paging services only. Comments and replies were due on December 17, 1982, and January 16, 1983, respectively.

4. On April 7, 1983, the Commission adopted the *First Report and Order* in Docket No. 82-536. However, before increasing the permissible modulation levels, the Commission desired a further opportunity for public comment on that issue. Therefore, we are extending the comment period on two related matters: (1) The degree of reception degradation if any caused by adjacent-channel stations using peak modulation exceeding 100%; and (2) whether short-spaced stations may suffer adjacent-channel interference to any greater extent than normally spaced stations under the condition of typical FM program transmission practices.

5. Accordingly, it is ordered, that the time for filing comments and replies to comments regarding modulation levels pertaining to short-spaced stations and adjacent channels in the above-referenced *Notice of Proposed Rule Making*, BC Docket 82-536, is extended to and including July 1, 1983 for comments and August 1, 1983 for reply comments.

6. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and §§ 0.61, 0.283 and 0.204(b) of the Commission's Rules.

7. For further information concerning this proceeding, contact Brain F. Fontes, Mass Media Bureau, (202) 632-6302.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-14878 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 74

[Gen. Docket No. 83-425; FCC 83-165]

Use of the Frequencies 161.7 and 161.75 MHz by the U.S. Coast Guard

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission is proposing to revise its Rules in response to a request for rulemaking to provide for use of two VHF frequencies by the Coast Guard. The frequencies would be used by Coast Guard stations only in certain areas to transmit safety information to foreign ships or in connection with Search and Rescue missions. The proposed change would permit better communications between Coast Guard and foreign vessels and would provide communications to hard-to-reach areas during Search and Rescue activities.

DATES: Comments are due by July 5, 1983 and replies by August 3, 1983.

ADDRESS: Federal Communications Commission, 2025 "M" Street, NW., Washington, D.C. 20554, (202) 653-8162.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Tropea, Office of Science and

Technology, 2025 "M" Street, NW., Washington, D.C. 20554, (202) 653–8162.

List of Subjects

47 CFR Part 2

Frequency allocations.

47 CFR Part 74

Radio.

Proposed Rulemaking

In the matter of an amendment of Parts 2 and 74 of the Commission's Rules to permit use of the frequencies 161.7 and 161.75 MHz by the U.S. Coast Guard; Gen. Docket No. 83–425.

Adopted: April 27, 1983.
Released: May 16, 1983.

By the Commission: Commissioner Jones absent.

Introduction

1. This rulemaking proceeding is in response to a request from the United States Coast Guard (hereinafter "Coast Guard") requesting amendment of the Commission's Rules to permit its use of the 161.7 and 161.75 MHz frequencies [1] The Coast Guard has requested:

a. Permission to use the frequency 161.7 MHz from certain of its coast stations to transmit safety information concerning navigational or environmental matters to foreign vessels; and

b. Permission to use the frequency 161.75 MHz for portable repeater operations involved in Search and Rescue (SAR) missions in 21 states.

This Notice proposes to allow Coast Guard use of the frequencies as requested on a shared basis with remote pickup broadcast stations licensed in the land mobile service. Comments from interested parties are invited.

Background

2. Appendix 18 of the international Radio Regulations pairs frequencies in the band 161.625–161.775 MHz with frequencies in the band 157.025–157.175 MHz and designates them as channels 21–23 and 80–83. These channels are allocated to the international maritime mobile service, and stations operating in the service are given priority internationally. The 161 MHz band frequencies are used for coast stations, and the 157 MHz band frequencies are used for ship stations.[2] Domestically, however, only the 157 MHz band frequencies are available for maritime operation in the simplex mode. The 161 MHz band frequencies are allocated for land mobile operation.[3] As a result foreign vessels using the paired frequencies in accordance with Appendix 18 cannot communicate on these channels with United States coast stations while in United States waters.

3. Land Mobile use of the 161.625–161.775 MHz band in the United States is presently limited to remote pickup broadcast base and mobile sations. Part 74, Subpart D of the Commission's Rules. Such stations, commonly called remote pickup units (RPU's), are operated by broadcast stations to transmit information regarding news events from the scene of action to the studio. This is accomplished via a portable or mobile transceiver at the scene which transmits the program material to the studio on one of the five RPU frequencies, which are 161.64, 161.67, 161.70, 161.73 and 161.76 MHz. The use of these frequencies is accordingly linked to the random breaking of news events and, consequently, the times and lengths of such occurrences and the use of the channels for reporting broadcast news stories are completely unpredictable.

Proposed Coast Guard Use of 161.7 and 161.75 MHz

161.7 MHz Use

4. Under the National VHF Distress System, the Coast Guard provides emergency communications and assistance of the frequency 156.8 MHz, Channel 16, to vessels operating at up to 20 miles offshore. If a vessel initially operating on 156.8 MHz is not in immediate danger, the ship radio operator is requested to shift frequency to 157.1 MHz, the lower half of Channel 22, sometimes called 22A, to keep the emergency channel open. United States vessels operating on 157.1 MHz are equipped to both transmit and receive on this frequency when communicating with the Coast Guard. However, many foreign vessels navigating in United States ports can transmit on 157.1 MHz because they have receivers designed for operation on 161.7 MHz, the upper half of Channel 22 as provided for by the international Radio Regulations. Therefore, to provide safety information concerning navigational or environmental matters to foreign vessels, the Coast Guard requests amendment of the Commission's Rules to permit operation on the paired Channel 22 frequencies by Coast Guard coast stations located at Boston, Portland, New York, Delaware Bay, Miami, Mobile, Alabama, Mobile Bay, New Orleans, San Diego, Los Angeles, San Francisco, Seattle, and Valdez, Alaska.

161.75 MHz Use

5. The Coast Guard Second District provides emergency and navigational assistance to vessels navigating on the Missouri, Mississippi, and Ohio Rivers and their tributaries. The Second District includes all or part of the following 21 states:

Alabama	Missouri
Arkansas	Nebraska
Colorado	Oklahoma
Indiana	Ohio
Iowa	Pennsylvania
Illinois	South Dakota
Kentucky	Tennessee
Kansas	West Virginia
Michigan	Wisconsin
Minnesota	Wyoming
Mississippi	

The Coast Guard states that its Second District has experienced difficulty in communicating among its units engaged in Search and Rescue (SAR) and other emergency operations involving VHF communications due to topography and range of operation along the waterways of the indicated states. The current Coast Guard VHF command and control frequency for SAR and other emergency operations is the lower half of VHF channel 23 or 157.15 MHz which is used to transmit and receive.

6. To rectify the situation, the Coast Guard proposes to use portable repeaters only when normal VHF communications cannot be achieved during SAR operations. The operation of existing equipment as repeater stations when required for portable repeater operations can be achieved if the upper half of the paired channel 23 frequency, 161.75 MHz, is made available for use in conjunction with 157.15 MHz. The frequency 161.75 MHz does not fall directly on any RPU frequency but is 20 kHz, removed from 161.73 MHz and 10 kHz removed from 161.76 MHz. Thus,

[1] The Coast Guard request was contained in three letters dated April 20, 1977, April 23, 1981, and April 5, 1982. Copies of these letters are included in the Docket file.

[2] The international maritime mobile channels and their associated frequencies are:

Channel designator	Ship station frequency (megahertz)	Coast station frequency (megahertz)
80	157.025	161.625
21	157.050	161.650
81	157.075	161.675
22	157.100	161.700
82	157.125	161.725
23	157.145	161.750
83	157.175	161.775

[3] Radio Regulation No. 613 of the international Radio Regulations, 1982 Edition, formerly Radio Regulation No. 287, permits this group of VHF channels, otherwise assigned to maritime, to be used for other purposes as authorized by each particular administration. Thus, land mobile operation in the United States is permitted.

using the upper half of channel 23 could cause interference to equipment on two RPU channels. To help minimize this potential interference, the Coast Guard proposes to limit operation on 161.75 MHz to 16F3 emission with no more than 25 watts transmitter output power using whip antennas at a nominal height of 30 feet above ground level. Operation on Channel 23 would only be for SAR or emergency communications, and no more than three portable repeaters would be used in the states concerned.

Discussion

7. The Commission recognizes the importance of the Coast Guard operations to provide emergency communications and assistance to vessels for safety of navigation. We also appreciate the operational difficulties that have arisen as a result of the Coast Guard's inability to utilize fully the Appendix 18 VHF frequencies in the paired manner as intended for maritime operations internationally. At the same time, the Commission recognizes the importance of the current United States allocation of frequencies in the band 161.625–161.775 MHz for broadcast remote pickup units. The primary issue in considering the Coast Guard's request for use of 161.7 and 161.75 MHz is whether shared operation with broadcast users is practicable.

8. To evaluate this issue, we have compiled data from the non-Government Master Frequency List as of July 1, 1982, showing the degree of broadcast use of the RPU channels. The following number of authorizations are outstanding for each of the RPU channels on a nationwide basis:

TABLE A.—NATIONWIDE USAGE OF RPU CHANNELS

Frequency (megahertz)	Number of authorizations
161.64	1669
161.67	1552
161.70	1854
161.73	1628
161.76	1726

The following number of authorizations are outstanding for use of RPU channel 161.7 MHz in the vicinity of the port and waterway areas where the Coast Guard has requested its use:

TABLE B: USAGE OF RPU CHANNEL 161.7 MHZ IN CERTAIN PORT AND WATERWAY AREAS

Port area	Number of authorizations on 161.7 MHz
1. Boston, Massachusetts	3
2. Portland, Maine	1
3. New York City and Long Island Sound	14
4. Delaware Bay	0
5. Miami, Florida and Biscayne Bay	6
6. Mobile, Alabama and Mobile Bay	4
7. New Orleans, Louisiana and Lower Mississippi River	3
8. San Diego, California	1
9. Los Angeles, California Area	7
10. San Francisco, California	4
11. Seattle, Washington, and Puget Sound	11
12. Valdez and Prince William Sound, Alaska	0

Finally, the following number of authorizations are outstanding in the twenty-one states where the Coast Guard has proposed SAR operation:

TABLE C: USAGE OF RPU CHANNELS IN CERTAIN STATES, BY CHANNEL

State	Number of authorizations by channel	
	161.73 MHz	161.76 MHz
Alabama	31	44
Arkansas	21	26
Colorado	14	18
Indiana	32	55
Iowa	16	11
Illinois	26	26
Kentucky	12	19
Kansas	11	21
Michigan	34	29
Minnesota	33	34
Mississippi	27	32
Missouri	32	44
Nebraska	12	7
Oklahoma	7	11
Ohio	80	77
Pennsylvania	33	30
South Dakota	2	6
Tennessee	48	47
West Virginia	4	3
Wisconsin	33	17
Wyoming	14	3

9. These data show that the number of RPU authorizations for stations within the areas and states the Coast Guard seeks to serve is not excessive. Indeed, because some of these authorizations may not be near the proposed Coast Guard stations, the number of RPU stations within range of Coast Guard operations may actually be lower than the data indicate. The low number of RPU users in the areas of Coast Guard transmission, the transmitter powers used and proposed, and the temporary nature of the present and proposed use of the channels suggest that sharing on a co-equal basis between the Coast Guard and broadcaster licensees of RPU stations is possible, and we are proposing this sharing. In doing so, however, we are cognizant of the use of the RPU frequencies by key stations in the Emergency Broadcast System (EBS). It is proposed that Coast Guard use of an operational or support nature, therefore, would be on a secondary basis to use by EBS stations during operation for emergency broadcasting purposes. Comments are invited regarding the Coast Guard's use of the frequencies in this manner.

10. However, we are concerned about the compatibility of a safety-of-life service with a non-safety service sharing a common communications channel. We invite comments on the feasibility and desirability of shared usage and on whether the Coast Guard's proposal can realistically be accommodated during emergencies or even on a day-to-day basis. We question whether the Coast Guard will be able to communicate reliably on a shared channel during an emergency, and we would like to know whether the Coast Guard has plans for insuring continuous communications if it encounters interference during a safety communication. These plans could include usage of an alternate or repeater backup channel, use of a higher power transmitter on the simplex channels, or some other method. We also are concerned that an actual SAR situation will require the Coast Guard to have unlimited access to communications channels; thus, the Coast Guard's use of an SAR channel might require a higher priority than the broadcaster's use for RPU. Should such priority be necessary, we question the manner in which broadcasters would be notified or required to vacate the channel. Finally, we are concerned about liability of the Coast Guard or a broadcaster if an RPU disrupts a Coast Guard safety transmission and loss of life or property results. We request commenters to address these concerns when discussing the proposal.

11. Concerning technical limitations for Coast Guard's proposed operation, the Coast Guard stated that it would limit station power, antenna height and the number of units operating on 161.75 MHz. It would use the equipment at existing coast station facilities that operate with power outputs of 25 to 50 watts for operation on 161.7. MHz The adoption of strict technical limitations is not a significant concern because the output powers used by RPUs and Coast Guard stations appear compatible. Rather, general language is proposed in Parts 2 and 74 to require the Coast Guard to operate in a manner technically compatible with RPUs. While this general limitation is believed adequate, comments are invited regarding the need for specific technical limitations on Coast Guard's operation.

Proposals

12. In response to the Coast Guard's request for the use of 161.7 and 161.75 MHz, changes to Parts 2 and 74 of the Commission's Rules are necessary. The changes to Part 2 include: (1) Modification of Footnote US 214 to

provide for the proposed paired use of channel 22 from Coast Guard coast stations located around the designated United States port areas; and (2) a new Footnote to provide for the proposed paired use of channel 23 within the states discussed for SAR and emergency activities only. Part 74 would need modification to inform RPU stations of Coast Guard's proposed operation on a co-equal shared basis.

13. Accordingly, we propose to amend Parts 2 and 74 of the Commission rules as follows:

A. Section 2.106, Footnote US 214 would be modified to permit Coast Guard use of the paired frequencies 157.1 and 161.7 MHz to communicate with foreign ships from certain of its coast stations.

B. Section 2.106 would be modified by adding a new footnote US 289 to permit the Coast Guard to use the frequencies 157.15 and 161.75 MHz to communicate using repeater stations only when necessary to conduct Search and Rescue or emergency operations in designated states.

C. Section 74.402 would be modified by adding a new paragraph (f) to alert RPU broadcast station operators Coast Guard operation on 161.7 and 161.75 MHz.

Procedural Matters

14. The proposed amendments to Parts 2 and 74 rules as set forth in the appendix are issued pursuant to the authority contained in Sections 4(i) and 303(c), (h) and (r) of the Communications Act of 1934, as amended.

15. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rulemaking 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 proceedings. 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, Section 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

16. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, the Commission issues the following initial regulatory flexibility analysis:

I. *Reason for action:* This proceeding is in response to a request for rule making requesting additional frequencies for communicating between the United States Coast Guard and certain vessels for safety and liaison requirements.

II. *The objectives:* The Commission desires comments on this proposal to provide shared use of 161.7 and 161.75 MHz by the Coast Guard. The frequencies are presently used by remote pickup broadcast stations.

III. *Legal basis:* The action proposed is in furtherance of Sections 4(i), and 303(c), 303(h), and 303(r) of the Communications Act of 1934, as amended, which permits the Commission to make such rules and regulations, not inconsistent with law, as may be necessary in the execution of its functions in the public interest.

IV. *Descriptions, potential impact and number of small entities affected:* The rulemaking action contained herein does not propose any change to the present use of the frequencies by existing users except to provide for additional share usage of the spectrum. If operation during an emergency requires priority usage by Coast Guard, the impact on affected entities could be greater. Over 8000 licensees are authorized to use broadcast remote pickup units in the band proposed for sharing with the Coast Guard. Affected parties are invited to submit comments if they perceive an economic impact resulting from the shared usage.

V. *Recording, record-keeping and other compliance requirements:* No additional requirements would be imposed if proposed rule changes are adopted.

VI. *Federal rules which overlap, duplicate or conflict with these proposed rules:* None.

VII. *Any significant alternatives minimizing impact on small entities and consistent with the stated objective:* The frequencies in question are allocated by the international Radio Regulations for paired operation and the assignment of alternate spectrum is not appropriate.

In accordance with the requirements of *The Regulatory Flexibility Act of 1980*, Pub. L. 96-354, 19 September 1980, Section 603(a), the Secretary is directed to transmit a copy of the initial analysis to the Chief Counsel for Advocacy of the Small Business Administration.

17. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before July 5, 1983 and reply comments on or before August 3, 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 fo 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.

18. In accordance with the provisions of § 1.419 of the Commission's Rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C. For further information concerning this proceeding, contact Sam Tropea (202) 653-8162.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2 and 74 of Chapter I of Title 47 of the Code of Federal Regulations are proposed to be amended, as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. In § 2.106, Columns 5, 6, 10 and 11 of the allocation table for the band

157.1875 to 162.0125 MHz are amended to reflect the revision to Footnote US 214 and addition of new footnote US 289 to read as follows:

§ 2.106 Table of frequency allocations.

Band (MHz)	Allocation	Band (MHz)	Frequency (MHz)	Nature of services of stations
5	6	7	10	11
* * *	* * *	*	*	* * *
157.1875–162.0125	NG (US 77) (US 200)	161.625–		Remote pickup broadcast base; Remote pickup broadcast mobile (NG 6) (NG 26).
	(US 214) (US 223) (US 289) (NG 111) (NG 124)	161.775		
			161.700 161.750	US Coast Guard Liason. US Coast Guard SAR.
* * *	* * *	*	*	* * *

U.S. FOOTNOTES

* * * * *

US 214—The frequency 157.1 MHz is the primary frequency for liaison communications between ship stations and stations of the United States Coast Guard. Only when liaison communications are necessary with foreign vessels not equippped to transmit and receive on 157.1 MHz, Coast Guard stations may operate on the paired frequencies 157.1 MHz and 161.7 MHz when receiving and transmitting, respectively. Paired operation is limited to Coast Guard stations located around United States port areas at Boston, Portland, New York, Delaware Bay, Miami, Mobile, Alabama, Mobile Bay, New Orleans, San Diego, Los Angeles, San Francisco, Seattle, Puget Sound, and Valdez, Alaska and shall use only such power and antenna parameters necessary, and all technological and operational techniques available to promote compatibility with remote pickup broadcast stations. Coast Guard use of 161.7 MHz of an operational or support nature shall be secondary to key broadcast stations using the Emergency Broadcasting System during operation for emergency broadcast purposes.

US 289–United States Coast Guard repeater stations engaged in Search and Rescue and emergency type operations may operate on the paired frequencies 157.15 MHz and 161.75 MHz. Operation is limited to repeater stations operating within the states of Alabama, Arkansas, Colorado, Indiana, Iowa, Illinois, Kentucky, Kansas, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, Ohio, Pennsylvania, South Dakota, Tennessee, West Virginia, Wisconsin and Wyoming. Operations shall use only such power and antenna parameters necessary and all technological and operational techniques available to promote compatibility with remote pickup broadcast stations. Coast Guard use of 161.75 MHz of an operational or support nature shall be secondary to key broadcast stations using the Emergency Broadcasting System during operation for emergency broadcasting purposes.

PART 74—EXPERIMENTAL AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. In § 74.402 a new paragraph (f) is added as follows:

§ 74.402 Frequency assignment.

* * * * *

(f) Remote pickup broadcast stations utilizing Group K_2 frequency assignments share operation between 161.64 and 161.76 MHz with certain United States Coast Guard operations on 161.7 and 161.75 MHz provided for under § 2.106, US Footnotes 214 and 289. Coast Guard operations shall use only such power and antenna parameters necessary and all technological and operational techniques available to promote compatibility with remote pickup broadcast stations.

Separate Statement of Commissioner Mimi Weyforth Dawson re: U.S. Coast Guard VHF Sharing Proposal

My vote for adoption of this *Notice* was made with deep concern over the possible sharing of two emergency systems.

The *Notice* lists 21 states where the Coast Guard would use 161.75 MHz for Search and Rescue missions and other emergency operations. Then, paragraph 9 of the *Notice* indicates that key broadcast stations in the Emergency Broadcast System have remote pickup units authorized in the subject VHF band. What would be the result of an EBS alert occurring during a vital Coast Guard Search and Rescue operation? How could the Coast Guard know EBS units were in a given area since each use portable or mobile transmitters?

I would hope we would receive a great deal of input from FEMA and the NIAC on this as to their assessment of the feasibility of this proposal. Unless precise and persuasive response is made to show that these two emergency operations can be made compatible, I will not support adoption of the proposed sharing arrangements.

[FR Doc. 83-14113 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[Docket No. 20735; RM-1974; RM-2655]

Changes in the Rules Relating to Noncommercial, Educational FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Extension of comment/reply comment period.

SUMMARY: The time for filing comments and reply comments in this proceeding concerning noncommerical, educational FM broadcast Stations is being extended by approximately 1½ months. This action is necessary due to delays encountered by certain participants in this proceeding in developing technical information on the efficacy of vertical polarization of FM broadcast antennas in reducing interference to the reception of Channel 6 TV stations. This extension of time is intended to afford these participants the time necessary to complete their studies.

DATES: Comments are due on July 22, 1983. Reply comments are due on September 2, 1983.

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

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Mass Media Bureau, Technical and International Branch (202) 632-9660.

By the Chief, Policy and Rules Division.

Order Extending Time for Filing Comments and Reply Comments

In the matter of changes in the rules relating to noncommercial, educational FM broadcast stations; Docket No. 20735, RM-1974, RM-2655.

Adopted: May 19, 1983
Released: May 24, 1983.

1. On May 23, 1982, the Commission adopted a *Second Further Notice of Proposed Rule Making* (*Second Further Notice*) in the above-entitled matter which was released on May 26, 1982 and published in the **Federal Register** (47 FR 24144) on June 3, 1982. By subsequent Orders, the time for filing comments and reply comments was extended to June 6, 1983, and July 21, 1983, respectively.

2. On April 26, 1983, the Commission received a "Request For Extension of Time" to file comments in this proceeding by National Public Radio, the National Associaton of Broadcasters, the Association of

Maximum Service Telecasters, Taft Broadcasting Company, McGraw-Hill Broadcasting Company, Capital Cities Communications, Inc. and Storer Broadcasting Company (Petitioners). A 1½ month extension of the comment and reply comment period is requested. Petitioners have experienced some delays in conducting engineering studies and field tests concerning the efficacy of cross-polarization in alleviating interference to the reception of Channel 6 TV stations These tests are being conducted jointly by parties having an adversary relationship in this proceeding. If a consensus can be reached that using only vertical polarization at noncommercial, educatonal FM stations reduces interference to TV Channel 6 reception, the resolution of this proceeding will be facilitated. Even in the absence of a consensus, the information being developed is likely to prove useful in the resolution of this proceeding. Accordingly, we believe the extenson of time requested by the petitioners should be granted.

3. Accordingly, it is Ordered that the time for filing comments and reply comments in Docket No. 20735 is extended to July 22, 1983, and September 2, 1983, respectively.

4. This action is taken pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-14901 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 94

[PR Docket No. 83-426; FCC 83-172]

Private Carrier Systems in the Private Operational-Fixed Microwave Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to authorize private carriers under Part 94 of the FCC Rules and Regulations. Under this proposal, private operational-fixed microwave licensees would be authorized to provide communications service on a commercial basis to eligibles in the Private Operational-Fixed Microwave Service. This document also proposes to relax the record keeping requirements for cooperatively shared private microwave systems. The Commission has proposed these changes to enhance the communications options available to eligibles in the Private Radio Services and to promote more efficient use of the radio spectrum.

DATES: Comments are due by July 18, 1983 and replies by August 17, 1983.

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

FOR FURTHER INFORMATION CONTACT: Eugene C. Bowler or Frederick J. Day, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 94

Private Operational-Fixed Microwave Radio Service, Cooperative use of radio facilities, Private carriers.

Proposed Rule Making

In the matter of amendment of Part 94 of the Commission's rules and regulations to authorize private carrier systems in the Private Operational-Fixed Microwave Radio Service.

Adopted: April 27, 1983.

Released: May 17, 1983.

By the Commission: Commissioner Jones absent.

Summary

1. The Commission commenced its proceeding in Docket No. 19309 [1] in 1971 to consider methods of enhancing the sharing of private microwave communications facilities and systems. In an accompanying Order we have terminated that proceeding because of the staleness of the comments and because we intend to use this proceeding as the vehicle for exploring this matter more thoroughly. Under the rules being herein proposed, we would authorize the expanded shared use of private microwave facilities by licensing persons eligible under Part 94 of our rules [2] to offer service to other Part 94 eligibiles on a for-profit, private carrier basis.[3] We also propose to adopt rules which would simplify our cooperative sharing and joint use rules in the Private Operational-Fixed Microwave Radio Service.[4]

Background

2. Since the 1950's the Commission has allowed eligibles in the private microwave service to share their systems on a non-profit, cooperative basis. In reviewing this matter in 1966, in Docket No. 16218, the Commission stated that the sharing of microwave facilities by private service eligibles had served the public interest by enabling eligibles to obtain the benefits of microwave communications which might not have otherwise been possible for them.[5] It also concluded that joint use of private facilities results in the fuller and more efficient utilization of microwave systems; that joint use generally conserves frequency spectrum and antenna sites; and that the attendant economics of joint use enable more users to obtain the benefits of microwave radio service than would otherwise be the case.[6] While the Commission considered the prospect of third party licensing in Docket No. 16218, it ultimately did not adopt such an approach. Thus, under our microwave sharing rules as they now exist, a licensee in the private microwave service may not profit by sharing the system with other eligibles.[7] In this rule making, we are proposing ways in which joint use of facilities might be expanded including, specifically, the authorization of private carrier microwave systems to permit licensees to profit from providing a communications service to others. Further, should the Commission ultimately authorize private microwave carriers, it is proposing substantially to simplify the cooperative use record keeping requirements.

Private Carriers

3. One of the major areas which Docket No. 19309 sought to explore was the licensing of third parties to provide communications service to Part 94 eligibles on a commercial basis. In

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[1] *Memorandum Opinion and Order, Notice of Inquiry, and Notice of Proposed Rule Making,* Docket No. 19309, 31 FCC 2d 766 (1971).

[2] 47 CFR Part 94. Part 94 of the Commission's Rules governs the licensing and operation of private operational-fixed microwave systems, in frequency bands at 928-929 MHz and above 952 MHz. Eligibility in Part 94 is limited to persons qualified for licensing in a radio service under either Part 81 (Stations on Land in the Maritime Service and Alaska-Public Fixed Stations); Part 87 (Aviation Services); or Part 90 (Private Land Mobile Radio Services) See § 94.5 of the Commission's Rules (47 CFR 94.5).

[3] For a discussion of private carriers see *NARUC v. FCC,* 525 F.2d 630 (1976); *cert. denied,* 425 U.S. 992 (1976).

[4] Pending final action in this matter we will continue the policy we adopted in Docket No. 19309. We will not authorize Stage III cooperatives in the Private Operational-Fixed Microwave Service pending the outcome of this proceeding (See Order in Docket 19309 for a deacription of Stage III cooperatives).

[5] *Cooperative Sharing of Operational Fixed Stations, Report and Order,* Docket No. 18218, FCC 66-640, 4 FCC 2d 406, 416-17 (1966).

[6] *Id.* at 417.

[7] Cooperative sharing is permitted on a (1) no-cost basis, (2) on a costshared basis or (3) on a reciprical use basis. See 47 CFR § 94.17.

recent years, subsequent to the receipt of comments in Docket No. 19309, the Commission has found that the establishment of a private carrier category of eligibility within the private services promotes the public interest by enhancing the options by which private service eligibles can satisfy their communications needs. Thus, in 1974 the Commission authorized private carrier SMR systems in Docket No. 18262 for the 800 MHz private land mobile spectrum [8]; and, in 1982 the Commission authorized private carrier paging systems at 900 MHz.[9] Moreover, in the recently adopted amendments to the Communications Act, the Congress affirmed the public interest in the concept of licensing entrepreneurs as private carriers to enhance the communications sources available to private service eligibles.[10]

4. While the comments submitted in Docket No. 19309 on this matter evidenced no great need for private microwave carriers, these comments are quite old.[11] In the intervening eleven years since public input was received, much in the communications industry has changed. From more recent expressions received from licensees of private microwave systems, we believe there is significant interest in having the Commission authorize entities in the Private Operational-Fixed Microwave Service to offer communications service to other Part 94 eligibles on a commercial basis, particularly through the sale of excess system capacity. Moreover, authorization of private carriers could serve somewhat to alleviate the growing need for microwave paths which the expanding use of data transmission technology necessitates.

5. The Commission's objectives in regulating the private radio services include providing a maximum number of ways under which a maximum number of qualified persons may, at the earliest date possible, with the least administrative delay and under minimum procedural restraints, provide themselves with the means of radio communications they may require to enable them to conduct their affairs in an efficient and effective manner.[12]

6. Moreover, in many on-going proceedings the Commission has recognized the public interest in allowing licensees of spectrum to maximize use of their authorized systems. Thus, in the Commission's proceeding in Docket No. 81–741 it has amended its broadcast rules to permit TV broadcast spectrum authorized to them. The Commission concluded this additional use of authorized spectrum was feasible and that there was no reason why licensees should not be permitted to profit from the offering of this service to persons who needed it and were willing to pay for it. A somewhat analogous approach is to be found in the Commission's proceeding in Docket No. 21323 dealing with the use of subcarrier frequencies in the aural baseband of television transmitters. Again, our objective is to enhance efficient and effective spectrum use in the public interest. Yet other examples of this approach to the maximization of spectrum utilization are enhanced use of SCA's which broadcast licensees can offer, and the proceeding in Docket 81–794 in which Broadcast Auxiliary microwave station licensees were permitted to offer excess capacity on a private carrier basis.[13]

7. The objective of maximizing efficient and effective use of radio spectrum by the public is a statutory mandate for the Commission. See 47 and Sections 151 and 303(g). It can be accomplished by the authorization of private carrier microwave systems. There are many existing private microwave systems with some excess capacity. Allowing the licensees of these systems to sell their excess capacity as private carriers would increase incentives towards enhanced use of this spectrum, while at the same time offering other private service eligibles enhanced opportunity to employ microwave in the public interest. It would also promote the efficient and effective use of spectrum by obviating the necessity to build wasteful parallel microwave systems. Also, it has the potential for enhanced use of this spectrum by small business entities who have, to date, lacked the financial means to build their own microwave systems.

8. As we have already pointed out, one of this Commission's regulatory mandates is to encourage the larger and more effective use of radio in the public interest. Enhanced use of radio not only improves the operations of the licensees employing these communications systems, but also the public interest at large, since these licensees are able to serve the public in a more efficient and effective manner through the use of radio. Moreover, as we have long recognized, the joint or shared use of facilities results in their fuller and more efficient use, and conserves spectrum and antenna sites.

9. The Commission's legal authority to permit private carrier operation has been clearly established. See *NARUC* v. *FCC, supra* (NARUC I). Like the private carrier SMRS systems addressed by the Court in NARUC I, private carrier microwave licensees will be likely to establish "medium-to-long-term contractual relations" with a relatively stable clientele. 525 F. 2d at 643. The private operator is also likely to tailor its offerings based on the "personal and operational compatibility of a given applicant" vis-a-vis other users already on the system. *Id.* This characteristic of the somewhat limited potential of shared use of microwave was clearly recognized in Docket No. 16218 where we noted that joint use of these systems is feasible between two or more persons only if they have communications needs along substantially the same route.[14]

10. While we would not confine the authorization of private carrier systems to existing licensees with communications requirements of their own, we would only authorize such private carrier systems to serve Part 94 eligibles. These licensees would be responsible for assuring that all operations conducted by the persons to whom they provided service were in strict compliance with the Commission's rules and with the Communications Act.

11. Should such an approach be adopted, we also believe it should be accompanied by a relaxation of the record keeping burdens which govern cooperative use in the microwave service. Since a licensee could elect to operate either as a cooperative or as a private carrier, it would appear unnecessary to impose rigorous record keeping burdens on cooperatives or to constrain the ways in which private

[8] *Land Mobile Radio Services, Second Report & Order*, Docket No. 18262, 46 FCC 2d 752 (1974); *reconsidered, Memorandum Opinion and Order*, Docket No. 18262, 51 FCC 2d 945 (1975); on appeal *sub nom. NARUC* v. *FCC*, 525 F. 2d 630 (D.C. Cir. 1976); *cert. denied*, 425 U.S. 992 (1976).

[9] *Second Report & Order*, Gen. Docket No. 80–183, FCC 82–339, adopted July 22, 1982, released August 20, 1982.

[10] Communications Amendments Act of 1982, Pub. L. 97–259, 96 Stat. 1087 (September 13, 1982).

[11] Comments in Docket No. 19309 closed in October 1971.

[12] See 46 FCC 2d at 768.

[13] See, for example, *Report and Order* in Docket No. 81–741, adopted March 31, 1983, —— FCC 2d ——, and *Report and order* in docket 81–794, adopted April 7, 1983, —— FCC 2d ——. These analogous procedings are also addressing potential common carriage issues which do not arise here; we are only proposing to allow private service eligibles to use the frequencies for the purposes described herein.

[14] 4 FCC 2d at 415, 417. See also *Computer and Communications Ind. Assn.* v. *FCC*, 693 F. 2d 198 (D.C. Cir. 1982). Petition for cert. filed, 51 U.S. Law Week 3614 (U.S. Feb. 9, 1983) *et alii*.

services eligibles elect to share their costs. Also it would appear unnecessary to confine non profit arrangements to Stage I cooperatives. Consequently, we are also proposing modifying our cooperative sharing rules.

12. Finally, we are proposing rules specifically to govern multiple licensing of facilities in the private microwave service.

Public Interest Considerations

13. As noted, we are proposing that licensees in the Private Operational-Fixed Microwave Service be permitted to make excess capacity on these systems available for the use of others, on a for-profit basis. Such capacity exists, and is currently unused. Thus, it is clear that the proposed approach will contribute to attainment of the statutory goals of promoting the development of "rapid, efficient" service (Section 1 of the Act) and encouragement of the "larger and more effective use of radio" (Section 303(g) of the Act). However, a concomitant consideration which is relevant is the potential that such capacity might be used as an alternative to facilities of local telephone common carriers (e.g., exchange facilities and relatively short-haul toll facilities).

14. In our recent *Third Report and Order* in CC Docket No. 78-72, Phase I, FCC 82-579, released February 28, 1983 ("*Access Charge* order"), we acknowledged the comments of many parties that existing interstate telephone rates, including an exchange access component, to some extent support local telephone rates. Availability of facilities which might bypass support mechanisms in the exchange access component potentially could adversely affect the level of telephone charges. We specifically did not embark upon the path of seeking to foreclose all bypass. We noted that, "Any attempt to insure continued support for local telephone service through the prohibition of bypass systems would lead to a stifling of innovation, and quite probably, to the transformation of the nation's telephone system—currently the best in the world—into an outmoded and technically inefficient system." Access Charge order, para. 363. Rather, our access charge rules are premised, in part, on minimizing the emergence of diseconomic bypass systems.

15. Our actions in *Access Charge* to minimize potential uneconomic bypass in large measure have relevance for systems yet to be constructed. A decision to construct transmission facilities that serve as an alternative to facilities of a local exchange carrier will necessarily involve consideration of whether alternative facilities are more cost effective than use of the facilities of such carrier. Whether a particular system is economic or diseconomic may not always be evident. At a minimum we have sought to avoid construction of alternative facilities because of the previous diseconomic pricing of local telephone facilities. The instant proceeding affects not only future systems, but also existing systems for which the costs, as compared with exchange carrier facilities, are not the same as when new construction of facilities is considered. In both circumstances, action to expand the public's use of private operational-fixed microwave facilities may affect utilization of local exchange carriers' facilities. Any substantial change in utilization, particularly by large users, could conceivably result in undue pressures on local exchange rates.

16. Our proposals herein might, to some extent, raise these concerns. The radio facilities here are potentially useful for exchange bypass, and while existing facilities would appear to represent the type of facilities which would be economical as compared with alternative local telephone facilities, wholly apart from the effects of access charges under the *Access Charge* order, we do not have specific information on this point or on the effects of the construction of pure private carrier facilities. In sum, while we are proposing in this Notice to permit the offering on a private-carrier for-profit basis of both excess and new capacity on private operational-fixed microwave facilities, we shall also weigh, in reaching a final decision in this proceeding, material effects which this proposal might have on attainment of our statutory goals of promoting "Nation-wide and world-wide * * * service with adequate facilities at reasonable charges * * *" (Section 1 of the Act). We invite comments on the relationship of our proposals in this proceeding to our overall regulatory scheme.[15]

Statement in Compliance With the Regulatory Flexibility Act

17. The proposed regulatory plan is designed to broaden the types of sharing arrangements which would be allowed in the private operational fixed microwave service. The plan is formulated under the provisions of Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

18. The rules being proposed should have little or no adverse effect on a significant number of small entities and should reduce the paperwork requirements under which cooperatives now operate. The rules, if adopted, would result in some minimal record keeping requirements on private carriers since licensees would have to keep information as to the persons operating on their systems and the arrangements under which they operate.

19. There are no federal rules which overlap, duplicate or conflict with these rules. There are no significant alternatives which would accomplish our stated objectives and at the same time promote our objective of enhancing the opportunities of small businesses to use microwave. Also, the status quo, in our view, represents a continuing burden.

20. For purposes of this non-restricted notice and comment rule making, 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 the 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 also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

[15] It might be noted that, to some extent, certain existing common carrier services, *e.g.* cellular mobile radio and DTS, similarly may have some utility as exchange bypass media. The Access Charge order itself acknowledged the existence of exchange bypass media such as these, and for that reason we adopted an economic pricing approach. What may be somewhat different in the proposals in this proceeding is that the services which might be offered pursuant to our proposals in this Notice would be fully unregulated, on a private carrier SMRS-like, for-profit basis.

21. This action is taken pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Interested persons may file comments on both aspects of this proposal on or before July 18, 1983, and reply comments on or before August 17, 1983. All relevant and timely comments filed in accordance with §§ 1.415 and 1.419 of our Rules and Regulations (47 CFR 1.415 and 1.419) 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 its final decision.

22. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy of their comments without regard to form (as long as the docket number is clearly stated in the heading). 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.

23. It is further ordered, That the Secretary shall cause a copy of this decision to be published in the Federal Register and shall transmit a copy of the initial Regulatory Flexibility Act analysis to the Chief Counsel for Advocacy of the Small Business Administration.

24. For further information concerning this rule making contact Eugene C. Bowler or Frederick Day of the Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, Federal Communications Commission, Washington, D.C. (202) 634–2443.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 94—[AMENDED]

Part 94 of the Commission's Rules and Regulations is proposed to be amended as follows:

1. Section 94.3 is amended by the addition of the term private carrier in alphabetical order to the list of definitions, to read as follows:

§ 94.3 Definitions.

* * * * *

Private carrier. An entity licensed in the private services and authorized to provide communications service to other private service eligibles on a commercial basis.

* * * * *

2. Section 94.5 is revised to read as follows:

§ 94.5 Eligibility.

Any person, or any governmental entity or agency eligible for licensing in a radio service under Parts 81, 87, or 90 for private operational-fixed communications related to activities for which licensing is available in such service, or any person proposing to provide communications service to such persons is eligible to hold a license under this part.

3. Section 94.9(a) is revised to read as follows:

§ 94.9 Permissibility of communications.

(a) Stations in this radio service are authorized to transmit:

(1) The licensee's own communications.

(2) The communications of the licensee's parent corporation, of another subsidiary of the same parent, or its own subsidiary where the party to be served is regularly engaged in any of the activities which constitute the basis for eligibility to use the frequencies assigned.

(3) The communications of other parties in accordance with § 94.17.

(4) Emergency communications unrelated to the licensee's activities in accordance with § 94.11.

* * * * *

4. Section 94.17 is revised to read as follows:

§ 94.17 Shared use of radio stations.

Licensees of radio stations authorized under this part may share the use of their facilities on either a non-profit or a commercial basis, subject to the following conditions and limitations:

(a) Sharing of radio systems may occur only on frequencies for which all participants separately would be eligible for assignment.

(b) The licensee must maintain access to and control over all facilities authorized under its license.

(c) All sharing arrangements must be conducted pursuant to a written agreement to be kept as part of the station records.

(d) The licensee must keep an up-to-date list of system sharers and the basis of their eligibility under Part 94. Such records must be kept current and must be made available upon request for inspection by the Commission.

5. A new § 94.19 is added to the rules to read as follows:

§ 94.19 Multiple licensing of radio transmitting equipment in the operational-fixed microwave radio service.

Two or more persons eligible for licensing under this rule part may use the same transmitting equipment under the following terms and conditions:

(a) Each license complies with the general operating requirements set out in Subpart D of this part.

(b) Each licensee is eligible for the frequency(ies) on which the facility operates.

(c) Each licensee must have the ability to access the transmitter for which the licensee is authorized.

[FR Doc. 83-14939 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 96

[General Docket No. 83-26, RM 4121]

Rules to Create a New Citizens Band Land Mobile Private Radio Communications Service in the 898–902 MHz and 937–941 MHz Bands; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: This Order extends the time periods in which to file comments and reply comments in response to the *Notice of Proposed Rule Making* in this proceeding concerning creation of additional private radio service. These periods have been extended in order to provide additional time for comments and reply comments by the Personal Radio Steering Group and others expected to be generated by a "working seminar" on the proposal in this proceeding.

DATES: Comments may now be filed on or before July 15, 1983, and replies on or before September 6, 1983.

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

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Special Services Division, Washington, D.C. 20554, (202) 632–4964.

Order

In the matter of creation of an additional private radio service; General Docket No. 83–26, RM–4121.

Adopted: May 16, 1983.
Released: May 18, 1983.

By the Chief, Private Radio Bureau.

1. On January 20, 1983, the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 12228 (March 23, 1983), instituting this proceeding to determine whether an additional Private Radio service should be created. The Notice indicated that comments would be accepted on or before June 10, 1983, and reply comments would be accepted on or before July 11, 1983.

2. On April 22, 1983, the Personal Radio Steering Group (PRSG), an organization representing approximately 4,000 licensees and users of the General Mobile Radio Service (GMRS), filed a *Petition to Extend the Time Periods for Submitting Comments and Replies* in this proceeding. The *Petition* requested that the comment period be extended through September 15, 1983, and that the reply comment period be extended through a date "at least sixty days following the close of comments."

3. The request was made in order to accommodate comments by PRSG and others generated by a two-day PRSG-affiliated "working seminar" on this proposal to be held in conjunction with the REACT International, Inc. Convention in Wichita, Kansas on July 29, and 30, 1983.

4. Because it will best conduce to the proper dispatch business and to the ends of justice, we will partially grant PRSG's *Petition* to extend the comment and reply periods. However, it does not appear that it is necessary to lengthen the comment and reply periods to the extent requested by PRSG. We believe a comment deadline of July 15, 1983 and a reply comment deadline of September 6, 1983, would afford those attending the two-day workshop sufficient opportunity to file comments as they prepare for it and to file reply comments after it has taken place.

5. Accordingly, pursuant to Sections 4(i) and (j), 302 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j), 302 and 303, and pursuant to §§ 0.131 and 0.331 of the Commission's Rules, 47 CFR 0.131 and 0.331, the Personal Radio Steering Group's *Petition to Extend the Time Period for Submitting Comments and Replies* in this proceeding is granted in part to the extent discussed above.

6. Interested persons may file comments in this proceeding on or before July 15, 1983, and reply comments on or before September 6, 1983.

7. For further information about this proceeding contact John J. Borkowski, (202) 632–4964, Personal Radio Branch, Special Service Division, Private Radio Bureau, FCC Washington, D.C. 20554.

Federal Communications Commission.

James C. McKinney,

Chief, Private Radio Bureau.

[FR Doc. 83-14900 Filed 6-2-83; 8:45 am]

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47 CFR Part 97

[PR Docket No. 83–485; FCC 83–219; RM–4231]

Amendment of Amateur Radio Service Rules To Make Additional Frequencies Available for Repeater Operation

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The Commission proposes to amend the Amateur Radio Service Rules, Part 97, to make additional Amateur Radio Service Frequencies available for repeater operation. The amendment is intended to eliminate congestion on the frequencies currently authorized or repeater operation in the 28.0–29.7 MHz band.

DATES: Comments are due July 25, 1983, and reply comments are due August 24, 1983.

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

FOR FURTHER INFORMATION CONTACT: James D. McGrath, Private Radio Bureau, Washington D.C. 20554, (202) 632–4964.

List of Subjects in 47 CFR Part 97

Radio.

Notice of Proposed Rule Making

In the matter of amendment of the Amateur Radio service rules, Part 97, to make additional frequencies available for repeater operation; PR Docket No. 83–485, RM–4231.

Adopted: May 12, 1983.
Released: May 23, 1983.

By the Commission.

1. Notice of Proposed Rule Making in the above-captioned matter is hereby given.

2. A petition for rule making has been submitted by Beryl Gosney of Oak Harbor, Washington and was received by the Commission on October 29, 1982. This petition requests that additional Amateur Radio Service frequencies be made available for repeater operation in the 10 meter band.[1] Specifically, petitioner requests that the current 29.5–29.7 MHz segment authorized for repeater use be expanded to include the frequencies 29.0–29.5 MHz. This would increase the number of available "channels" for repeater operation from approximately 4 to 17.[2]

3. The petitioner, in support of the need for additional frequencies, stated:

(a) The frequencies currently assigned for repeater operation in the ten meter band have become "inadequate" with "severe congestion" being experienced.

(b) The recent addition by commercial manufacturers of FM to their amateur radio circuit designs has caused a surge of interest in FM communications on 10 meters.

(c) Citizens band radios from yesteryear which, for a few dollars have been converted to 10 meter FM have contributed significantly to the growth seen here.

4. There may be merit in the petitioner's request to make additional Amateur Radio Service frequencies available for repeater operation. We are therefore proposing to authorize for repeater operation the additional frequencies the petitioner requested. We are interested in receiving information on the need for the proposed repeater subband expansion, the impact of the expansion on existing and future repeater and non-repeater operation and whether that impact is acceptable to the amateur community.[3]

5. Notice is hereby given that it is proposed to amend 47 CFR Part 97 in accordance with the proposed rules set forth in the attached Appendix.

6. 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

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[1] The frequencies between 28.0–29.7 MHz are commonly referred to in the amateur community as the 10 meter band.

[2] We note that most repeater operations in this band use a 20 kHz spacing between channels. Commonly accepted band plans also provide for one simplex channel and small guard bands in the segments currently authorized.

[3] In our Further Notice of Proposed Rule Making in PR Docket 82–83 we proposed to expand the telephone segment of the 10 meter band to 28.3 MHz, which could offset most of the loss of frequencies to non-repeater operation.

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 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. A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Assistance Office, FCC Washington, D.C. 20554, (202) 632–7000.

7. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before July 25, 1983, and reply comments on or before August 24, 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.

8. In accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants must file an original and five copies of their comments and other materials. Participants who wish each Commissioner to have a personal copy of their comments should file an original and eleven 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. Each set of comments must state on its face the proceeding to which it relates (PR Docket Number) and should be submitted to: The secretary, Federal Communications Commission, Washington, DC 20554. 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.

9. The Commission has determined that Section 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding since this proposal would simply allow the use of additional Amateur Radio Service frequencies for repeater operation. No amateur radio licensees would be compelled to purchase new radio equipment. Consequently, there would be no significant economic impact on a substantial number of small entities.

10. It is ordered that the Secretary shall cause a copy of this Notice to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this Notice to be published in the Federal Register.

11. For further information on this proceeding, contact James D. McGrath, Federal communications Commission, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

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

William J. Tricarico,

Secretary.

Appendix

PART 97—[AMENDED]

It is proposed that Part 97 of the Commission's Rules, 47 CFR Part 97, be amended as follows:

Section 97.61 paragraph (c) would be revised to read as follows:

§ 97.61 Authorized frequencies and emissions.

* * * * *

(c) All amateur frequency bands above 29.0 MHz are available for repeater operation, except 50.0–52.0 MHz, 144.0–144.5 MHz, 145.5–146.0MHz, 220.0–220.5MHz, 431.0–433.0MHz, and 435.0–438.0MHz. Both the input (receiving) and output (Transmitting) frequencies of a station in repeater operation shall be frequencies available for repeater operation.

* * * * *

[FR Doc. 83-14881 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 108
Friday, June 3, 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

Forest Service

Land and Resource Management Plans; Revision of Notices of Intent to Prepare Enviromental Impact Statements on Eleven National Forests in the Eastern Region

The Department of Agriculture, Forest Service, is preparing environmental impact statements on the proposed Land and Resource Management Plans for the National Forest in the Eastern Region. The scope of issues to be analyzed in depth, for 11 National Eorests, is hereby revised to include further evaluation of roadless areas previously analyzed in the second roadless area review and evaluation (RARE II) and in approved National Forest Unit Plans. The National Forests, along with the **Federal Register** citation in which the original notice of intent appears, are as follows:

Allegheny National Forest, Vol. 26, No. 12, p. 5029, Monday, January 19, 1981.
Chequamegon National Forest, Vol. 44, No. 198, p. 58769, Thursday, October 11, 1979.
Chippewa National Forest, Vol. 45, No. 109, p. 37711, Wednesday, June 4, 1980.
Green Mountain National Forest, Vol. 46, No. 34, p. 13246, Friday, February 20, 1981.
Hiawatha National Forest, Vol. 47, No. 4, p. 839, Thursday, January 7, 1982.
Huron-Manistee National Forest, Vol. 44, No. 239, p. 71441, Tuesday, December 11, 1979.
Nicolet National Forest, Vol. 47, No. 14, p. 3013, Thursday, January 21, 1982.
Ottawa National Forest, Vol. 45, No. 141, p. 48680, Monday, July 21, 1980.
Shawnee National Forest, Vol. 45, No. 141, p. 48680, Monday, July 21, 1980.
Superior National Forest, Vol. 44, No. 16, p. 4748, Tuesday, January 23, 1979.
White Mountain National Forest, Vol. 45, No. 64, p. 21322, Tuesday, April 1, 1980.

On February 1, 1983, the Secretary of Agriculture determined that further evaluation of RARE II roadless areas is necessary to respond to a recent court ruling that the environmental impact statement on which the 1979 roadless area decisions were based did not adequately meet National Environmental Policy Act requirements. Pending legislative change, the evaluation will be done during each Forest's land and resource management planning process. It will include made available for nonwilderness uses. Also included are several areas that were considered prior to RARE II in appproved Unit Plans of the White Mountain National Forest.

36 CFR Part 219 sets out the overall requirements for the Forest Planning Process. The present section 219.17 of this Part has had to be revised because its directions are now incompatible with the court ruling discussed above. A revision designed to remove those features incompatible with existing law was published on April 18, 1983, the the **Federal Register** Vol. 48, No. 75, p. 16505. Statutory time limits placed upon completion of the Forest Planning Process by Congress require that every possible effort be made to expedite each planning step. While it is not the intent of the Forest Service to take any steps involving final resource commitment until long after a revised rule compatible with existing law becomes final, respect for the time limitations discussed above requires that public participation in this planning aspect be initiated now, so as to facilitate early data collection and at least preliminary analysis. Federal, State and local agencies, special interest groups, organizations and individuals are invited to participate in the further evaluation of roadless areas. Information on each roadless area about its potential for designation as wilderness and for nonwilderness uses will now considered in order to determine the scope and detail of the further evaluation. Information on the scope of alternatives and impact will not be considered in the planning process until after a revised rule compatible with existing law becomes final.

The Forest Supervisors will solicit information from the public through various public participation activities that may be held the individual National Forests.

All other conditions of the original notices of intent remain the same.

Questions and comments on this Notice of Intent can be directed to the representatives listed in the original Notices of Intent

James L. Hagemeier,
Director of Planning, Programming and Budgeting.

[FR Doc. 83-14619 Filed 6-2-83; 8:45 am]
BILLING CODE 3410-11-M

Stanislaus National Forest, Summit Ranger District; Intent To Prepare an Environmental Impact Statement; Dodge Ridge Winter Sports Site, Tuolumne County, California

The USDA-Forest Service is starting an environmental analysis of the proposed expansion of the existing Dodge Ridge winter sports site in Tuolumne County, California. It is probable that the analysis will result in preparation and circulation of an environmental impact statement.

The range of alternatives to be considered will include the "no-action" (no expansion) alternative. Other alternatives will vary in terms of the ultimate size of the recreation development, ranging from 7,200 to 10,000 skiers at one time. Uphill facilities, ski runs and support facilities will be considered.

The alternative of providing similar apline skiing opportunities in different areas, other than Dodge Ridge, will not be considered at this time.

As an early step in the environmental analysis, Federal, State and local agencies, and other individuals and organizations who may be interested in or affected by the decision will be invited to participate in:

(a) Identification of the issues to be addressed in the analysis

(b) Identification of those issues to be analyzed in depth, and

(c) Elimination from detailed study the issues which are not significant, or which have been covered by prior environmental review.

To accomplish this, informal public meetings will be held at:

Forest Supervisor's Office, Wednesday, July 20, 1983, 7:30 p.m., Sonora, CA;
Dodge Ridge Ski Area, Saturday, July 23, 1983, 1:00 p.m., Pinecrest, CA.

For further information about the project, or the environmental analysis, contact:

Ed Rosenbaum, Project Coordinator, Summit Ranger District, Star Route, Box 1295, Sonora, CA 95370.

It is anticipated that the environmental analysis will require about 8 months. The draft environmental impact statement is scheduled for completion by June 1984. There will be a three month period for public review. Following this, a final environmental impact statement will be prepared and circulated, in approximately January 1985.

Written comments and suggestions concerning this analysis are encouraged. They should be sent to Herb Hahn, District Ranger, Summit Ranger District, Star Route, Box 1295, Sonora, CA 95370. To be of most assistance, they should be received by August 30, 1983.

Dated: May 23, 1983.

Blaine Cornell,

Forest Supervisor.

[FR Doc. 83-14677 Filed 6-2-83; 8:45 am]

BILLING CODE 3410-11-M

Routt National Forest Grazing Advisory Board Meeting

The Routt National Forest Grazing Advisory Board will meet July 19, 1983 at the Routt National Forest Supervisor's Office, Hunt Building, 137 10th Street, Steamboat Springs, Colorado. The board will leave at 9:00 a.m. to review cattle allotments on the Michigan-Illinois Rivers area of North Park.

Other business will include: (1) A short business meeting; (2) recommendations on the use of high elevation sheep allotments; (3) recommendations on the use of range betterment funds; (4) recommendations concerning the development of allotment management plans; (5) review the results of the 1978 introduction of moose on the Illinois-Owl Mountain cattle allotment.

The meeting will be open to the public. Persons who wish to attend and participate should notify Jim Webb, Routt National Forest (303-879-1722) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

Jack Weissling,

Forest Supervisor.

May 27, 1983.

[FR Doc. 83-14775 Filed 6-2-83; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

East Fork of Big Creek Watershed, Supplement, Iowa, Missouri

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 Supplement to the Work Plan for the East Fork of Big Creek Watershed, Harrison County, Missouri and Decatur County, Iowa.

FOR FURTHER INFORMATION CONTACT: Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202, telephone 314/875-5214.

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, Paul F. Larson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns supplemental measures, to a plan for flood control and watershed protection. The planned works of improvement include 111 floodwater retarding dams and 79 grade stabilization dams.

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 Paul. F. Larson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Paul F. Larson,

State Conservationist.

May 24, 1983.

[FR Doc. 83-14776 Filed 6-2-83; 8:45 am]

BILLING CODE 3410-16-M

East Wenatchee Watershed Project, Washington; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the East Wenatchee Watershed Project, Douglas County, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn A. Brown, State Conservationist, Soil Conservation Service, Room 360 U.S. Courthouse, Spokane, Washington 99201; telephone 509-456-3711.

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. Lynn A. Brown, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection and flood damage reduction. The planned works of improvement include flood proofing the basements of eight homes, two trapezoidal open channel flood diversions and a pipeline that collects water from the diversions and main channel and outlets into the Columbia River.

The Finding of No Significant Impact (FONSI) has been forwarded 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 Lynn A. Brown.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: May 24, 1983.

Lynn A. Brown,

State Conservationist.

[FR Doc. 83–14439 Filed 6–2–83; 8:45 am]

BILLING CODE 3410–16–M

Ninigret Park RC&D Measure, Rhode Island; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No. Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Par 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Ninigret Park RC&D Measure, Washington County, Rhode Island.

FOR FURTHER INFORMATION CONTACT: Richard N. Duncan, State Conservationist, Soil Conservation Service, 46 Quaker Lane, West Warwick, Rhode Island, 02893, telephone (401) 828–1300.

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, Richard N. Duncan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This Measure concerns a plan to develop a 18.4 acre recreation area. The planned works of improvement include upgrading a beach, a picnic area with 15 tables and grills, parking area for 66 cars, a comfort station with running water, an ice skating warm-up shelter, recreational open space area, nature trail, upgrade 900 foot access road, tree planting, and seeding.

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 Richard N. Duncan.

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.

Richard N. Duncan,

State Conservationist.

May 23, 1983.

[FR Doc. 83–14720 Filed 6–2–83; 8:45 am]

BILLING CODE 3410–16–M

Twin-Rush Creek Watershed, Indiana; Availability of Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Robert L. Eddleman, responsible Federal official for projects administered under the provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Indiana, is hereby providing notification that a record of decision to proceed with the installation of the Twin-Rush Creek Watershed project is available. Single copies of this record of decision may be obtained from Robert L. Eddleman at the address shown below.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, State Conservationist, Soil Conservation Service, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Indiana 46224, telephone 317–248–4350.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Robert L. Eddleman,

State Conservationist.

[FR Doc. 83–14851 Filed 6–2–83; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Docket No. 40662]

Aero West Airlines; Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on June 8, 1983, at 10:00 a.m. (local time) in Room 1027, 1825 Connecticut Avenue, NW., Washington D.C. before the undersigned administrative law judge.

Dated at Washington, D.C., May 27, 1983.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 83–14980 Filed 6–2–83; 8:45 am]

BILLING CODE 6320–01–M

[Docket 41048]

Northeast Imperial Airlines; Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., May 26, 1983.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 83–14981 Filed 6–2–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 211]

Approval for Expansion of Foreign-Trade Zone No. 49, Newark/Elizabeth, New Jersey, Within the New York Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Port Authority of New York and New Jersey, Grantee of Foreign-Trade Zone No. 49, has applied to the Board for authority to expand its general-purpose zone located in Newark and Elizabeth, New Jersey, to include the entire Port Newark/Elizabeth Port Authority Marine Terminal, except for a 124-acre parcel in the southwest corner of the 2,230-acre complex, within the New York Customs port of entry;

Whereas, the application was accepted for filing on January 11, 1982,

and notice inviting public comment was given in the Federal Register;

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to help the port authority fully serve the needs of firms using the marine terminal complex, including those involved in reexport operations; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zone Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed January 11, 1982, except for a 124-acre parcel withdrawn by the applicant in February 1983. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 26th day of May 1983.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-14986 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 210]

Resolution and Order Approving the Application of the Philadelphia Port Corporation for a Special-Purpose Subzone in Lansdale, Pennsylvania, Adjacent to the Philadelphia Customs Port of Entry.

Proceedings of the Foreign-Trade Zone Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Philadelphia Port Corporation, grantee of Foreign-Trade Zones 35, filed with the Foreign-Trade Zones Board (the Board) on October 26, 1982, requesting authority for a special-purpose subzone at the electronic automotive parts plant of the Ford Electronics and Refrigeration Corporation, Lansdale, Pennsylvania, adjacent to the Philadelphia Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority to Establish a Foreign-Trade Subzone in Lansdale, Pennsylvania, Adjacent to the Philadelphia Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when exisitng zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Philadelphia Port Corporation, grantee of Foreign-Trade Zone No. 35, has made application (filed October 26, 1982) in due and proper form to the Board requesting a special-purpose subzone at the electronic automotive products plant of the Ford Electronics and Refrigeration Corporation, located in Landsdale, Pennsylvania, adjacent to the Philadephia Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's reguations are satisfied;

Now, therefore, in accordance with the application filed October 26, 1982, the Board hereby authorizes the establishment of a subzone at the Lansdale, Pennsylvania electronic automotive components plant of the Ford Electronics and Refrigeration Corporation, designated on the records of the Board as Foreign-Trade Subzone No. 35A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations;

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive officer or his delegate at Washington, D.C. this 26th day of May 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-14782 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Importers and Retailers' Textile Advisory Committee; Open Meeting

A meeting of the Importers and Retailers' Textile Advisory Committee will be held June 16, 1983, 10:30 a.m., Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials on the effects on import markets and retailing of cotton, wool, and man-made fiber textile agreements.

Agenda: Review of import trends, implementation of textile agreements, report on conditions in the domestic market, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Helen L. LeGrande (202) 377–3737.

Dated: May 27, 1983.

Walter C. Lenahan,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 83-14905 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Minority Business Development Center Program; Solicitation of Applications

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate one project for a 12-month period beginning October 1, 1983 in the Miami/Ft. Lauderdale, Florida SMSA. The cost of the project is estimated to be $770,000. The maximum Federal participation amount is $654,500. The minimum amount required for non-Federal participation is $115,500. The award number will be 04–10–83016–01.

Applicants shall be required to contribute at least 10% of the total program costs through non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

DATE: Closing July 1, 1983.

ADDRESS: Atlanta Regional Office, Minority Business Development Agency, 1371 Peachtree Street NE., Suite 505, Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: Gordon Anderson/Karen Davis, Telephone (404) 881–3094.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement

Executive Order 11625 authorizes MBDA to find projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to an about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by an MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—the organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.

—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

—Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment 0 of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring

clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when, where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) Cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request of Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will advised by MBDA, DOC.

F. Proposal Instructions and Forms

This program is subject to OMB Circular A-95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A preapplication conference to assist all interested applicants will be held at the above address on June 17, 1983 at 1:00 p.m.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: May 25, 1983.

Stanley W. Tate,

Regional Director.

[FR Doc. 83-14823 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Sea Grant Review Panel; Meeting

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The purpose of the meeting is to discuss the current posture and future outlook of the Sea Grant Program. A joint discussion will also be held with the Sea Grant Directors to discuss legislation, administrative changes, fiscal outlook, and the activities of the Review Panel Subgroups on Accountability and Responsibilility, Research, Education, and Advisory Services.

DATE: The announced meeting is scheduled for three days, July 11, 12, and 13, 1983 as follows: July 11, 1983, 1:00–3:00 p.m.; July 12, 1983, 8:30 a.m.– 12:00 noon; and July 13, 1983, 8:30 a.m.– 12:00 noon.

ADDRESS: The meeting will be held at: San Antonio Marriott Hotel, 711 E. Riverwalk, San Antonio, Texas 780205 9982.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur G. Alexiou, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 6010 Executive Boulevard, Rockville, Maryland 20852 (301) 443–8894.

SUPPLEMENTAL INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in accordance with the Sea Grant Program Improvement Act of 1976, Pub. L. 94–461. This Act, signed into law on October 8, 1976, requires the Secretary of Commerce to establish and maintain a Sea Grant Review Panel to advise the Secretary, the Administrator of NOAA, and the Director of the Program on the conduct of this program.

The agenda for the meeting is:

Monday, July 11, 1983

1:00–3:00 p.m.—A. Discussion of current posture and nature of problems facing the Sea Grant Program

Tuesday, July 12, 1983

8:30 a.m.–12:00 noon—Discussion with Sea Grant Directors on:

B. Legislation changes

C. Administrative changes

D. Fiscal changes

E. Activities of Panel Subgroups on Accountability and Responsibility, Research, Education, and Advisory Services

Wednesday, July 13, 1983

8:30 a.m.–12:00 noon—F. Discussion on future plans of Subgroups.

The meeting will be open to the public.

Dated: May 25, 1983.

Francis J. Balint,

Chief, Information and Management Services Division.

[FR Doc. 83-14833 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-12-M

Incidental Taking of Marine Mammals; Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. Fishery Conservation Zone, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the regulations thereunder.

1. The Atlantic Shelf Fisheries Company of Hampton, Virginia has applied for a Category 1: "Towed or Dragged Gear" general permit to incidentally take up to 10 (10) small cetaceans and ten (10) phocid seals in 1983.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Interested parties may submit written views on the application within thirty (30) days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: May 27, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-14942 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENT

New Official of the Government of the Republic of the Philippines Authorized To Issue Export Visas and Exempt Certifications

May 31, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing a change in the officials of the Government of the Republic of the Philippines authorized to issue export visas and certifications for exempt cotton, wool and man-made fiber textile products from the Philippines.

SUMMARY: The Government of the Republic of the Philippines has notified the United States Government that Ms. Eden Malapad is authorized to issue export visas and certifications for exempt textile products exported to the United States, replacing Ms. Lucita P. Reyes, who will not longer issue these documents.

EFFECTIVE DATE: June 6, 1983.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230; (202/377–4212).

SUPPLEMENTARY INFORMATION: On November 18, 1979, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (44 FR 68005), which established a new export visa requirement and certification for exemption of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States. One of the requirements is that the visas and certifications for exemption must be signed by an official authorized by the Government of the Republic of the Philippines. The Government of the Republic of the Philippines has named a new official to issue these documents. A complete list of currently authorized officials is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of November 21, 1979 from the Chairman, Committee for the Implementation of Textile Agreements, which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton, wool and man-made fiber textile products in designated categories for which the Government of the Republic of the Philippines had not issued an appropriate export visa or exempt certification.

Effective on June 6, 1983, the directive of November 21, 1979 is hereby further amended to include the name of Eden Malapad as one of the officials authorized by the Government of the Republic of the Philippines to issue export visas and exempt certifications, replacing Lucita P. Reyes, who will no longer issue these documents. A revised list of officials who are currently authorized to issue export visas and exempt certifications is enclosed.

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool and man-made fiber textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Officials Authorized by the Government of the Republic of the Philippines to Issue Visas and Certifications for Exemption for Textile and Apparel Products Exported to the United States.

Asuncion B. Kalalo
Eden Malapad
Guillermo Parayno
Ramon R. Tayas

[FR Doc. 83-14906 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-25-M

Solicitation of Public Comment on Bilateral Textile Consultations With Taiwan To Review Trade in Categories 315, 433, 444, 448 and 644

June 1, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On April 6, 21, 25, and May 9, 1983 the American Institute in Taiwan requested consultations with the Coordination Council for North American Affairs concerning exports from Taiwan of Categories 315 (printcloth), 433 (Men's and boys' suit type coats), 444 (women's, girls' and infants' suits), 448 (women's girls', and infants' trousers), and 644 (women's girls' and infants' suits). These requests were made on the basis of the bilateral agreement of November 13, 1982, concerning trade in cotton, wool, and man-made fiber textiles and textile products.

SUMMARY: The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with Taiwan, the Committee for the Implementation of Texitle Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 315, 433, 444, 448 and 644, produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Committee for the Implementation of Textile Agreements reserves the right under the Agreement to invoke import controls on these categories, as defined in the bilateral agreement concerning cotton, wool, and man-made fiber textile products from Taiwan.

Any party wishing to comment or provide data or information regarding the treatment of Categories 315, 433, 444, 448 and 644 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these Categories is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 83-15023 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 25, 1983.

The USAF Scientific Advisory Board Ad Hoc Committee on the Engineering and Service Role in the Employment of Air Power will meet at HQ TAC, Langley AFB, VA on June 28, 1983 and at HQ AFSC, Andrews AFB, DC on June 29–30, 1983. The purpose of the meeting will be to review AFSC and TAC prioritization of CE programs and problems. 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. 83-14926 Filed 6-2-83; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Hearing and Meeting

AGENCY: Intergovernmental Advisory Council on Education, Ed.

ACTION: Notice of hearing and meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a hearing and meeting of the Intergovernmental Advisory Council on Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: June 23–24, 1983.

ADDRESS:

June 23—College of Mount St. Joseph, 5701 Delhi Road, Mt. St. Joseph, Ohio 45051

June 24—Stouffer's—Cincinnati Towers, 141 West 6th Street, Cincinnati, Ohio 45202

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C. 20202 (202) 472–6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under Section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council is established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The Intergovernmental Advisory Council on Education will conduct a Public Hearing on June 23, 1983. The hearing schedule is as follows:

9 a.m.–10:30 a.m.—Impact of Block Grant Programs
10:30–10:45 a.m.—Break
10:45–12 noon—The Federal Role in Education
12:00–2:00 p.m.—Lunch
2:00–4:00 p.m.—Tuition Tax Credits
4:00 p.m.—Press Conference

Individuals, organizations, and associations must *preregister* to speak at the June 23 hearing. To preregister, write or phone Ms. Laverne Johnson, Intergovernmental Advisory Council on Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C. 20202 (telephone—(202) 472–6464. (*Commenters will be limited to five (5) minutes.* Each speaker must provide written copies of his/her presentation. Those wishing only to submit comments may do so by mailing them to Ms. Johnson and they will be included in the official record of the hearing.)

The Intergovernmental Advisory Council on Education will meet on June 24. The meeting is open to the public and is scheduled from 9 a.m. to 3:30 p.m.

The proposed agenda includes:

Critique of Hearings
Discussion of Council Report
Discussion of Future Council Activities

Records are kept of all Council proceedings and are available for public inspection at the office of the Intergovernmental Advisory Council on Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C. 20202.

Signed at Washington, D.C., on Tuesday, May 31, 1983.

Wendy Borcherdt,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 83-14879 Filed 6-2-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

ARCO Oil and Gas Co., Division of Atlantic Richfield Company, et al.; Notice of Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

May 31, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene if filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft³	Pressure base
G-3894-013, D, May 9, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	United Gas Pipeline Company, Sibley Field, Webster County, Louisiana.	(1)	
G-3894-014, D, May 11, 1983	do	Tennessee Gas Pipeline Company, Mustang Island Field, Nueces County, Texas.	(2)	
G-6342-006, D, May 9, 1983	Conoco Inc., P. O. Box 2197, Houston, Texas 77252.	El Paso Natural Gas Company, State 10 No. 2 Well, Unit Letter E, Section 10-21S-37E, Monument Area, Lea County, New Mexico.	(3)	
G-6958-000, D, May 13, 1983	do	Montana-Dakota Utilities Company, Elk Basin Unit, Park County, Wyoming and Carbon County, Montana.	(4)	
G-6590-000, D, May 13, 1983	do	Montana-Dakota Utilities Company, South Elk Basin Unit Area (certain horizons only), Park County, Wyoming.	(4)	
G-10712-000, D, May 16, 1983	Northern Natural Gas Producing Company, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Hugoton Field, Finney and Grant Counties, Kansas.	(5)	
G-13098-000, D, May 12, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Northern Natural Gas Company, Mocane-Laverne Field, Beaver County, Oklahoma.	(5)	
G-14440-000, D, May 13, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Montana-Dakota Utilities Co., South Elk Basin Unit, Park County, Wyoming.	(4)	
G-14454-000, D, May 13, 1983	do	Montana-Dakota Utilities Co., South Elk Basin Unit, Park County, Wyoming.	(4)	
G-18117-000, D, May 9, 1983	Tenneco Oil Company, Operator & Agent for Tema Oil Company, P.O. Box 2511, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company, Mocane-Laverne Field, Harper County, Oklahoma.	(7)	
G-18747-000, D, May 12, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	El Paso Natural Gas Company, Bisti Field, San Juan County, New Mexico.	(5)	
CI61-254-000, D, May 16, 1983	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Socony Mobil Oil Company, Inc., Holly Ridge Field, Tensas Parish, Louisiana.	(8)	
CI62-1120-000, D, May 16, 1983	Union Oil Company of California, Union Oil Center, P.O. Box 7600, Los Angeles, California 90051.	Transcontinental Gas Pipe Line Corporation, Block 35, Block, 23 Field, Block 49, Block 48 Field, South Marsh Island Area, Offshore Louisiana.	(10)	
CI65-1275-000, D, May 12, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Northwest Central Pipeline Corp. (formerly Cities Service Gas Company), South Bishop Field, Ellis County, Oklahoma.	(11)	
CI66-422-000, D, May 11, 1983	do	Michigan Wisconsin Pipeline Co., Boston Bayou Field, Vermilion Parish, Louisiana.	(12)	
CI66-1128-001, D, May 11, 1983	do	Northwest Central Pipeline Corp. (formerly Cities Service Gas Company), Bishop Area, Roger Mills County, Oklahoma.	(13)	
CI67-861-001, D, May 5, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Tennessee Gas Pipeline Company (formerly Tennessee Gas Transmission Company), Ship Shoal Block 144, Offshore Louisiana.	(14)	
CI67-864-000, D, May 13, 1983	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102.	Tennessee Gas Pipeline Company, Ship Shoal Block 144, Offshore Louisiana.	(14)	
CI68-156-002, C, May 16, 1983	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Natural Gas Pipeline Company of America, N. E. Custer City, Custer County, Oklahoma.	(15)	14.65
CI68-690-000, D, May 11, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Natural Gas Pipeline Company of America, Crittendon Field, Winkler County, Texas.	(15)	
CI68-1302-001, C, May 12, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Michigan Wisconsin Pipe Line Company, Eugene Island Block 266 Field, Offshore Louisiana.	(16)	15.025
CI70-1075-001, C, May 12, 1983	do	Michigan Wisconsin Pipe Line Company, Eugene Island Block 266 Field, Offshore Louisiana.	(16)	15.025
CI73-44-002, C, May 12, 1983	do	Michigan Wisconsin Pipe Line Company, Eugene Island Block 266 Field, Offshore Louisiana.	(16)	15.025
CI73-386-000, D, May 28, 1982	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	Arkansas Louisiana Gas Company (Division of Arkla Inc.), Lacy Area Field, Kingfisher County, Oklahoma.	(17)	
CI76-334-004, D, Apr. 25, 1983	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102.	Panhandle Eastern Pipe Line Company, Thunder Creek Field, Campbell County, Wyoming.	(17)	
CI76-269-001, E, May 13, 1983	Texaco Producing Inc. (Successor in Interest to Texaco Inc), P.O. Box 52332, Houston, Texas 77052.	Columbia Gas Transmission Corporation, Eugene Island Block 313, Platform A, Offshore Louisiana.	(18)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price Per 1,000 ft³	Pressure base
D76-689-001, E, May 13, 1983	....do	Columbia Gas Transmission Corporation, Eugene Island Block 313, Platform B, Offshore Louisiana.	(19)	15.025
D77-730-001, E, May 13, 1983	....do	Columbia Gas Transmission Corporation, Eugene Island Block 330 Field, Offshore Louisiana.	(19)	15.025
D81-250-001, C, May 23, 1983	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, Galveston Blocks A-126, A-131, A-156 and A-157, Offshore Texas.	(21)	14.65
D83-106-001, C, May 18, 1983	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	West Lake Arthur Corporation, Vermilion Block 251, Offshore Louisiana.	(22)	15.025
D83-232-000, B, May 5, 1983	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Texas 79189.	Colorado Interstate Gas Company, Playa Area Field, Sweetwater County, Wyoming.	(23)	
D83-234-000, B, May 9, 1983	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water Street, Wichita, Kansas 67201.	Tennessee Gas Pipeline Company, Hargill Field, Hidalgo County, Texas, Texas Gulf Coast Area.	(24)	
D83-235-000, A, May 9, 1983	Newmont Oil Company, 600 Jefferson Avenue, Suite 930, Houston, Texas 77002.	Transcontinental Gas Pipe Line Corporation, North Half of Block 138, High Island Area, Offshore Texas.	(25)	14.65
D83-236-000, A, May 12, 1983	ARCO Oil and Gas Company, Division Of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Cajun Natural Gas Company, West Cameron Blocks 211 and 212, Offshore Louisiana.	(26)	15.025
D83-237-000, (G-12618), B, May 13, 1983.	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102.	Columbia Gas Transmission Corporation, W. Gueydan Field, Vermilion Parish, Louisiana.	(27)	
D83-238-000, B, May 13, 1983	Robert Mosbacher, 1300 Main Street, Suite 2100, Houston, Texas 77002.	Michigan Wisconsin Pipe Line Company, Buck Point Field, Vermilion Parish, Louisiana.	(28)	
D83-239-000, E, May 18, 1983	Anadarko Production Company (Successor in Interest To Phillips Petroleum Company), P.O. Box 1330, Houston, Texas 77251.	El Paso Natural Gas Company, West Bisti Lower Gallup Sand Unit Area, San Juan County, New Mexico.	(29)	
D83-240-000, B, May 16, 1983	Sabine Production Company, 1200 Mercantile Bank Bldg., Dallas, Texas 75201.	Arkansas Louisiana Gas Company, Missionary Lake Field, Caddo Parish, Louisiana.	(30)	
D83-241-000, (CI66-551), B, May 23, 1983.	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Arkansas Louisiana Gas Company, A. B. Camp Unit, Section 28-5N-12E, Pittsburg County, Oklahoma.	(31)	
D83-242-000, A, May 23, 1983	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, Matagorda Island Block 669 Field, Offshore Texas.	(32)	14.65
D83-243-000, A, May 23, 1983	Diamond Shamrock Corporation, P.O. Box 631, Amarillo, Texas 79173.	Trunkline Gas Company, Block A-365, High Island Area, East Addition, South Extension, Offshore (Federal) Texas.	(33)	14.73
D83-244-000, A, May 24, 1983	Louisiana Land Offshore Exploration Company, Inc., Post Office Box 60350, New Orleans, Louisiana 70160.	Transco Gas Supply Company, High Island Block A-568 Field, Gulf of Mexico.	(34)	14.65
D83-245-000, A, May 24, 1983	The Louisiana Land and Exploration Company, Post Office Box 60350, New Orleans, Louisiana 70160.	Transco Gas Supply Company, High Island Area Block A-568 Field, Gulf of Mexico.	(34)	14.65

[1] The two Release of Oil, Gas and Mineral Leases covering lease Nos. LA-4038 and LA-3433 were executed on December 18, 1981 and January 16, 1981 respectively.
[2] The leases were dropped by our predecessor in interest (Sinclair Oil & Gas Company) as ARCO Oil and Gas Company, Division of Atlantic Richfield Company has no further interest in said leases.
[3] The State 10 No. 2 Well was reclassified by the New Mexico Oil Conservation Division from a gas well to an oil well.
[4] Filing an Application to Partially Abandon Service for a Limited Period of Time to permit Conoco to use that portion of residue gas which the buyer has informed Conoco that it no longer is able to purchase at the present time.
[5] To release gas for irrigation fuel.
[6] Partial abandonment is requested because ARCO no longer owns any interest in Lease Nos. 317, 331, 333 and 657.
[7] Plugging and abandonment of the Otto (Barby) #1-7 Well, located on the Otto Lease, Mocane-Laverne Field, Harper County, Oklahoma.
[8] ARCO no longer owns any interest in the subject acreage as a result of the Release of Oil, Gas and Mineral Lease executed February 1, 1972.
[9] By Assignment dated April 7, 1978, Mobil Oil Corporation, predecessor in interest to Mobil Oil Exploration & Producing Southeast Inc. assigned to John W. McGowan and Collins Wohner all of its right, title and interest in and to those certain oil, gas and mineral leases.
[10] Depleted. Lease OCS-0781 (Block 35) was released to the Bureau of Land Management by release filed April 29, 1982. Union has until June 29, 1983 to plug and abandon any wells and remove all structures from the lease.
[11] ARCO no longer owns any interest in NW Section 25-17N-26W, containing 159.50 acres.
[12] Deletion of acreage. ARCO has no remaining reserves or production.
[13] OCS-0815 (Ship Shoal Block 144) has expired.
[14] OCS Lease No. 0815 (Ship Shoal Block 144) expired on October 18, 1981.
[15] Applicant is filing to add additional acreage.
[16] Applicant is filing under Gas Sales Contract dated June 3, 1970, amended by Amendment Gas Sales Contract dated April 8, 1983.
[17] Non-productive.
[18] Applicant has acquired by assignment the interest of Texaco Inc., Assignor, in certain properties in the Eugene Island Block 313 A Platform, Offshore Louisiana effective September 1, 1982.
[19] Applicant has acquired by assignment the interest of Texaco Inc., Assignor, in certain properties in the Eugene Island Block 313 B Platform, Offshore Louisiana effective September 1, 1982.
[20] Applicant has acquired by assignment the interest of Texaco Inc., Assignor, in certain properties in the Eugene Island Block 330 Field, Offshore Louisiana effective September 1, 1982.
[21] Applicant is filing under Gas Purchase Agreement dated May 17, 1979 amended by Amendatory Agreements dated September 7, 1980 and October 1, 1980.
[22] Applicant is filing under Gas Purchase and Sales Agreement dated December 23, 1982 amended by Amendment dated April 21, 1983.
[23] Due to depletion of casinghead gas and gas well gas from the reservoirs and underlying the lands which were the subject of said Gas Purchase Agreements, deliveries therefrom are no longer economically feasible and, accordingly, said agreements have been mutually cancelled and terminated.
[24] There are no longer gas sales subject to the jurisdiction of the Commission from acreage dedicated under the terms of the Gas Sales Contract filed as Energy Reserves Group, Inc.
[25] Applicant is filing under Gas Purchase Contract dated January 11, 1983.
[26] Applicant is filing under Gas Purchase Contract dated May 11, 1983.
[27] Cities sold and assigned its last producing property under the subject contract effective August 1, 1976 and the contract was allowed to expire effective September 16, 1977.
[28] Due to decline in production, it became uneconomical to produce the wells and the unit expired for lack of production in commercial quantities.
[29] The Clements #1, following sidetracking, was permanently plugged and abandoned by the operator, Louisiana Land & Exploration, on December 21, 1979.
[30] By assignment executed January 15, 1964, effective January 1, 1964, Applicant acquired 50% of Phillips interest in the south half and the south half of the northwest quarter of Section 36, Township 26 North, Range 13 West, San Juan County, New Mexico dedicated under a contract dated October 22, 1958, as amended.
[31] No gas is currently being produced from the acreage. The only gas well on the lease was plugged and abandoned July 23, 1981, and Getty released the acreage April 19, 1982.
[32] Applicant is filing under Gas Purchase Contract dated January 7, 1983.
[33] Applicant is filing under Gas Purchase Contract dated May 2, 1983.
[34] Applicant agrees to accept a certificate conditioned on the maximum lawful price under Section 104 of the NGPA but reserves its right to file for and collect any higher rate which it may be entitled to collect under the NGPA.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-14954 Filed 6-2-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. EL83-21-000]

Basin Electric Power Cooperative and Merrill Lynch Leasing, Inc.; Termination of Docket

May 31, 1983.

On May 3, 1983, a letter was submitted to the commission on behalf of Basin Electric Power Cooperative (Basin Electric). The letter requested an opinion as to whether Merrill Lynch Leasing Inc. or St. Paul Bank for Cooperatives would become public utilities pursuant to Section 201(e) of the Federal Power Act by virtue of entering into a leasing arrangement with Basin Electric.

This matter was treated as a request for a declaratory order, assigned Docket No. EL83-21-000, and noticed for public comment. No comments were received in response to that notice. By letter dated May 16, 1983, Basin Electric indicated that it desired only a written staff opinion concerning the jurisdiction question, rather than a formal declaratory order by the Commission. An interpretation was requested by May 20, 1983.

On May 20, an opinion letter was sent to Basin Electric by the Commission's Acting General Counsel. Given this resolution of the inquiry, notice is hereby given that Docket No. EL83-21-000 is terminated.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14955 Filed 6-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-281-000]

Fabulous Inns of America; Notice of Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 31, 1983.

On May 6, 1983, Fabulous Inns of America, 2485 Hotel Circle Place, San Diego, California 92108, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The internal combustion engine topping-cycle cogeneration facility will be located in San Diego, California. The primary energy source to the facility will be natural gas. The electric power production capacity of the facility will be 65 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date publication of this notice and must be served on the applicant. 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. 83-14956 Filed 6-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-280-002]

Northern Natural Gas Co., Division of InterNorth, Inc.; Amendment to Application

May 26, 1983.

Take notice that on May 17, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-280-002 a further amendment to its application filed in Docket No. CP82-280-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect the transportation of gas from Ventura, Iowa, to Ogden, Iowa, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In its application filed April 8, 1982, as amended on October 12, 1982, Applicant proposed to exchange certain volumes of natural gas with East Tennessee Natural Gas Company (East Tennessee) at Ogden, Iowa, and to transport and redeliver such volumes to Northern Illinois Gas Company (NI-Gas) at East Dubuque, Illinois, for East Tennessee's account pursuant to a gas exchange and transportation agreement dated February 25, 1982.

Applicant proposes herein the further transportation of gas from a point of interconnection between the pipeline systems of Applicant and Northern Border Pipeline Company located near Ventura, Iowa, to Ogden, Iowa.

Any person desiring to be heard or to make any protest with reference to said amendment to amend should on or before June 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not do so again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-14957 Filed 6-2-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-255-000]

Royster Co.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

May 31, 1983

On April 15, 1983, Royster Company, Two Commercial Place, Norfolk, Virginia 23501, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at a fertilizer plant in Polk County, Florida. The primary energy source to the facility will be waste heat from chemical process reactions made available to the facility as high pressure steam. Steam extracted from the turbine generator will be available for process use at a rate of 70,000 lbs./hr. The electric power production capacity of the facility will be 15 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status 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. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. 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. 83-14658 Filed 6-2-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51469; TSH-FRL 2376-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Acency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of thirty-one PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-753, 83-754, 83-755, and 83-756—August 17, 1983.

PMN 83-757, 83-758, 83-759, 83-760, 83-761, 83-762, 83-763, 83-764, 83-765, and 83-766—August 20, 1983.

PMN 83-767, 83-768, 83-769, 83-770, 83-771, 83-772, 83-773, 83-774, 83-775, 83-776, 83-777, 83-778, and 83-779—August 21, 1983.

PMN 83-780—August 22, 1983.

PMN 83-781, 83-782, and 83-783—August 23, 1983.

Written comments by:

PMN 83-753, 83-754, 83-755, and 83-756—July 18, 1983.

PMN 83-757, 83-758, 83-759, 83-760, 83-761, 83-762, 83-763, 83-764, 83-765, and 83-766—July 21, 1983.

PMN 83-767, 83-768, 83-769, 83-770, 83-771, 83-772, 83-773, 83-774, 83-775, 83-776, 83-777, 83-778, and 83-779—July 22, 1983.

PMN 83-780—July 23, 1983.

PMN 83-781, 83-782, and 83-783—July 24, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51469]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-753

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Styrene acrylic copolymer.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 8 hrs/shift, up to 2 da/yr, 3 shifts/day.

Environmental Release/Disposal. Minimal release. Disposal by incineration.

PMN 83-754

Manufacturer. Confidential.

Chemical. (G) Polyimide ester.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: minimal.

Environmental Release/Disposal. Negligible release. Disposal according to Resource Conservation and Recovery Act (RCRA) regulations.

PMN 83-755

Importer. Confidential.

Chemical. (S) 4-hydroxy-6-phenylaminonaphthalene-2-sulfonic acid.

Use/Import. (S) Manufacture of a dyestuff. Import range: 3,000-8,000 kg/yr.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Irritant.

Exposure. Use: dermal, inhalation and ocular.

Environmental Release/Disposal. No release.

PMN 83-756

Importer. Confidential.

Chemical. (G) (Substituted) (substituted) naphthalene sulfonic acid, and (substituted) (substituted) napthalene sulfonic acid, chloride.

Use/Import. (S) Colorant for paper. Import range: Confidential.

Toxicity Data. Acute Oral: 2.56 ml/kg; Irritation: Skin—Corrosive, IC_{50} (waste water bacteria): > 100 mg/1; Fish Toxicity, 96 hrs: Not toxic @100 mg/1.

Exposure. Negligible.

Environmental Release/Disposal. Disposal by publicly owned treatment works (POTW) and biological treatment system.

PMN 83-757

Manufacturer. Confidential.

Chemical. (G) Functionalized acrylic polymer.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal and ocular, a total of 8 workers, up to 8 hrs/da, up to 70 da/yr.

Environmental Release/Disposal. 1,000-10,000 kg/yr released to water with 100-1,000 kg/yr to land. Disposal by POTW, biological treatment system and approved landfill.

PMN 83-758

Manufacturer. Confidential.

Chemical. (G) Functionalized acrylic polymer.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal and ocular, a total of 13 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 1,000-10,000 kg/yr released to water with 100-1,000 kg/yr to land. Disposal by POTW, biological treatment system and approved landfill.

PMN 83-759

Manufacturer. Confidential.

Chemical. (G) Functionalized acrylic polymer.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal and ocular, a total of 13 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 1,000-10,000 kg/yr released to water with 100-1,000 kg/yr to land. Disposal by POTW, biological treatment system and approved landfill.

PMN 83-760

Importer. Confidential.

Chemical. (G) Methylpropenylpyridine.

Use/Import. Confidential. Import range: 1–10 kg/yr.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Not an irritant, Eye—Non-irritant. Repeated insult patch test/photosensitization study in human subjects: Non-sensitizer.

Exposure. Use: a total of 2 workers, up to < 1 hr/da, up to <20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air.

PMN 83–761

Importer. Confidential.

Chemical. (G) Substituted cyclopentadione.

Use/Import. Confidential. Import range: 1–1,000 kg/yr.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Not an irritant, Eye—Irritant. Repeated insult patch test/photosensitization study in human subjects: Non-sensitizer.

Exposure. Use: workplace, a total of 2 workers, up to < 1 hr/da, up to < 20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air.

PMN 83–762

Importer. Confidential.

Chemical. (G) Octenal.

Use/Import. Confidential. Import range: 1–1,000 kg/yr.

Toixicity Data. Acute oral: > 5.0 g/kg; Acute dermal: > 2.0 g/kg; Irritation: Skin—Not an irritant, Eye—Irritant. Repeated insult patch test/photosensitization study in human subjects: Non-sensitizer.

Exposure. Use: workplace, a total of 2 workers, up to < 1 hr/da, up to < 20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air.

PMN 83–763

Manufacturer. Confidential.

Chemical. (G) N,N'-bis (substituted alkyl) dicarboxylic acid diamide.

Use/Production. (S) Intermediate. Prod. (maximum 12-month estimate): 206,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 3 workers, up to 1 hr/da, up to 100 da/yr.

Environmental Release/Disposal. 200 kg/yr released to water. Disposal by POTW.

PMN 83–764

Manufacturer. Confidential.

Chemical. (G) N,N'-bis (substituted alkyl) dicarboxylic acid diamide.

Use-Production. (S) Intermediate. Prod. (maximum 12 month estimated): 214,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 3 workers, up to 1 hr/da, up to 100 da/yr.

Environmental Release/Disposal. 200 kg/yr release to water. Disposal by POTW.

PMN 83–765

Manufacturer. Confidential.

Chemical. (G) Poly[alkylene-bis(amidoalkyl)-bis(dialkyl)oxaalkylene diammonium dichloride].

Use/Production. (S) Hair care, bath gel, liquid soap formulations, oil well stabilization, and flocculants. Prod. (maximum 12-month estimate): 300,000 kg/yr.

Toxicity Data. Acute oral: 8.1 ml/kg; Irritation: Skin—Mild, Eye—Non-irritant.

Exposure. Manufacture: a total of 5 workers, up to 2 hrs/da, up to 130 da/yr.

Environmental Release/Disposal. 200 kg/yr release to water. Disposal by POTW.

PMN 83–766

Manufacturer. Confidential.

Chemical. (G) Poly[alkylene-bis(amidoalkyl)-bis(dialkyl)oxaalkylene diammonium dichloride].

Use/Production. (S) Hair care, bath gel, liquid soap formulations, oil well stabilization, and flocculants. Prod. (maximum 12-month estimate): 300,000 kg/yr.

Toxicity Data. Acute oral: 5.3 ml/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture: a total of 5 workers, up to 2 hrs/da, up to 13 da/yr.

Environmental Release/Disposal. 200 kg/yr released to water. Disposal by POTW.

PMN 83–767

Manufacturer. Confidential.

Chemical. (G) Trisubstituted heterocycle.

Use/Production. (G) Site-limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: Approx. 2,000 mg/kg; Acute dermal: > 1,000 mg/kg; Irritation: Skin—Strong, Eye—Severe.

Exposure. Manufacture and use: dermal and inhalation.

Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by biological treatment system and incineration.

PMN 83–768

Manufacturer. Confidential.

Chemical. (G) Trisubstituted heterocycle.

Use/Production. (G) Site-limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 1,000 mg/kg; Acute dermal: > 1,000 mg/kg; Irritation: Skin—Slight, Eye—Moderate.

Exposure. Manufacture and use: dermal and inhalation.

Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by biological treatment system and incineration.

PMN 83–769

Manufacturer. Confidential.

Chemical. (G) Disubstituted heterocycle.

Use/Production. (G) Site-limited chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: > 1,000 mg/kg; Acute dermal: > 1,000 mg/kg; Irritation: Skin—Slight, Eye—Moderate.

Exposure. Manufacture and processing: dermal and inhalation.

Environmental Release/Disposal. Less than 10 kg/yr released to air. Disposal by biological treatment system and incineration.

PMN 83–770

Importer. Confidential.

Chemical. (G) Cobalt complex of a substituted phenolazonaphthol.

Use/Import. (S) Colorant for textiles. Import range: 200-1,000 kg/yr.

Toxicity Data. Acute oral: > 6.8 g/kg; Irritation: Skin—Mild, Eye—Severe; Biodegradation: 50–100%, static method.

Exposure. Processing: dermal and inhalation, a total of 12 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to water. Disposal by POTW and incineration.

PMN 83–771

Importer. Confidential.

Chemical. (G) Chromium complex of substituted phenylazoalkyl arylamino-formimidphenol with sulfonaphthylazosulfonaphthol.

Use/Import. (S) Colorant for textiles. Import range: 200–1,000 kg/yr.

Toxicity Data. Acute oral: > 5 g/kg; Irritation: Skin—Slight Eye—Moderate; Biodegradation: 0–,0%, static method.

Exposure. Processing: dermal and inhalation, a total of 12 workers, up to 2 hrs/da, up to 60 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released to water. Disposal by POTW and incineration.

PMN 83–772

Manufacturer. Confidential.

Chemical. (G) [(haloheterocyclicoxy)aryl oxy] alkanoate.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 393-599 mg/kg; Acute dermal: > 5,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Lc^{50}, (Fathead minnows): 0.34 mg/L; Skin sensitization: Negative.

Exposure. Dermal and inhalation, a total of 12 workers, up to 1.5 hrs/da, up to 150 da/yr.

Environmental Release/Disposal. Release is minimal. Disposal by biological treatment system and incineration.

PMN 83-773

Manufacturer. Confidential.

Chemical. (G) Polyester.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-774

Importer. Confidential.

Chemical. (G) Substituted phenolic derivative, alkyl ester.

Use/Import. (S) Industrial use as an antioxidant/stabilizer for lubricants and certain polymers. Import range: Confidential.

Toxicity Data. Acute oral: 4,320 mg/kg; Irritation: Skin—Slight, Eye—none; Salmonella and escherichial/liver microsome test—negative without and with activation; 28 days peroral range finding study in rats—NOEL<300 mg/kg.

Exposure. Processing and use; dermal.

Environmental Release/Disposal. No release. Disposal by incineration, approved landfill or refined and recycled.

PMN 83-775

Manufacturer. Confidential.

Chemical. (G) Polymer of mixed acrylates and methacrylates.

Use/Production. (S) Site-limited and industrial intermediate used in metal coating. Prod. range: 5,000-1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and disposal: dermal, a total of 11 workers, up to 1 hr/da, up to 150 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by incineration and approved landfill.

PMN 83-776

Manufacturer. Confidential.

Chemical. (G) Hydrogenated diene copolymer.

Use/Production. (G) Dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 6 workers, up to 12 hrs/da, up to 300 da/yr.

Environmental Release/Disposal. 1,000-10,000 kg/yr released to land. Disposal by incineration and approved landfill.

PMN 83-777

Importer. Confidential.

Chemical. (G) Disubstituted methanone.

Use/Import. Confidential. Import range: Confidential.

Toxicity Data. Acute oral: > 250 mg/kg; Acute dermal: > 1,000 mg/kg; Irritation: Skin—Slight, Eye—Mild; Skin sensitization: Non-sensitizer; Skin absorption: Not readily absorbed.

Exposure. Use: a total of 2 workers, up to 8 hrs/shift, 800 manhours/yr, 30 min/batch.

Environmental Release/Disposal. No release. Disposal by water effluent system.

PMN 83-778

Manufacturer. Chem-Fleur, Inc.

Chemical. (G) Cyclomethylene citronellal.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by incineration.

PMN 83-779

Manufacturer. Chem-Fleur, Inc.

Chemical. (G) Cyclomethylene citronellal.

Use/Production. (S) Industrial and consumer fragrance base. Prod. range: 1,500-20,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by incineration.

PMN 83-780

Manufacturer. Ethyl Corporation.

Chemical. (G) Aryl borate.

Use/Production. (S) Industrial lube oil additive. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 g/kg; Acute dermal: > 5 g/kg; Irritation: Skin—Non-irritant, Eye—Mild; Ames Test: Non-mutagenic; HPC/DNA Repair assay—Non-mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by approved landfill.

PMN 83-781

Manufacturer. Confidential.

Chemical. (G) An organic complex of a halogenated metal.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, use and disposal: dermal and ocular, a total of 12 workers, up to 6 hrs.

Environmental Release/Disposal. No release. Disposal by incineration and landfill.

PMN 83-782

Manufacturer. Confidential.

Chemical. (G) Product of alcohol, halogenated metal, organic complex of halogenated metal.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and disposal: dermal and ocular, a total of 10 workers, up to 16 hrs/da.

Environmental Release/Disposal. No release. Disposal by approved landfill.

PMN 83-783

Manufacturer. Confidential.

Chemical. (G) An organic complex of a halogenated metal.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and disposal: dermal and ocular, a total of 12 workers, up to 4 hrs/da.

Environmental Release/Disposal. No release. Disposal by incineration and approved landfill.

Dated: May 31, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83-14283 Filed 6-2-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51442B; TSH-FRL 2376-1]

Premanufacture Notices; Termination of an Extended Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is terminating the remaining portion of a 90-day extension of the review periods for premanufacture notices (PMN's) 83-129 through 83-235, which was issued pursuant to section 5(c) of the Toxic Substances Control Act (TSCA). The review periods will now expire on May 26, 1983. The PMN's were submitted by Union Oil Company of California for a full range, dewaxed, dearsenited shale oil (Syncrude) and for Syncrude-derived refinery stream derivatives.

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control

Division (TS-794), Environmental Protection Agency, Rm. E-203, 401 M St., SW., Washington, D.C. 20460, (202-382-3734).

SUPPLEMENTARY INFORMATION:

I. Background

Under section 5 of TSCA anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a premanufacture notice (PMN) to EPA 90 days prior to commencement of manufacture or import. Under section 5(c) EPA may extend the notice period for good cause for additional periods, not to exceed an aggregate of 180 days from the date of receipt. EPA issued proposed rules to implement the premanufacture notification program in the **Federal Register** of January 10, 1979 (44 FR 2263). Section 720.35 of the proposed rules addressed the section 5(c) extension authority and provided examples of situations in which the Agency believed there would be good cause to extend the notice period.

II. Review to Date

On November 16, 1982 EPA recieved PMN's 83-129 thru 83-235 from Union Oil Company of California for a substance described as a full range dewaxed, dearsenited shale oil (Syncrude), a petroleum crude oil substitute, and for 106 Syncrude-derived refinery streams. One of the PMN substances, PMN 83-164 (full range catalytic reformed naphtha (shale oil)) was found to be a duplication of PMN 83-143. Notice of receipt of the PMN's was published in the **Federal Register** of December 2, 1982 (47 FR 54357). The submitter plans to produce 12,000 barrels of Syncrude daily. Products derived from Syncrude will be used as jet fuel, diesel fuel, and residual fuel. Products derived from Syncrude-petroleum crude mixtures may include liquid petroleum gases, motor gasolines, naphtha, middle-distillates, aviation turbine fuels, lubricating products, industrial oils, crankcase oils, greases, residual and light fuel oils, and coke.

The original review period was scheduled to expire on Feburary 13, 1983. On February 11, 1983, EPA extended the review period for an additional 90 days, to May 14, 1983. Notice of this action was published in the **Federal Register** of February 22, 1983 (48 FR 7494). EPA extended the review period because, due to the volume and complexity of information submitted in the PMN's, the Agency had insufficient time to complete its review during the initial 90-day period. The PMN submitter also voluntarily suspended the review period on several occasions. The end of the review period is currently scheduled to occur on July 24, 1983.

During the additional time allowed by the extension and the submitter's voluntary suspensions, EPA concluded that there is insufficient information for EPA to evaluate the following: (1) The chemical composition of the fully commercialized Syncrude; (2) the chronic health hazards and the acute and chronic environmental hazards of Syncrude and its derived refinery streams, as compared to analogous petroleum products; (3) the potential risks to workers during manufacture of the Syncrude; and (4) the potential health and environmental effects which may result from the management of wastes from the manufacture of Syncrude. The Agency also determined that the PMN substances will be produced in substanial quantities and may be expected to enter the environment in substantial quantities, and that there may be significant and/or substantial human exposure.

III. Termination of the Review Period Extension

Based on its analysis, EPA found that it was appropriate to regulate the PMN substances pursuant to section 5(e) of TSCA. The Agency has negotiated a section 5(e) Consent Order with the submitter which limits production of the Syncrude, and thus its derived refinery streams, while additional data are developed. The Consent Order was effective as of May 26, 1983. Therefore, the Agency no longer requires the additional time provided under section 5(c), and terminates the remaining portion of the 90-day extension.

IV. Public Record

PMN's 83-129 through 83-235 are available for public inspection in Rm. E-107, at the EPA Headquarters, address given above, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: May 26, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-14892 Filed 6-2-83; 8:45 am]

BILLING CODE 6560-50-M

[SAB FRL 2376-3]

Science Advisory Board; Environmental Engineering Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Environmental Engineering Committee (EEC) of the Science Advisory Board will be held in Conference Room 5167-5169, HHS/North Building, Department of Health and Human Services, 330 Independence Avenue, SW., Washington, D.C., on June 22-23, 1983. The meeting will begin at 9:00 a.m. and last until approximately 5:00 p.m. each day.

There will be three main agenda items. First, the Committee will continue review of technical support data pertaining to the proposed EPA effluent guidelines for the pesticides industry, developed under the Clean Water Act. The major issue under review will be the techniques and assumptions used by EPA in determining the types and levels of technology used to establish treatment limits, particularly for those pesticides for which an adequate data base does not exist.

The Committee will also continue its review of proposed revisions to the Agency's definitions of secondary treatment. The major scientific issues pertaining to this review by the Committee include:

(1) The technical implications of using a BOD test that inhibits nitrification in lieu of the present uninhibited BOD test;

(2) The scientific and technical basis for seasonal (cold-weather) adjustments to trickling filter effluent limitations; and

(3) Whether newly-designed trickling filters can be expected to meet current effluent limits.

The Committee will also discuss plans to continue its review of the proposed effluent guidelines for the Organic Chemicals and Plastics/Synthetic Fibers Industries.

The meeting is open to the public. Any member of the public wishing to participate or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382-2552, or Terry F. Yosie, Staff Director, Science Advisory Board, at (202) 382-4126. Public comment will be accepted at the meeting. Written comment will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comment must contact Mr. Torno prior to June 17, 1983, in order to be placed on the agenda.

Terry F. Yosie,

Staff Director, Science Advisory Board.

May 27, 1983.

[FR Doc. 83-14896 Filed 6-2-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-500 et al. and File No. BPH-810821AE et al.]

B-K Broadcasting Co. et al.; Hearing Designation Order

In the matter of applications of B-K Broadcasting Co., Marshfield, Wisconsin, Req: 92.1 MHz, Channel 221A 3kW (H & V), 300 feet; MM Docket No. 83-500, File No. BPH-810821AE; Russell J. Brown and Richard M. Wold, d.b.a. Brown Broadcasting Group, Marshfield, Wisconsin, Req: 92.1 MHz, Channel 221A 3kW (H&V), 300 feet; MM Docket No. 83-501, File No. BPH-820311AI and Gerald J. Hackman, Mary J. Hackman, and Ann M. Cutts, d.b.a. Hackman Broadcasting, Spencer, Wisconsin, Req: 92.1 MHz, Channel 221A 3kW (H&V), 300 feet; MM Docket No. 83-502 File No. BPH-820414AD for construction permit for a new FM station—designating applications for consolidated hearing on stated issues.

Adopted: May 3, 1983.

Released: May 23, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by B-K Broadcasting Co. (B-K), Russell J. Brown and Richard M. Wold, d.b.a. Brown Broadcasting Group (Brown) and Gerald J. Hackman, Mary J. Hackman, and Ann M. Cutts, d.b.a. Hackman Broadcasting (Hackman).

2. *B-K.* By amendment dated September 15, 1982, B-K amended its application to show the addition of Joann Korn to the partnership. However, the amendment did not mention whether or not Mrs. Korn held any other media interests or provide her citizenship as required by FCC Form 301. Accordingly, it will be necessary for B-K to file an amendment with the presiding Administrative Law Judge.

3. *Brown.* Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Brown published the required notice. To remedy this deficiency, Brown will be required to publish local notice of its application, if they have not already done so, and to file a statement of publication with the presiding Administrative Law Judge.

5. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

6. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

2. To determine the areas and populations which would receive primary aural service (1m V/m or greater in the case of FM) from each proposal and the availability of other primary service to such areas and populations.

3. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

7. It is further ordered, that B-K shall within 30 days of the release of this Order file an amendment with the presiding Administrative Law Judge detailing Joann Korn's citizenship and other broadcast interests, if any.

8. It is further ordered, that Brown shall publish a local notice of its application in accordance with Section 73.3580 of the Commission's Rules and shall file a statement of publication with the presiding Administrative Law Judge within 30 days of release of this Order.

10. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, that the applicants herein shall, pursuant to Section 311(a) (2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix

4. No determination has been reached that the tower heights and locations proposed by the below listed applicants would not constitute a hazard to air navigation.[1] Accordingly, it is further ordered, that the following issue is specified:

1. To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower heights and locations proposed by B-K and Hackman.

9. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

[FR Doc. 83-14680 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket Nos. 83-507 and 83-508; File Nos. 440-CM-P-80 and 3842-CM-P-80]

BA Company and Florida MDS, Inc.; Hearing Designation Order

In the matter of applications of Robert A. Gordon d.b.a. The BA Company (CC Docket No. 83-507, File No. 440-CM-P-80) and Florida MDS, Inc. (CC Docket No. 83-508 File No. 3842-CM-P-80) for construction permits in the Multipoint Distribution Service for a New Station at Lake City, Florida—designating applications for consolidated hearing on stated issues.

Adopted May 13, 1983.

Released May 20, 1983.

By the Common Carrier Bureau.

Memorandum Opinion and Order

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service

[1] It appears that the west longitude coordinates specified in Section V-G (Antenna) of B-K's application are in error.

and they propose operations on Channel 1 at Lake City, Florida. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as a result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR § 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, that Robert A. Gordon d.b.a. The BA Company, Florida MDS, Inc. and the Chief, Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, that parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules, 47 CFR 1.221.

[1] Consideration of these factors shall be in light of the Commission s discussion in *Frank K. Spain*, 77 FCC 2d 20 (1980)

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 83-14884 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. 26054-CL-P-(3)-82 et al. and CC Docket No. 83-445]

GTE Mobilnet of Portland Inc. et al.; Memorandum Opinion and Order Granting Application, Dismissing Application, and Designating Applications for Hearing; Correction

In the matter of applications of GTE Mobilnet of Portland Incorporated (File No. 26054-CL-P-(3)-82) and Advanced Mobile Phone Service, Inc. (File No. 26017-CL-P-(10)-82) for a construction permit to establish a cellular system operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service (DPCRTS) to serve the Portland, Oregon/Washington, Standard Metropolitan Statistical Area (SMSA).

In the matter of applications of CC Docket No. 83-445: American Mobile Communications of Washington and Oregon (File No. 26110-CL-P-(6)-82), Cellular Mobile Systems of Washington, Inc. (File No. 26183-CL-P-(8)-82), Interstate Mobilephone Co. (File No. 26150-CL-P-(6)-82), MCI Cellular Telephone Co. (File No. 26104-CL-P-(5)-82) and Parr Communications Co. (File No. 26082-CL-P-(7)-82) for a construction permit to establish a cellular system operating on frequency Block A in the DPCRTS to serve the Portland, Oregon/Washington, Standard Metropolitan Statistical Area; Erratum (See 48 FR 22205, 5-17-83)

Released May 20, 1983.

On May 9, 1983, the Common Carrier Bureau released an order in the captioned proceeding. In footnote 5 of the order, the Bureau stated that an ownership change in connection with the application of Interstate Mobilephone Co. was similar to an ownership change considered in *American Radio Telephone Service, Inc.*, CC Mineo 812, released November 16, 1982, *review granted in part*, FCC 83-179, released May 9, 1983 (*Washington/Baltimore Order*). However, because the ownership change in this proceeding is not part of a settlement or partial settlement, it is distinguishable from the change considered in the *Washington/Baltimore Order*. Accordingly, footnote 5 is unnecessary and is deleted in its entirety.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 83-14887 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. 26054-CL-P-(3)-82 et al. and CC Docket No. 83-445]

GTE Mobilnet of Portland, Inc., et al.; Memorandum Opinion and Order Granting Application, Dismissing Application, and Designating Applications for Hearing; Correction

In the matter of applications of GTE Mobilnet of Portland Incorporated (File No. 26054-CL-P-(3)-82) and Advanced Mobile Phone Service, Inc. (File No. 26017-CL-P-(10)-82) for a construction permit to establish a cellular system operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service (DPCRTS) to serve the Portland, Oregon/Washington, Standard Metropolitan Statistical Area (SMSA).

In the matter of applications of CC Docket No. 83-445: American Mobile Communications of Washington and Oregon (File No. 26110-CL-P-(6)-82); Cellular Mobile Systems of Washington, Inc. (File No. 26183-CL-P-(8)-82), Interstate Mobilephone Co. (File No. 26150-CL-P-(6)-82), MCI Cellular Telephone Co. (File No. 26104-CL-P-(5)-82), and Parr Communications Co. (File No. 26082-CL-P-(7)-82) for a construction permit to establish a cellular system operating on frequency Block A in the DPCRTS to serve the Portland, Oregon/Washington, Standard Metropolitan Statistical Area; Erratum (See 48 FR 22205; 5-17-83).

Released: May 17, 1983.

The Memorandum Opinion and Order Granting Application, Dismissing Application, and Designating Applications for Hearing in the above entitled matter, CC Mimeo No. 4027, Adopted April 28, 1983, released May 9, 1983, is corrected to add a last line to footnote 4. The last sentence should read as follows: "The arguments raised by both petitions were considered in the Seattle Order, although specific reference to Amcom's petition was inadvertently omitted."

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 83-14886 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-503 and 83-504; File Nos. BPH-811204AI and BPH-820616AL]

Hancock County Broadcasting, Inc. and Waycross Radio; Hearing Designation Order

In the matter of applications of Hancock County Broadcasting, Inc., Waycross, Georgia, Req: 97.7 MHz, Channel No. 249A, 3.0 kW (H&V), 300 feet (MM Docket No. 83-503, File No. BPH-811204AI) and Janice C. Koger & Joane Brehm, a Partnership, d/b/a Waycross Radio, Waycross, Georgia, Req: 97.7 MHz, Channel No. 249A, 3.0 kW (H&V), 300 feet (MM Docket No. 83-504, File No. BPH-820616AL) for construction permit for a

new FM station—designating applications for consolidated hearing on stated issues.

Adopted: May 3, 1983.

Released: May 23, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Hancock County Broadcasting, Inc. (HCB) and Janice C. Koger & Joane Brehm, a partnership, d/b/a Waycross Radio, (Radio).

2. *Radio.* Radio will not be able to provide a 3.16 mV/m signal to the entire city of Waycross as required by Section 73.315(a) of the Commission's Rules. Radio, in requesting a waiver of this section, indicates that it will provide a city grade contour over all populated areas in Waycross, but that it will not provide coverage to an unpopulated two mile strip of railroad property which is included within the Waycross city boundary. Under these circumstances, a waiver is warranted. *Irwin County Broadcasting Corp.*, 50 RR 2d 131 (1981).

3. Radio fails to provide data relative to the size of the area and population which would receive service from its proposal, as required by question 10(d) of Section V–B of FCC Form 301. To remedy this deficiency Radio will be required to provide the Administrative Law Judge with the required information. Upon receipt of such data, the Administrative Law Judge can determine whether it is necessary to consider any variations in coverage within the context of the comparative issue.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive they must be designated for hearing in a consolidated proceeding.

5. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, that, if the Radio application is granted, the permit shall specify that the provisions of § 73.315(a) of the Commission's Rules are waived to permit a signal level of less than 3.16 mV/m over the entire city of Waycross, Georgia.

7. It is further ordered, that Radio shall file data with the presiding Administrtive Law Judge, relative to question 10(d) of Section V–B of FCC Form 301.

8. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-14681 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83–521 and 83–522; File Nos. BR–4827 and BP 811124BL]

KOBY Radio and First Broadcasting of Nevada, Inc, Inc.; Hearing Designation Order

In the matter of applications of Thompson Magowan and James M. Cunningham d.b.a KOBY RADIO, a partnership, for renewal of license (KOBY (AM), Reno, Nevada) Has: 1550 kHz, 10 kW, D (MM Docket No. 83–521, File No. BR–4827) and First Broadcasting of Nevada, Inc., Reno, Nevada, Req. 1550 kHz, 10 kW, D (MM Docket No. 83–552, File No. BP–811124BL) for construction permit—designation applications for consolidated hearing on stated issues.

Adopted: May 23, 1983.

Released: May 27, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the application of Thompson Magowan and James M. Cunningham d.b.a KOBY Radio (KOBY) for renewal of Station KOBY, Reno, Nevada, an application for a construction permit for the KOBY facilities filed by First Broadcasting of Nevada, Incorporated (FBN), and a response to *ex parte* contacts of KOBY Radio filed by FBN.

2. *KOBY.* KOBY has been off the air since May, 1974; its license renewal has been in deferred status since October, 1974. KOBY was accorded authority to remain silent pending the submission of an assignment application and the resolution of negotiations necessary to resolve problems involved with the assignment. An assignment application was approved by the Commission (BAPL–504) but never consummated due to the withdrawl of the assignee, Alvin L. Korngold, in a letter to the Commission dated November 29, 1982. The station's authority to remain silent expired on July 1, 1979.

3. The Commission has received correspondences from KOBY that refer to "financial problems" encountered by Thompson Magowan, General Partner. The Commission has, therefore, serious doubts about the financial status of KOBY. Consequently, an appropriate issue will be specified.

4. FBN filed a "Response to *Ex Parte* contacts of KOBY Radio" on February 18, 1983 alleging, on the basis of information contained in the Commission's files, that KOBY had violated Section 1.1201 *et seq.* of the Commission's Rules which prohibit any interested party, from the time at which that party has actual notice of the filing of a mutually exclusive application, from making any *ex parte* presentation to decision-making personnel regarding the merits of the application proceeding.[1] Consequently, an issue will be specified below concerning this matter.

5. Except as indicated by the issued specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

[1] Several of the contacts complained of in the file were not *ex parte* because they were directed to non decision-making personnel. One of these letters, however, (to the Chief, Renewal and Transfer Division), was included in a letter to the Chairman of the Commission. The Chairman is included as a part of the "decision-making personnel" under Rule 1.1205. Therefore, this contact raises the issue of a possible *ex parte* contact under Rule 1.1223.

1. To determine whether KOBY Radio has the financial resources to resume and maintain operation of its station.

2. To determine whether an *ex parte* contact was made, and, if so, the effect of the *ex parte* contact upon KOBY Radio's basic and/or comparative qualifications to remain a Commission licensee.

3. To determine which of the applicants would, on a comparative basis, better serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to Section 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

8. It is further ordered, that, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division.

[FR Doc. 83-14883 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-509 and 83-510; File Nos. BP-810428AG and BP-810806AN]

Riverbank Broadcasters and Radio Riverbank, Inc.; Hearing Registration Order

In the matter of applications of Robert A. Jones, Marvin B. Clapp and Carl J. Auel, d/b/a Riverbank Broadcasters, Riverbank, California, Req: 770 kHz, 1 kW, DA-N, U (MM Docket No. 83-509, File No. BP-810428AG) and Radio Riverbank, Inc., Riverbank, California, Req: 770 kHz, 1 kW, 50 kW-LS, DA-2, U (MM Docket No. 83-510, File No. BP-810806AN) for construction permit—designating applications for consolidated hearing on stated issues.

Adopted: May 19, 1983.

Released: May 27, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority has under consideration: (a) The above-captioned mutually exclusive applications for a new AM station; (b) an objection to the Riverbank Broadcasters' application filed by Hubbard Broadcasting, Inc., licensee of station KOB, Albuquerque, New Mexico; (c) a petition to deny the Radio Riverbank, Inc., application filed by Riverbank Broadcasters; and (d) related pleadings.

2. *Riverbank Broadcasters* (Riverbank). Hubbard Broadcasting, Inc. (Hubbard), has filed an objection to the Riverbank proposal. Hubbard states that it has filed a request for waiver of Section 73.22 of the Rules together with an application for modification to operate station KOB as a Class 1-A facility and a petition for rule making to assign frequency 770 kHz to Albuquerque, New Mexico. Hubbard asserts that its proposed operation of KOB as a Class 1-A station on 770 kHz will be "inconsistent" with the Riverbank proposal.

3. By separate letters, both dated June 9, 1981, the Chief of the Broadcast Bureau dismissed the petition for rule making and denied the request for waiver of Section 73.22 of the Rules. Hubbard's two applications for review were considered together by the Commission and we denied. *Hubbard Broadcasting Inc.*, 87 F.C.C. 2d 988 (1981). Hubbard filed an appeal in the United States Court of Appeals for the Eighth Circuit, *Hubbard Broadcasting Inc.* v. *F.C.C.*, Case No. 81-2295. On August 6, 1982, the appeal was dismissed for lack of jurisdiction. On November 4, 1982, Hubbard filed a petition for certiorari at the United States Supreme Court (Case No. 82-772); certiorari was denied on February 22, 1983. Hubbard did not appeal the decision. Hubbard's objection to the Riverbank proposal is now moot and will be dismissed.

4. Section 1.1311(a)(2) of the Commission's Rules requires that the narrative environmental statement contain a description of the proposed facilities including antenna height, access roads and power lines. Riverbank has not submitted the required information; it must do so within thirty (30) days of the release of this Order.

5. *Character questions.* Robert A. Jones, one of the three Riverbank Broadcasters' partners, was the consulting engineer to WKKQ, Inc., licensee of stations WKKQ AM and FM, Hibbing, Minnesota. An application to make changes in the facilities of AM Station WKKQ (BP-780901AG) was designated for hearing by *Memorandum Opinion and Order*, released April 29, 1982 (Docket No. 82-227); certain field strength measurements taken by Mr. Jones and submitted to the Commission, among other things, were at issue. On January 27, 1983, the Presiding Judge issued an *Initial Decision* (ID), F.C.C. 83 D-7, released February 4, 1983.[1] The Presiding Judge found that Mr. Jones failed to conduct the questioned measurements in a professional manner and that he was more interested in completing the measurements in one day than he was in gather accurate data to submit in his engineering affidavit to the Commission. The Presiding Judge further found that Mr. Jones was well aware that much of the survey data concerning the questioned measurements was inaccurate but it was, nevertheless, submited in affidavit form to the Commission. The Presiding Judge "concluded that Robert A. Jones misrepresented the facts to the Commission about his May 20, 1977, field strength measurements. . . ." *ID* conclusions, para. 15. Misrepresentation is a serious offense. However, absent substantive review by the Commission or the Review Board, initial decisions do not establish a precedent which is binding on the Commission in future cases. *See Finalization on Initial Decisions*, FCC 61-25, 20 RR 2d 1141 (1961); *WFPG, Inc.*, 33 FCC 673, 677 (1962); *Western Communications, Inc.*, 59 FCC 2d 1441, 1446 n. 9 (1976). Thus, the Bureau has reviewed the record compiled in the Hibbing proceeding. Based on our review it is concluded that the record does not support the *ID*'s adverse findings and conclusions regarding Jones' conduct. Accordingly, no issue will be specified.

6. *Radio Riverbank Inc.* Riverbank Broadcasters timely filed a petition to deny the Radio Riverbank application. Petitioner alleges the application was untimely filed, is incomplete and violates numerous Commission Rules. Petitioner asserts that the Commission's copy of the application shows a date stamp of August 7, 1981, which is one day after the August 6, 1981, cut-off-date. Petitioner further asserts that below the August 7 date there is an August 6, 1981, date stamp which would have been at the top of the application if it had "really" been filed on that date.

7. Concerning the timeliness of documents tendered for filing with the Commission, Section 1.4(c) of the Rules requires they be filed in the Office of the Secretary. There is no rule that specifies where date stamps must be placed on the pages of documents. The Radio

[1] By *Memorandum Opinion and Order*, FCC 83R-37, released May 13, 1983, the Review Board dismissed both a Petition for extraordinary relief and the Petition for leave to intervene filed by Mr. Jones.

Riverbank application shows that on August 6, 1981, the application was filed with the Office of the Secretary and on August 7, 1981, it was received by the Broadcast License Division of the Broadcast Bureau. Clearly the application was timely filed on the August 6, 1981, cut-off-date.

8. Petitioner next asserts the application should not have been accepted because it violates Section 73.37(a) of the Rules in that the proposed 25 mV/m daytime contour will overlap the 25 mV/m daytime contour of station KCBS, San Francisco, California. In support of its contention, petitioner asserts the applicant incorrectly read measured radiation from the May 1971, KCBS proof of performance BL–13001. This argument is not convincing since measured radiation patterns are no longer used. Rather, the KCBS standard pattern radiation (Conversion 740–04) must be used. *Radiation Patterns for AM Broadcast Stations*, 48 F.C.C. 2d 796 (1981). Based on all the measurements submitted as well as the daytime standard radiation pattern for KCBS we find no prohibited overlap will occur between the proposed station and KCBS.

9. Petitioner also asserts the applicant's proposed 0.5 mV/m contour will overlap the 0.5 mV/m contour of station KCRL, Reno, Nevada. It submits a copy of part of the M–3 Map showing what petitioner alleges are the relevant overlapping contours. In addition, petitioner asserts that the application is incomplete in that the applicant failed to file data supporting its determination of the KCRL contours. Moreover, petitioner asserts the field intensity measurements taken on KCRL by the applicant and filed September 1, 1981, are incomplete, were improperly taken and improperly presented. Thus, according to petitioner, the application violates Section 73.153, 73.186 and 73.3571 of the Rules. We find Radio Riverbank Inc.'s application was substantially complete when it was filed; preliminary staff review showed no prohibited overlap between it and KCRL and the application was properly accepted for filing. A timely filed amendment to the application further demonstrated the lack of overlap with KCRL.

10. Next petitioner asserts the tower height as listed on the application is in error, and the computer designed radiation pattern is erroneous. In addition, according to petitioner, the antenna system is a critical array and will be difficult to adjust, and there will be reradiation problems with station KTRB. The opposition pleading concedes the antenna height listed on the application was in error. A corrected Section V–A (FCC Form 301) shows the tower height above ground is 299 feet, not 296 feet as was originally reported in the application. Our own computer studies show that the proposed nighttime array is not sensitive to minor changes in the operating parameters in that variations of 0.5 percent current-ratio deviation and 0.5 degree phase deviation would not result in radiation greater than the specified standard radiation values. (Our benchmarks are 1%/1° for generally stable arrays and 0.1%/0.1° for highly unstable arrays; between these extremes we consider arrays on a case-by-case basis.) Due to a relatively low RSS/RMS ratio of 1.33 and the absence of any likely sources of reradiation nearby, we find that the proposed array appears stable. In addition, the KTRB site is approximately 5.1 miles away from the proposed site, and no reradiation will occur. See *Radio Nevada Corp.*, 44 FR 69365 (1979). Petitioner also asserts the application violates Section 73.37(b) of the rules because the proposed 5 mV/m contour "overlaps the San Francisco-Oakland urbanized area." The allegation, even if true, raises no issue concerning Section 73.37(b) which refers to permissible co-channel contour overlap under certain conditions none of which are relevant here. We will deny the Riverbank Broadcasters' petition to deny.

11. The narrative environmental statement filed by Radio Riverbank failed to include a description of the facilities, whether there are power lines and access roads to the site, whether the proposal has been a source of controversy in the community and the antenna height. The applicant must file the information as required by Section 1.311(a)(2) of the Rules within thirty (30) days of the release of this Order.

12. Radio Riverbank, Inc. filed a petition for leave to amend on November 16, 1981. The petition requests that certain engineering information be accepted as part of its application. Petitioner asserts that the information is already on file with its opposition to the petition to deny and the information merely "illuminates" its engineering showing. Petitioner also notifies the Commission of changes in the business interests of its principals. The amendment does not prejudice the other competing applicant and is, in part, required to be filed under Section 1.65 of the Rules. Therefore, we will grant the petition and accept the amendment with the restriction that it cannot be used to enhance the comparative position of the applicant. *Azalea Corp.*, 31 FCC 2d 561 (1971).

13. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed.[3] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive AM service of 0.5 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

14. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which would receive AM service of 0.5 mV/M or greater from each proposal together with the availability of other primary aural service in such areas to determine whether a comparative preference should accrue to either of the applicants.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if either, should be granted.

15. It is further ordered, that Riverbank Broadcasters shall file the required environmental statement information, as discussed in paragraph four (4) above, with the Administrative Law Judge within thirty (30) days of the release of this Order.

16. It is further ordered, that the informal objection to the Riverbank Broadcasters application filed by Hubbard Broadcasting, Inc., is dismissed.

17. It is further ordered, that the petition to deny the Radio Riverbank,

[3] Operation with the facilities specified herein is subject to modification suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

Inc. proposal, filed by Riverbank Broadcasters, is denied.

18. It is further ordered, that Radio Riverbank, Inc., file the required environmental statement information, as discussed in paragraph eleven (11) above, with the Administrative Law Judge within thirty (30) days of the release of this Order.

19. It is further ordered, that the petition for leave to amend filed by Radio Riverbank, Inc., is granted and the amendment contained therein is accepted for filing upon the conditions set out in paragraph twelve (12) above.

20. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to Section 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this order.

21. It is further ordered, that pursuant to Section 311(a) of the Communications Act of 1934 as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of hearing as prescribed in the rules and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix

The Commission has not yet received Federal Aviation Administration clearance for the antenna tower(s) proposed by the below listed applicant(s). Accordingly, it is further ordered, That the following issue is specified:

To determine whether there is a reasonable possibility that a hazard to air navigation would occur as a result of the tower height(s) and location(s) proposed by Radio Riverbank, Inc.

It is further ordered, that the Federal Aviation Administration is made a party to the proceeding.

[FR Doc. 83-14585 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-505 and 83-506; File Nos. BP-810706AU and BP-820628AH]

Tully-Warwick Corp. and Concord Broadcasting Associates; Hearing Designation Order

In the matter of applications of Tully-Warwick Corporation, Concord, New Hampshire, Req: 1140 kHz, 5 kW, DA-D (MM Docket No. 83-505, File No. BP-810706AU) and Concord Broadcasting Associates, Concord, New Hampshire, Req: 1140 kHz, 10 kW, DA-D (MM Docket No. 83-506, File No. BP-820628AH) For construction permit—designating applications for consolidated hearing on stated issues.

Adopted: May 11, 1983.

Released: May 24, 1983.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (a) the above-captioned mutually exclusive applications for a new AM broadcast station; (b) a petition to dismiss or deny and a motion to delete from the cut-off list, in opposition to the Tully-Warwick Corporation (TWC) application, filed by Capital Broadcasting Corp. (Capital), licensee of stations WKXL and WKXL-FM, Concord, New Hampshire; (c) a petition to dismiss or deny the Concord Broadcasting Associates (CBA) application filed by Capital: and, (d) relevant pleadings.

2. *Background:* TWC initially filed its application on July 13, 1979, (BP-790713AE) specifying a frequency of 1320 kHz. That application and an application filed by Spacetown Communications Corporation (Spacetown) for Derry, New Hampshire, (BP-790725AD) were mutually exclusive; the two applications were designated for hearing by *Hearing Designation Order*, released March 12, 1981, 46 FR 17258 (see BC Docket Nos. 81-151 and 81-152). In addition to the standard comparative issue under Section 307(b) of the Communications Act, principal city coverge (Section 73.24(j)), regional concentration of control (73.35(b)), and hazard to air navigation issues were specified against TWC. On April 17, 1981, Spacetown filed a motion to enlarge issues against TWC alleging that TWC is a wholly-owned subsidiary of New England Broadcasting Company, Inc. (New England), and that another wholly-owned subsidiary of New England, WGAW, Inc., was the applicant for a new FM station at Winchendon, Massachusetts (see BC Docket Nos. 79-234 and 79-235). Spacetown further alleged that in response to a competing applicant's petition to enlarge issues, the Presiding Judge added the following issues against WGAW, Inc.:

(a) To determine what efforts, if any, WGAW, Inc., has made to obtain the necessary zoning for its transmitter site; and, whether WGAW, Inc. has misrepresented the facts to, or been less than candid with the Commission regarding such efforts;

(b) To determine, in light of the facts adduced in issue (a) *supra*, whether WGAW, Inc., has violated 47 CFR 1.65 by failing to properly update its application; and

(c) To determine, pursuant to issues (a) and (b) *supra*, whether WGAW, Inc., is qualified to be the licensee of the FM Channel involved here.

The [1] Presiding Judge also ruled that the burden of proceeding on issues (a) and (b) would be on the competing applicant. Before any further action in the proceeding was taken, however, WGAW, Inc., and the other applicant filed a joint request for approval of agreement whereby WGAW, Inc., would dismiss its application and would receive $6,000 reimbursement for reasonable and prudent expenses. Subsequently, before the Presiding Judge ruled on the joint reimbursement request, WGAW, Inc., dismissed its FM application and did not seek approval of the $6,000 expense money. The Presiding Judge dismissed the application with prejudice, and the character issues were never resolved. Spacetown requested that the character qualification issues be added to the proceeding between it and TWC. Spacetown also asserted that TWC had violated Section 1.65 of the Rules because it had failed to amend its pending Concord AM application concerning the Winchendon application within the required thirty day time period; in addition, according to Spacetown another subsidary corporation of New England had filed assignment applications to acquire stations WLKN-AM and FM, Lincoln, Maine, and TWC failed to timely report it. Further, Spacetown alleged the ownership report for New England, filed by TWC with its Concord application, differs from that filed by other subsidiaries of New England. In addition, according to Spacetown, the principals of TWC and New England have failed to provide full and complete information concerning their business interests in violation of Section 73.3514 of the Rules. Finally, Spacetown alleged the principals of New England distributed false and misleading coverage maps in connection with the operation of stations WGAW and WSRO which greatly exaggerate the stations' service areas. Before any further action was taken in the proceeding, TWC and Spacetown filed a joint motion to suspend procedural dates pending outcome of negotiations between the parties. Subsequently, the parties filed a joint request for approval

[1] These applications were granted December 18, 1980. (BAL-800819AI and BALH-800818'9H]).

of settlement agreement and on July 6, 1981 TWC filed a major amendment to its application to change frequency to remove the electrical conflict between the applications and to return it to the processing line. The Presiding Judge approved the agreement, accepted the TWC amendment, removed the amended application from the hearing docket and returned it to the processing line. Becaue of the joint motion to suspend procedural dates, which had been granted, no responses to the Spacetown motion to enlarge issues were filed, and it was dismissed as moot.

3. Pursuant to the Order of the Presiding Judge (FCC 81M–2182) the TWC amended application (BP–790713AE) was returned to the processing line and given a new file number (BP–810706AU). On August 21, 1981, Capital filed a petition to dismiss or deny [2] alleging the application, as amended, is no longer acceptable for filing under Section 73.37(e)(1) of the Rules because FM Channel 288A has been assigned to Concord effective November 17, 1980. Further, according to Capital, if the application is accepted, it must be designated for hearing because of the unresolved issues raised by the Spacetown petition to enlarge. In response to Capital's petition, and without consideration of the merits of the petition, the Chief, Broadcast Facilities Division, by letter, dated May 26, 1982, notified Capital that the circumstances surrounding the July 1981 amendment to the TWC application presented a "colorable claim of acceptability under Section 73.37(e)(1)" of the Rules and to prevent further processing delays the amendment would be accepted and a cut-off date would be announced. The application was given a cut-off date of June 28, 1982. (Report No. A–54, released May 24, 1982.) CBA filed its competing application on June 28, 1982.

4. Capital timely filed a motion to delete the TWC application from the cut-off list and a petition to dismiss or deny the CBA application. Both petitions raise the threshold question of whether the applications conform to Section 73.37(e)(1) [3] of the Rules, and are thus, acceptable for filing or whether they must be dismissed for nonconformance. We will consider both petitions together as they relate to this issue.[4] Capital asserts that TWC voluntarily filed its major change amendment which, under Section 73.3571 of the Rules, required a new file number as if it were first filed on July 6, 1981, and, according to Capital, as of that date TWC must demonstrate that its application conforms to Section 73.37(e)(1) of the Rules. Capital asserts that its stations, WKXL AM and FM,[5] are licensed to Concord and on November 17, 1980, FM Channel 288A was assigned to Concord; therefore, according to Capital, TWC's amended application is not acceptable for filing and should be dismissed. For the same reason Capital asserts the CBA application is not acceptable for filing. TWC, in its opposition,[6] argues that its application is an existing facility pursuant to Note 8 of Section 73.37 of the Rules,[7] and, according to TWC, its application is acceptable because existing daytime stations filing for frequency changes are not subject to the restrictions of Section 73.37(e)(1). Capital, in its reply pleading, continues to insist the applications are unacceptable for filing.

5. We find no merit to TWC's contention that its application should be considered that of an existing station to be acceptable for filing under the rules; clearly it is not an existing station. Nor do we agree with petitioner's contention that the application must be dismissed. It is undisputed on the record that the TWC application was acceptable for filing when it was initially tendered, and when the Presiding Judge *accepted* the July 6, 1981, amendment he did so for good cause. The Presiding Judge noted that the proceeding would be substantially simplified and the conflict would be removed between the Spacetown and the TWC application. In addition the Presiding Judge noted that the amendment removed a city coverage issue (73.24(j)) and a regional concentration of control issue against TWC and would increase the possibility of a first local transmission service for Derry, New Hampshire.[8] More importantly however, acceptance of the amendment mooted a 307(b) issue since it was likely that both Concord and Derry would now receive a new daytime AM facility. It cannot be reasonably argued that the Presiding Judge accepted the amendment and returned the application to the processing line merely so that it could be dismissed; if this were the case he would not have accepted the amendment. Furthermore, dismissal of the application would effectively abrogate the Presiding Judge's determination that the 307(b) issue was resolved by the possibility that both communities would receive a broadcast facility. While we agree with petitioner that the major amendment to the TWC application did not technically conform to Section 73.37(e)(1) of the Rules; we think that it does comport with the intent of the Rule as well as to note 8 of that Rule (see footnote 3). In light of the unique circumstances manifested here we think grant of TWC's request for waiver of the Rule will serve the public interest.[9] With regard to the CBA application, we agree with petitioner; the application does not technically conform to Section 73.37(e)(1) of the Rules. The applicant does not request a waiver of the rule nor demonstrate how its application is otherwise acceptable for filing. CBA could, of course, have specified a community in its application that would meet the requirements of the Rules, but it did not. Our cut-off notice did, however, notify applicants that applications in conflict with TWC's application would be considered by the Commission if they were timely filed. While it is axiomatic that for an application to be considered it must conform to the rules or show good cause why the rules should be waived; it is also well established Commission policy that the public interest is served by having a choice among many qualified applicants who appear together at a hearing. *Azalea Corp*, 31 F.C.C. 2d 561 (1977). We think that the benefits of having more applicants appear together at a hearing, in this case, outweight any potential detriment that may be caused by waiver of the rules. This is particularly so, in light of the fact that dismissal of the CBA application would deprive Concord of an AM broadcast facility if TWC is not qualified. Because of the unusual circumstances presented here, we will,

[2] Capital has standing to file a petition to deny as an economic competitor. See *FCC* v. *Sanders Brothers Radio Station*, 309 U.S. 470 (1940).

[3] The relevant Rule is Section 73.37(e)(1)(ii) which provides that an applicant for a new daytime AM station must provide the community designated in the application with a first or second authorized aural transmission service, and no FM, channel is available in that community. Note 6 to Section 73.37 is relevant here since it indicates that FM channel availability is applicable only at the tender date of the application.

[4] Both of Capital's petitions against TWC raise this issue; its petition against CBA raises no other issues.

[5] Note 7 to Section 73.37 provides, in relevant part, that when commonly owned AM and FM stations are licensed to the community in question the stations will be considered a single aural transmission service for the purpose of determining the acceptability of an application.

[6] The record does not contain opposition pleadings for CBA.

[7] Note 8 provides, *inter alia*, that in determining the number of authorized aural transmission facilities in a given community, applicants for that community, in hearing or otherwise having protected status under specified cut-off procedures, shall be considered existing stations.

[8] The remaining applicant had a limited financial qualification issue and a petition to enlarge issues against it.

[9] TWC requested waiver of the rule in its opposition pleading.

on our own motion, waive Section 73.37(e)(1) of the Rules and accept the CBA application. For the above reasons, the petition to dismiss or deny the CBA application and the motion to delete the TWC application from the cut-off list, both filed by Capital, will be denied.

6. We will now consider Capital's petition to dismiss or deny the TWC application. The petition first requests dismissal of the application based on nonconformance with Section 73.37(e)(1) of the Rules; we will deny the request for the reasons set forth in paragraph 5, above. Capital's petition, in addition to the issues raised by the Spacetown motion to enlarge issues,[10] alleges that TWC and its principals have shown a pattern of dismissals and settlements in order to avoid resolving the character qualification issues. TWC in its opposition concedes that it failed to timely report, in these proceedings, the dismissal of its Winchendon application, and the acquisition, of stations WLKN AM and FM by another subsidiary of New England. In addition, TWC concedes there was an inconsistency between the ownership information in its application (Concord) and its parent Corporation's ownership reports as filed with the Commission; however, TWC asserts this was the result of an inadvertent failure of its parent Corportion to report a 2 percent change in its (parents') ownership. TWC further concedes that it failed to report on its application as originally filed several business interests of two of its principals; however, it asserts the information was contained in another application, was not significant, and was not concealed. With regard to the exaggerated coverage map issue concerning stations WGAW and WSRO, TWC concedes that the maps on the stations' rate cards were inaccrurate but disavows any intent to deceive. TWC asserts the maps are "significantly less inaccurate" than alleged, their use has been discontinued, and accurate maps have been prepared to replace them. With regard to the misrepresentation and Section 1.65 issues which were added against WGAW, Inc., in the Winchendon FM proceedings, TWC concedes that WGAW, Inc., failed to timely amend its application concerning its change in plans but it asserts there was no intent to conceal information or to mislead. Capital, in its reply pleading, continues to oppose acceptance of the TWC application and assests that, if it is accepted, the matters raised in its petition and the Spacetown petition must be resolved by a hearing. Capital also opposes TWC's request for waiver of Section 73.37(e)(1) of the Rules.

7. *Discussion.* TWC has conceded that it and its principals have violated the Commission's Rules on numerous occasions: it failed to timely amend its Concord application when its Windendon application was dismissed in violation of Section 1.65; it failed to timely report the acquisition by another subsidiary corporation of stations WLKN AM and FM in violation of Section 1.65; it did not list in its Concord application certain business interests of its principals in violation of Section 73.3514; its parent corporation, New England Broadcasting Co., failed to timely report changes in its ownership as required by Section 73.3615; its corporate sibling, WGAW, Inc., failed to timely report changes in its plans concerning its Winchendon FM application in violation of Section 1.65; and finally, TWC concedes that the contour maps depicted on the rate cards for stations WGAW and WSRO showed exaggerated service areas for the stations. The fact that most of the information not timely reported pursuant to Section 1.65 was available in other Commission records or that the omissions were inadvertent or that inaccuracies were less inaccurate than alleged does not excuse the violations. Some of the violations occurred while TWC was actively prosecuting a contested application and it is well known that the Commission cannot evaluate an applicant's qualifications without full knowledge of all relevant facts. *Bangor Broadcasting Corp.*, 32 RR 2d 409 (Rev. Bd 1974). We think that TWC and its principals' repeated violation of the Commission's Rules and failure to timely report required information amounts to a pattern of carelessness and inadvertence in preparing applications and amendments which reflects adversely on its qualifications to be a licensee of the facilities sought here. *Beamon Advertising Inc.*, 1 R.R. 2d 285 (Rev. Bd 1963); *Vernon Broadcasting Co.* 12 F.C.C. 2d 946 (1968). Furthermore, use of inaccurate coverage maps is inconsistent with a licensee's obligation to operate their facilities in the public interest. *Gainesville, Media, Inc.*, 37 R.R. 2d 708 (Rev. Bd. 1976); *Sherwood, J. Inc., et al.*, 60 F.C.C. 2d 808 (Rev. Bd. 1976). An appropriate issue will be specified.

8. With regard to the misrepresentation/lack of candor issue, we are not persuaded by the record that such an issue is warranted against TWC in these proceedings. WGAW was put on notice March 17, 1977, by a letter from the Commission which questioned the availability of its antenna site in light of certain town zoning restrictions; the applicant responded by letter dated April 14, 1977, indicating it was aware of the problem and would handle it expeditiously and obtain a zoning variance. The Presiding Judge found that between April 18, 1977, and February 6, 1978, WGAW made no attempt to "live up to its written promises." Thereafter, by letter dated July 25, 1978, in response to a February 6, 1978, Commission deficiency letter, WGAW asserted, its president had met with the town zoning board of appeals and believed that the variance to operate the station would be granted in a short period of time. The Presiding Judge however, found that the meeting referred to in the July 25, 1978, letter took place prior to the April 14, 1977, letter and that WGAW tried to circumvent explaining its prior promises by talking about an earlier meeting. In addition the competing applicant filed an affidavit from the chairman of the board of zoning appeals which stated that an examination of the board's official minutes from 1973 to November 1979 did not disclose a request or formal application by WGAW for a zoning variance. The 1.65 issue was added on the basis of WGAW's failure to amend its application when it did not take steps to cure the site availability problems. Since WGAW was on notice that the availability of its proposed site was being questioned by the staff and its application could not be granted without a zoning variance, there was no motive to conceal or misrepresent the extent of its efforts. It was undisputed that WGAW's president appeared before the zoning board in March or April 1977, at which time he was informed that a formal variance application would be required; it was also undisputed that the formal variance application was never submitted. WGAW was responsible for the accuracy of its pending applications, and it was required to inform the Commission of any significant changes that occurred; this it failed to do when it changed its intentions and did not immediately file for a zoning variance. However, we do not think the record indicates that a misrepresentation or lack of candor issue is warranted in these proceedings. Capital's allegation that TWC and its principals have shown a pattern of dismissals and settlements calculated to avoid resolving the issues is unsupported by the record; only one application has been dismissed, the Winchendon FM application. We will grant the petition to dismiss or deny filed by Capital to the extent set out above and deny it in all other respects.

[10] These are set out in paragraph 2, above.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, the areas and populations which would receive AM service of 0.5 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to either of the applicants.

10. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the extent to which the conduct and conceded violations of the Commission's Rules by Tully-Warwick Corporation and its principals, set out in paragraph seven (7), above, affect Tully-Warwick Corporation's basic and/or comparative qualifications to be the licensee of the facilities sought here.

2. To determine the areas and populations which would receive AM service of 0.5 mV/m or greater from each proposal together with the availability of other primary aural service in such areas to determine whether a comparative preference should accrue to either of the applicants.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

11. It is further ordered, that Section 73.37(e)(1) of the Commission's Rules, is waived, and the applications of Tully-Warwick Corporation and Concord Broadcasting Associates are accepted.

12. It is further ordered, that the petition to dismiss or deny the Concord Broadcasting Associates application filed by Capital Broadcasting Corp., is denied.

13. It is further ordered, that the motion to delete application from the cut-off list, filed against the Tully-Warwick Corporation application by Capital Broadcasting Corp., is denied.

14. It is further ordered, that the petition to dismiss or deny the Tully-Warwick Corporation application, filed by Capital Broadcasting Corp., is granted to the extent set out in paragraph seven (7), above and in all other respects, is denied.

15. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to Section 1.221(c) of the Commission's Rules the applicants shall, within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances, stating an intention to appear on the dates fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, that pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed by the rule, and shall advise the Commission of the publication of the notices as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-14882 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

Closed Circuit Test of the Emergency Broadcast System

May 31, 1983.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of June 20, 1983. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio Radio Network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. The ABC, CBS, NBC and PBS television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-14888 Filed 6-2-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-238]

Naples Federal Savings & Loan Association, Naples, Florida, Final Action; Approval of Post-Approval Amendment to Mutual-to-Stock Conversion Application

Dated: May 27, 1983.

Notice is hereby given that on May 5, 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 amenement to Sections 27 and 28 of the Plan of Conversion of Naples Federal Savings and Loan Association, Naples, Florida. The Application for Conversion had been approved by the Board by Resolution No. 79-548, dated November 8, 1979. Copies of the Application and all amendments thereto are available for inspection at the Secretariat of the Board, 1700 G Street, N.W. Washington, D.C. 20552, and at the Office of the Supervisory Agent, Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 83-14848 Filed 6-2-83; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-26]

Pacific Coast European Conference (Agreement No. 5200); Order To Show Cause

Agreement No. 5200 (Agreement) is the basic Agreement of the Pacific Coast European Conference (PCEC).[1] The Agreement authorizes member lines to provide direct all-water service from U.S. Pacific Coast ports to European ports and inland points, and to provide minibridge service from the Pacific Coast to European destinations via U.S. Atlantic, Great Lakes and Gulf Ports.[2]

[1] The current membership of Agreement No. 5200 consists of: Blue Star Line, Ltd.; Compagnie Generale Maritime (French Line); D'Amico Societa di Navigazione Per Azioni; The East Asiatic Co., Ltd.; Hapag-Lloyd AG; Intercontinental Transport (ICT) B.V.; Italia Societa Per Azioni di Navigazione; Johnson Line AB.; Scan-Pacific Line; Sea-Land Service, Inc.; Splosna Plovba (United Yugoslav Line); and Zim Israel Navigation Co., Ltd.

[2] The precise service description as stated in the Preamble to the Agreement covers the trade: * * * from ports in the states of Alaska, Washington, Oregon and California and overland from such ports to destinations via connecting water movements from U.S. Atlantic, Great Lakes

Article 1 of the Agreement requires a member line to give 120 days' advance notice to the Conference prior to offering an intermodal service within the scope of the Agreement which is not being offered under the Conference tariff.[3] This advance notice clause originally was approved by the Commission in connection with an amendment to the Agreement adding European inland points to the Conference's port-to-port service. *See Conditional Approval of Agreements No. 5200–29,* January 12, 1977.

Subsequent to this approval, the Commission found that such advance notice provisions unreasonably restrain Conference members from initiating intermodal transportation services and thereby inhibit innovation. *Application for Approval of an Amendment to the American West African Freight Conference Agreement No. 7680–36,* 18 S.R.R. 339 (1978) (*AWAFC*). The Commission stated in *AWAFC* that although it has previously approved advance notice clauses, such provisions had burdened the filing of intermodal tariffs by individual members to an unreasonable degree. The Commission reasoned that individual member lines would be less likely to undertake the costly and time consuming effort of developing an individual intermodal tariff if the implementation of such a proposal could be delayed by a requirement of notice to the Conference. The Commission established as a general rule that members of a Conference "* * * have no duty to give notice to or file anything with the Conference regarding intermodal tariffs, and are subject only to the notice to the public and the filing with the Commission required by section 18 of the Shipping Act, 1916." *AWAFC, supra* at 18 S.R.R. 341. In *AWAFC*, the Commission conditioned its section 15 approval of an amendment expanding the agreement's intermodal authority upon the deletion of a 90-day notice provision. In accordance with this policy, the Commission has required the deletion of other previously approved advance notice clauses.[4] Moreover, the Commission has stated that any departure from the rule expressed in *AWAFC* must be justified by demonstrated trade conditions.[5]

The advance notice clause in Article 1 of Agreement No. 5200, on its face, is contrary to the Commission policy established in the *AWAFC* decision and therefore appears to contravene the standards of section 15. The Conference and its member lines must therefore show cause why Agreement No. 5200 should not be modified to delete the advance notice provision from the Agreement and, if not so modified, why the Agreement should not be found contrary to the public interest within the meaning of section 15.[6]

Therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916 (46 U.S.C. 814, 821), the Pacific Coast European Conference and its member lines are ordered to show cause why Agreement No. 5200 should not be modified to delete the 120-day advance notice provision from the third paragraph of Article 1 of the Agreement; and, if not so modified, why Agreement No. 5200 should not be found contrary to the public interest within the meaning of section 15 of the Shipping Act, 1916 and disapproved pursuant to that section;

It is further ordered, That the Pacific Coast European Conference and its member lines be named Proponents in this proceeding;

It is further ordered, That in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Bureau of Hearing Counsel shall be a party to this proceeeding;

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law and replies thereto pursuant to the following schedule:

By close of business July 15, 1983, affidavits of fact and memoranda of law shall be filed by Proponents and served upon all parties.

By close of business August 15, 1983, reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and served upon all parties.

By close of business August 22, 1983, all parties must file requests for evidentiary hearing and/or discovery, if desired, which requests must be accompanied by a statement setting forth in detail the facts to be proven or developed, their relevance to the issues in this proceeding and why such proof cannot be submitted through further affidavit.

It is further ordered, That persons other than those already parties to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) no later than close of business June 15, 1983;

It is further ordered, That persons permitted to intervene in support of Proponents' position shall conform to the filing schedule assigned to Proponents; and that, persons permitted to intervene in opposition to Proponents' position shall conform to the filing schedule assigned to the Commission's Bureau of Hearing Counsel;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and fifteen copies as well as being mailed directly to all other parties of record; and

It is further ordered, That notice of this Order be published in the Federal

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and Gulf ports to ports in the United Kingdom of Great Britain and Northern Ireland, Ireland, the Scandinavian Peninsula, Continental Europe, including ports on and in the Baltic and Mediterranean Seas, as well as the seas bordering thereon, and to European (including British Isles) inland points via these ports, and to ports (but not inland points) in Morocco and the Atlantic Islands of the Azores, Madeira, Canary and Cape Verdes and by transshipment at the aforementioned ports to ports in Iceland.

[3] The third paragraph of Article 1 on seventh revised page 2 of the Agreement states: In the event a member line desires to offer an intermodal service within the scope of this Agreement, but not being offered by the Conference under its tariff, it shall first present the matter to the Conference in writing for consideration and joint action. Only in the event the Conference does not, within one hundred twenty (120) days of such presentation, establish such service shall the proposing member, or any other member line, be free to act unilaterally in respect to the matter proposed. In the event the Conference shall, by such vote, subsequently adopt and effectuate a tariff or tariffs covering the service embraced by any such member's individual tariff, the member's tariff, to the extent of such duplication, shall be cancelled by said member or members which are parties thereto coincidentally with the effectiveness of such Conference tariff or tariffs. Provided, however, that such cancellation shall be required only to the extent the relevant tariff rates, rules or regulations so adopted by the Conference are no less favorable to the promotion and development of the intermodal service involved than the parallel provisions of the applicable independent tariff or tariffs.

[4] In *Conditional Approval of Agreement No. 8090–16,* 19 S.R.R. 831, 833 (1979), the Commission required deletion of a 120-day notice clause as a condition of approval of an amendment seeking foreign inland authority. Deletion of an advance notice clause as a condition of approval was also required in *Philippines North America Conference (Agreement No. 5600–42),* 21 S.R.R. 345, 347 (1981).

[5] *See U.S. Atlantic & Gulf/Australia-New Zealand Conference (Agreement No. 8200–20—Intermodal Authority),* 21 S.R.R. 89, 93 (1981) (Proponents of an advance notice clause must demonstrate trade conditions which require a deviation from the general rule expressed in *AWAFC*); *Japan/Korea Atlantic and Gulf Conference Intermodal Amendment Agreement No. 3103–67,* 20 S.R.R. 1173, 1181 n. 24 (1981) (120-day notice clause must be adequately justified).

[6] One specific matter which should be clarified is whether Article 1 of Agreement No. 5200 contemplates an additional notice period before modification of a previously inaugurated independent intermodial tariff becomes effective. If an additional 120 days would be required for adjustments in the tariff, then the inhibiting effect on member-initiated intermodal service would be increased. *See Seatrain International v. Federal Maritime Commission,* 598 F.2d 289, 296 (D.C. Cir. 1979).

Register and that a copy thereof be served upon all parties.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-14978 Filed 6-2-83; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Advisory Committee on Preservation will meet on June 27, 1983 from 10:00 a.m. to 4:00 p.m., June 28, 1983 from 9:00 a.m. to 4:00 p.m., and June 29, 1983 from 9:00 a.m. to 12 noon in Room 105, National Archives Building, Washington, D.C. This meeting will be devoted to the relative longevity of paper, film, and tape as related to the mission of the National Archives.

The meeting will be open to the public. For further information call Alan Calmes, 202-523-3159.

Dated: May 24, 1983.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 83-14855 Filed 6-2-83; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements; Preventative Health Services—Tuberculosis Control Clinical Trial; Availability of Funds for Fiscal Year 1983

Correction

In FR Doc. 83-12903 beginning on page 21656 in the issue of Friday, May 13, 1983, make the following correction:

On page 21657, middle column, under "2. *Applications submitted by other means*", last line of the paragraph, "1985" should have read "1983".

BILLING CODE 1505-01-M

Food and Drug Administration

[Docket No. 82P-0388]

General Medical Co.; Drionic® Iontophoretic Sweat Inhibition Device; Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment the recommendations of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel (the Section) that the Drionic® Iontophoretic Sweat Inhibition Device not be reclassified from class III (premarket approval) into class I (general controls). The recommendation was made after review by the Section of a reclassification petition filed by the manufacturer of the device, General Medical Co., Los Angeles, CA 90025. After reviewing the Section recommendation and any public comments received, FDA will approve or deny the reclassification petition by order in the form of a letter to the petitioner. FDA's decision on the reclassification petition will be announced in the **Federal Register**.

DATE: Comments by August 2, 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: Thomas J. Callahan, National Center for Devices and Radiological Health (HFK-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

SUPPLEMENTARY INFORMATION: On November 8, 1978, General Medical Co., Los Angeles, CA 90025, submitted to FDA a premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(k)), stating that it intented to market an iontophoresis device with the brand name Drionic® Iontophoretic Sweat Inhibition Device (Drionic®).

After reviewing the information in the premarket notification, FDA determined that the device was not substantially equivalent to any device that was in commercial distribution before May 28, 1976, nor was the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Accordingly, this device is automatically classified into class III under section 513(f)(1) of the act (21 U.S.C. 360(f)(1)).

On October 18, 1982, General Medical Co. submitted to FDA, under section 513(f)(2) of the act, a petition to reclassify from class III into class I the Drionic® device.

Under section 515(a)(2) of the act, (21 U.S.C. 360e(a)(2)), before a device that is in class III can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approved application for premarket approval under section 515 of the act. Such a device may be shipped in commerce, however, if there is in effect for the device and investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)). There is no approved premarket approval application in effect for the Drionic® device, and the device is not the subject of an investigational device exemption.

Section 513(f)(2) of the act requires FDA to refer a reclassification petition to the appropriate advisory panel and to secure a recommendation on whether to approve or deny the petition. Accordingly, because primary users of the device are dermatologists, FDA referred the petition to the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, an FDA advisory committee. On January 26, 1983, the Section reviewed the petition at an open public meeting.

To determine the proper classification of the device, the Section considered the criteria specified in section 513(a)(1) of the act. Section 513(a) of the act establishes three classes of devices. Classification into each of the three classes is determined by the level of regulatory control needed to provide reasonable assurance of the safety and effectiveness of the devices in the class.

A class I device is (1) a device for which the "general controls" authorized by or under other sections of the act are sufficient to provide reasonable assurance of the safety and effectiveness of the device; or (2) if insufficient information exists to make such a determination, a device that is not purported or represented to be for a use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health and that does not present a potential unreasonable risk of illness or injury.

A class II device is a device for which general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which "it is therefore necessary to establish * * * a performance standard under section 514 to provide reasonable assurance of its safety and effectiveness."

A class III device is a device that cannot be classified into class I or class II and that is purported or represented to be for a use in supporting or sustaining human life or for a use which is of

substantial importance in preventing impairment of human health, or that presents a potential unreasonable risk of illness or injury. Premarket approval obtained in accordance with section 515 of the act is required to provide reasonable assurance of the safety and effectiveness of a class III device.

The data on which any reclassification of a device is based are required to consist of "valid scientific evidence," as defined in section 513(a)(3) of the act and § 860.7 (21 CFR 860.7) of the regulations governing medical device classification procedures. For the purposes of reclassification, the valid scientific evidence upon which the agency relies may not be based on trade secret or confidential commercial information obtained by FDA under various sections of the act (see section 520(c) of the act and § 860.5(e) (21 CFR 860.5(e)) of the regulations) or on the detailed summaries of information respecting the safety and effectiveness of devices for which there are approved applications (see section 520(h)(3) of the act). But all data and information in a filed petition for reclassification under section 513(f) of the act may be disclosed by the agency and used as the basis for reclassification of a device (see § 860.5(e)). After considering the information in the petition and the presentations made at the January 26, 1983 meeting, the Section unanimously recommended that the petition to reclassify the device from class III into class I be denied.

Summary of Reasons for the Recommendation

The Section expressed as its principal reason for opposing reclassification of the device, its conclusion that there was a lack of evidence that the device was effective for its claimed use, sweat inhibition. In addition, the Section stated that the data did not establish the safety of long-term use of the device and concluded that long-term followup is needed to determine whether or not there may be other safety problems.

Summary of the Data on Which the Recommendation Is Based

The Section identified a number of problems with the study presented by the petitioner in support of its claims of the safety and effectiveness of the device. The study was conducted at four separate institutions. The deficiencies in the study included the high attrition rate (only 60 patients remaining out of more than 169 initial patients) and the questionable objective improvement shown by the petitioner's sweat assessment method. Because of the deficiencies in the design and results of the study, the Section concluded that the petitioner failed to show that the device was effective.

The Section based its conclusion, in part, on a presentation at the meeting to the Section by two guest speakers, Antoinette Hood, a dermatologist, and Ellis F. Stanley, a neurophysiologist, both from the Johns Hopkins University, who reviewed the clinical study in the petition. The guest speakers raised concerns about the high percentage of patients lost to followup and the questionable validity of the petitioner's method for assessing effectiveness noted by the Section. They cited the need, in any attempt to investigate any phenomenon, for a standardized, reproducible measurement technique to measure the parameters of interest. With respect to the petitioner's study, the speakers concluded that measurements in the grading system of sweat assessment for institutions and individual subjects were not standardized. The speakers cited the following factors as additional reasons why the petitioner had failed to demonstrate the effectiveness of the device: there was large improvement in the untreated "control" side of a unilaterally treated patient population (a significant percentage of untreated hands showed improvement); and there was no testing for use of the device in controlling any type of sweating other than hyperhydrosis, e.g., stress sweating, exercise sweating, temperature sweating.

Risks to Health

The Physical Medicine Device Classification Panel, in its recommendation for the classification of iontophoresis devices (see 44 FR 50520; August 28, 1979) identified the following risks to health associated with iontophoresis devices: (1) Electric shock; (2) electric burns; (3) cardiac arrest; and (4) use in inappropriate therapy. The petitioner, General Medical Co., presented information to the General and Plastic Surgery Device Section in support of the petitioner's conclusion that the risks to health identified by the Physical Medicine Classification Panel had been overcome by new design features incorporated into the Drionic® device. The Section noted, however, the existence of cases of burn and shock reported in the petitioner's clinical study.

In addition to the risks to health identified by the Physical Medicine Classification Panel, the Section identified a number of additional potential safety concerns about the use of the petitioner's device, including the unknown consequences of chronic use of the device, particularly when no control on number of treatments, duration of treatments, or strength of the application is maintained. The petitioner's protocol specified treatment every 2 to 3 days up to 2 weeks until at least 5 treatments were given, with a 2-week and 6-week followup. Dr. Hood noted that fewer than 50 percent of the subjects entered in the study were seen at the 6-week followup. Other potential safety concerns raised by the Section included the potential for unintended and unknown effects with continuing use in the presence of antiperspirants or creams, e.g., forcible injection of aluminum ions into the skin, and the potential complications that may arise from over-the-counter use by patients who self-diagnose a hyperhidrotic condition but may actually either have a hyperactive sympathetic system going on the scleroderma or thromboangitis obliterans that may be present with sweating as a first symptom, or who have Raynaud's phenomenon or Raynaud's disease. In addition, the device as presented at the Section meeting uses a sweat assessment technique that results in repeated exposure to iodine solutions. The Section expressed concern about the long-term dermatologic hazard from this exposure.

Petitioner's Position

The petitioner stated in the petition that the Drionic® device does not meet the statutory criteria for class III devices because:

1. The device is not intended to support or sustain human life;

2. The device does not present a potential unreasonable risk of illness or injury; and

3. Sufficient information exists about the safety and effectiveness of the device that application of class I controls is appropriate to provide reasonable assurance to the public of the safety and effectiveness of the Drionic® device.

The petitioner maintains, in the petition, that clinical investigations it sponsored demonstrate both the safety and the effectiveness of the Drionic® device. But during the petitioner's presentations to the Section, the petitioner argued that section 513(a)(1)(A)(ii)(II) of the act requires FDA to reclassify a device from class III into class I, if the device is neither life sustaining nor life supporting, nor of substantial importance in preventing impairment of human health, and the device does not present an unreasonable risk of illness or injury.

even though the effectiveness of the device has not been clearly established. During his presentation to the Section, counsel for the petitioner stated, "the primary interest of General Medical in conducting this clinical trial was to demontrate the safety of this particular device."

FDA's Position

It is unnecssary to reach petitioner's argument concerning the application of section 513(a)(1)(A)(ii) of the act, because FDA has tentatively concluded that the Drionic® device fails to meet petitioner's own criteria for reclassification into class I and that premarket approval is necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA tentatively agrees with the Section that the petitioners has failed to show that the Drionic® device is effective for sweat inhibition. FDA also tentatively agrees with the safety concerns raised by the Section. Having considered both the language in section 513(a)(2) of the act and the guidance provided by the legislative history, FDA has tentatively concluded that the Drionic® device presents a potential unreasonable risk of illness or injury and should therefore remain in class III.

Section 513(a)(2) of the act reads as follows:

(a) * * *

(2) For purposes of this section and sections 514 and 515, the safety and effectiveness of a device are to be determined—

(A) With respect to the persons for whose use the device is represented or intended,

(B) With respect to the conditions of use prescribed, recommended, or suggested in the labeling of the device, and

(C) Weighing any probable benefit to health from the use of the device against any probable risk of injury or illness from such use.

FDA believes that lacking any evidence of probable benefit to the health of those persons for whose use the device is intended, any risk of injury or illness is unreasonable. This conclusion is supported by the legislative history of the Medical Device Amendments of 1976 (Pub. L. 94–295). In its report, the House Committee on Interstate and Foreign Commerce explained the meaning of "potential unreasonable risk" as follows:

> The phrase "presents a potential unreasonable risk of illness or injury" has two significant features. First, the requirement that a risk be unreasonable contemplates a balancing of the possibility that illness or injury will occur against benefits from use. Second, the risk need only be a potential one. The risk may be one demonstrated by reported injuries or it may simply be foreseeable. The fact that a device is being marketed without sufficient testing is an adequate basis for the Secretary's conclusion that the device presents a potential unreasonable risk to health.

H.R. Rep. No. 94–853, 94th Cong. 2d Sess. 36 (1976).

Thus, Congress intended that where the foreseeable risks of a device outweigh any known benefits from use, or where the risks of a device are not fully known because the device has not been adequately tested, FDA may find that the device presents a potential unreasonable risk to health and does not belong in class I.

Although the design features incorporated into the Drionic® device may preclude the risk of cardiac arest due to exposure to the device, the evidence presented was insufficient for the Section to conclude that the balance of the hazards identified by the Physical Medicine Classification Panel and the risks to health enumerated by the Section have been removed. Review of the petitioner's clinical investigation report reveals 72 reports of complications, including the following: 1 burn; 5 vesicles and buillae; 6 reports of shock; and 60 cases of other experiences, including tingling sensations, burning sensations, and erythema. FDA also notes that the actual incidence of adverse effects cannot be assessed because of the large number of subjects in the petitioner's study lost to followup. In addition, no adequate study of any possible adverse effects of long-term use (more than 2 weeks) has been made.

Weighing these demonstrated risks, and the potential risks identified by the Section, against the lack of demonstrated effectiveness of the device. FDA has tentatively concluded that the device presents a potentially unreasonable risk of illness or injury and that therefore there is insufficient evidence to support reclassification into a class other than class III.

On the basis of the foregoing discussion, FDA has tentatively decided that the subject petition for reclassification should be denied.

After considering the economic consequences of approving or denying approval of this reclassification petition, FDA certifies that this notice requres neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory flexibility Act (Pub. L. 96–354). Approval of this petition would not have a significant economic impact on a substantial number of small entities. The petitioner and all future manufacturers of the iontophoresis sweat inhibition device would be relieved of the costs of complying with the premarket aproval requirements in section 515 of the act. There are no offsetting costs that the petitioner would incur from reclassification into class I. The magnitude of the economic savings from approval or costs from denial of approval of this petition depends on the extent of premarket approval studies the p;etitioner would have to conduct and the number of future competitors satisfying the same requirements. Neither of these parameters can be reliably calculated to permit quantification of the economic costs.

Because of statutory deadlines (section 513(f)(2) of the act) and requirements in the regulations (21 CFR 860.134(b)(5)), FDA is required to publish this notice in the **Federal Register** as soon as practicable. As authorized by section 8(a)(2) of Executive Order 12291, FDA is publishing this notice in the **Federal Register** without clearance of the Director, Office of Management and Budget. As soon as practicable, FDA will notify that office of the publication of this notice.

In accordance with section 520(d) of the act (21 U.S.C. 360j(d)), FDA is providing 60 days for interested persons to comment on this notice. FDA also recognizes that under section 513(f)(2)(C)(i), FDA must act on this petition within 210 days after the petition is filed. Therefore, the agency encourages interested persons to submit comments early and advises that immediately upon the close of the comment period, FDA will evaluate the comments and approve or deny the petition.

Interested persons may, on or before August 2, 1983, submit to the Dockets Management Branch (address above) written comments on the recommendation. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 25, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

FR Doc. 83-14544 Filed 6-2-83; 8:45 am

BILLING CODE 4160-01-M

[Docket No. 83F-0156]

Morton Chemical Division of Morton-Thiokol, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Morton Chemical Division of Morton-Thiokol, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of an aqueous dispersion of polyhydric alcohol diesters of oxidatively refined (Gersthoffen process) montan wax acids, polyoxyethylene (minimum (min.) 3 mols) cetyl alcohols, and polyoxyethylene (min. 20 mols) oleyl ether, for use in aqueous dispersions of polyvinylidene choloride copolymers intended for use in contact with food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B3707) has been filed by Morton Chemical Division of Morton-Thiokol, Inc., Two North Riverside Plaza, Chicago, Il 60606, proposing that the food additive regulations be amended to provide for the safe use of an aqueous dispersion of polyhydric alcohol diesters of oxidatively refined (Gersthoffen process) montan wax acids, polyoxyethylene (min. 3 mols) cetyl alcohols, and polyoxyethylene (min. 20 mols) oleyl ether, for use in aqueous dispersions of polyvinylidene chloride copolymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: May 20, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-14543 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0148]

Wesley-Jessen, Inc., Premarket Approval of DURASOFT® TruFocal™ (Phemfilcon A) Bifocal Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the DURASOFT® TruFocal™ (phemfilcon A) Bifocal Hydrophilic Contract Lens, sponsored by Weley-Jessen, Inc., Chicago, IL. 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 July 5, 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 July 22, 1982, Wesley-Jesen, Inc., Chicago, IL, submitted to FDA a supplemental applicationfor premarket approval of the DURASOFT® TruFocal™ (phemfilcon A) Bifocal Hydrophilic Contact Lens. The lens is indicated for daily wear by not aphakic, hyperopic, myopic, and emmetrophic, preshyopic persons with nondiseased eyes who may have no more than 2.00 diopters of astigmatism and who require from 1.00 to 2.75 diopters of refractive add. The lens is approved in powers of -4.5 to $+4.5$ diopters and is to be disinfected using either thermal or chemical disinfection systems. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On April 20, 1983, FDA approved the application by letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 (h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similiar 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 labeling of an approved contact lens states that the lens is to be used with thermal or chemical disinfection systems. The restrictive labeling informs new users that they must avoid certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 96-637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever

FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is 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, 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 July 5, 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 25, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-14839 Filed 6-2-83; 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:

Dallas District Office, chaired by James E. Anderson, District Director. The topic to be discussed is: Direct-to-Consumer Advertising of Prescription Drugs.

DATE: Thursday, June 9, 1983, 5:30 p.m. to 7:30 p.m.

ADDRESS: Public Service of New Mexico (PNM) Bldg., Reddy's Rendezvous, Alvarado Square, Albuquerque, NM.

FOR FURTHER INFORMATION CONTACT: Hazel L. Wallace, Consumer Affairs Officer, Food and Drug Administration, 1200 Main Tower, Rm. 1545, Dallas, TX 75202, 214–767–5433.

St. Louis Station Office, chaired by Ronald M. Johnson, Chief. The topic to be discussed is: Direct-to-Consumer Advertising of Prescription Drugs.

DATE: Thursday June 16, 1983, 1:30 p.m. to 3:30 p.m.

ADDRESS: Food and Drug Administration, 808 North Collins, Laclede's Landing, St. Louis, MO 63102.

FOR FURTHER INFORMATION CONTACT: Mary-Margaret Richardson, Consumer Affairs Officer, Food and Drug Administration, 808 North Collins, Laclede's Landing, St. Louis, MO 63102, 314–425–5021 or 314–425–4137.

Buffalo District Office, chaired by Burton I. Love, Chief Investigator. The topic to be discussed is: Direct-to-Consumer Advertising of Prescription Drugs.

DATE: Thursday June 16, 1983, 1:30 p.m. to 3:30 p.m.

ADDRESS: Rm. 1440, U.S. Federal Bldg., West Huron and Delaware Aves., Buffalo, NY 14202.

FOR FURTHER INFORMATION CONTACT: Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, 716–846–4483.

Nashville District Office, chaired by Hayward E. Mayfield, District Director. The topics to be discussed are: Direct-to-Consumer Advertising of Prescription Drugs and the Update of FDA Issues.

DATE: Wednesday, June 22, 1983, 10 a.m. to 11:30 a.m.

ADDRESS: Conference Room, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217.

FOR FURTHER INFORMATION CONTACT: Barbara B. Shields, Consumer Affairs Officer, Food and Drug Administration, 297 Plus Park Blvd., Nashville, TN 37217, 615–251–7127.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 27, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-15000 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

Dermatologic Drugs Advisory Committee; Republishing of Meeting Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is republishing the notice announcing a meeting of the Dermatologic Drugs Advisory Committee scheduled for June 13, 1983. The meeting was announced in the Federal Register of May 13, 1983 (48 FR 21660). The notice is being republished because of a revised schedule and a change in the open committee discussion. In addition to the agenda items announced in the May 13 notice, the committee will also discuss bioequivalence considerations in topical corticosteroids.

Dermatologic Drugs Advisory Committee

Date, time, and place. June 13, 8 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, 8 a.m. to 9 a.m.; 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 (HFN–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 bioequivalence considerations in topical corticosteroids, ketoconazole (NDA 18–533, Janssen Pharmaceutica), and lindane (NDA 6–309, Reed and Carnrick, Inc.).

Dated: May 31, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-15001 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 27.

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration

Subject: Supplemental Instructions: Research Scientist Development/ Award Program
Respondents: Research scientists
OMB Desk Officer: Fay S. Iudicello

Office of the Assistant Secretary for Health

Subject: Application and Related Forms for the Operation of the National Death Index (0937-0088)—Revision
Respondents: Individuals, organizaitons, and agencies conducting health and medical research involving the monitoring of cohorts of individuals over time
Subject: Application for Correction of PHS Commissioned Corps Personnel Records (0937-0095)—Extension
Respondents: Present and former PHS commissioned corps personnel
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: New Drug Applicaiton (0910-0001)—Extension/no change
Respondents: Drug manufacturers
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Employer Classification Update (SSA-L378 (4-81))—Reinstatement
Respondents: New employers who supplied insufficient industry classificaiton information on their SS-4, Applications for Employer Identification Number
Subject: Refugee State-of-Origin Report—New
Respondents: State governments
OMB Desk Officer: Milo Sunderhauf

Office of the Secretary

Subject: HHS Procurement Regulation
Respondents: State and local governments, businesses, non-profit institutions
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Date: May 26, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83-14865 Filed 6-2-83; 8:45 am]

BILLING CODE 4150-04-M

Social Security Administration

Availability of Funding for Targeted Assistance Grants for Services for Refugees in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of availability of funding for targeted assistance grants for refugee services in high-need local areas.

SUMMARY: This notice announces the availability of funds and award procedures for targeted assistance project grants for services to refugees under the Refugee Resettlement Program (RRP) in localities with large refugee populations, high refugee concentrations, and high use of assistance, and where specific needs exist for supplementation of currently available resources.

DATE: Application deadline: Applications for grants under this notice must be received by ORR no later than August 2, 1983, or be mailed by first class mail and postmarked no later than that date. Applications not meeting this requirement will not be considered and will be returned to the sending agency.

FOR FURTHER INFORMATION CONTACT: Robert L. Robins, Office of Refugee Resettlement, Room 1229, Switzer Building, 330 C Street SW., Washington, D.C. 20201, Telephone (202) 472-4440.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope:

This notice announces the availability of funds for targeted assistance grants for services to refugees in counties where, because of factors such as unusually large refugee populations, high refugee concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of currently available resources for services to this population.

Notice of proposed availability of funds was published in the **Federal Register** for public comment on March 3, 1983 (48 FR 9067). No significant changes have been made in the program as a result of comment on the previously published proposal. However, several modifications and clarifications and some technical changes were made in response to comments. In addition, eight counties were added to the list of qualifying counties as a result of additional data provided and a consideration of contiguous counties in Standard Metropolitan Statistical Areas; adjustments have been made in recognition of the lack of an AFDC-UP program in some States or such program's noninclusion or negligible coverage of refugees in other States; and the Director has added $10,000,000 to the program to allow for the additional areas and other adjustments.

A total of $40,000,000 in funds which Congress has designated for this purpose is currently expected to be available in FY 1983 for targeted assistance for refugees. (A separate announcement will be made for targeted assistance for Cuban and Haitian entrants.)

The purpose of the grants is to provide to refugees, through a process of local planning and implementation, targeted projects and services which are intended to result in economic self-sufficiency and reduced dependency. Funds awarded under this program will support projects which enhance refugee employment potential and increase the ability of refugees to find and retain jobs. Innovative approaches to accomplish this objective will be entertained and are encouraged.

Funds awarded under this targeted assistance program are generally related to the existence of and relative extent of refugee need in each qualifying county, as indicated by a qualification and allocation formula (described in this notice), and to the completeness of applications and allowability of activities proposed. If requested, comment and technical assistance will be provided to the applicant by the granting agency in order that a proposal can be developed which will merit the award of funds at the level determined by the allocation formula. An award of

funds will be made only if, and to the extent that, an application is determined acceptable by the Director of ORR.

II. Discussion of Comments Received

Seventy-four comments were received in response to the notice of proposed availability of funds for refugee targeted assistance. The comments strongly supported the concept of the targeted assistance program in general and the basic approach to its implementation as presented in the March 3, 1983, notice. Many of the comments included recommendations for particular changes or expressed concern about particular aspects of the program as proposed. These are summarized below and are followed in each case by the Department's response.

Refugee Eligibility for Participation in Targeted Assistance Program

Comment: Some commenters expressed concern that eligibility for receipt of services or participation in projects funded under this program was too restricted. Specific issues which were raised include: Emphasis on unemployed refugees to the exclusion of those who are employed but not self-sufficient; clarification as to the eligibility of time-expired refugees—i.e., those whose eligibility for refugee cash assistance, (RCA) has expired, or for whom the State no longer receives reimbursement from ORR for its share of the refugee's AFDC benefit; the appropriateness of the requirement that refugee clients live in the county which has qualified for targeted assistance; and the question of whether only Southeast Asian refugees are eligible to be served under the targeted assistance projects.

Response: The Department intended, in proposing to limit refugee eligibility for this program, to ensure that available resources would be targeted to refugees who would most benefit from the program in areas where needs appear to be greatest. The number and content of comments which was received on these issues has convinced the Department that such restrictions can often creat compliations in planning and service delivery which offset this intended purpose. The comments also provided sound evidence that the planning and application process, as outlined in this notice, is adequate as a means of ensuring that the purposes of the targeted assistance program will be carried out. Therefore, the present notice has been amended to remove any restriction or rule regarding refugee eligibility for this program. Instead, each proposal will be required to include a description of the local administering entity's policies on this issue, as indicated in section VIII, below.

Although the present notice does not prescribe targeted assistance program eligibility with regard to a refugee's cash assistance eligibility or receipt, employment status, or residence as a result of these changes, it should be noted that the basic purpose of the program remains unchanged and that proposals should be developed with increased self-sufficiency and reduced public assistance use as primary objectives. Activities which are peripheral to these objectives or which serve refugee clients who are not unemployed and not receiving full assistance benefits should be fully justified.

With regard to eligible ethnic or nationality group, the Department imphasizes for clarity that no eligibility restriction was indicated or intended in the March 3 notice. The first criterion adopted for use in the qualifying stage of the formula employed arrival figures for Southeast Asian refugees for reasons stated in section VI, below. For purposes of allocation through the second stage of the formula, and for purposes of refugee eligibility, no ethnic or national distinction or discrimination was or is now indicated.

Service Allowability, Definition, and Coordination

Comment: Several commenters requested that definition or clarification be provided regarding the meaning of "duplication of services," as discussed in section VII of the proposal.

Response: The proposal contained the phrase "duplication of services" in the first element of a State's certication requirement, which must be submitted with a locally-developed proposal upon application. The Department agrees with comments that the intended meaning of this phrase was not clear and has revised the appropriate paragraph, section VIII, of this final notice to indicate the point of this required certification element. This revision states that, in essence, a State must certify that no targeted assistance funds will be used to liquidate contract obligations for refugee services when those obligations were based on the availability of other funds. This certification is required to prevent the diversion of already obligated funds to additional activities. (Planning and proposal development costs incurred during the pre-award period are excepted from this rule, as explained in the response to comment on administrative costs, below.)

Comment: Some commenters indicated that limitation of the service delivery area to the qualifying county would be at least, inconvenient and would likely lead to many practical problems in providing services or conducting innovative projects in an effective way.

Response: The Department's rationale for this original provision was similar to that for a refugee residency requirement, in that it was intended to ensure use of funds where they appear to be most needed. Comments received on this issue have convinced the Department that the location of targeted assistance projects is more appropriately a matter for local determination, and the language of the notice has been changed accordingly. Nevertheless, where location is a critical factor in the effective execution of a project, such as a farming or an on-the-job-type project, for example, proposals should include some indication of how a location outside the qualified county will allow for increased refugee opportunity.

Comment: A number of commenters sought clarificaiton of the allowable scope of services or asked for inclusion of specific services which had not been named in the proposal. Other commenters requested that certain service or project activities be defined.

Response: Targeted assistance funds are available for the primary purpose of facilitating refugee employment and the achievement of self-sufficiency. As such, the program is not and should not be construed to be, one of general impact aid or for the purpose of contributing to a wide range of local infrastructure costs. Since the types of allowable activities included in the proposal generally encompassed the varieties of employment-related projects which are commonly recognized, the Department sees no need to supplment the list in this notice. However, the paragraphs in section VIII which address allowable services have been amended to indicate that ancillary services are generally allowable if the proposal demonstrates that they are an integral and indispensable part of an employment project or plan. We have also revised section VIII to provide definition of allowability for projects which include a benefit payment (referred to as a stipend in the proposal), which is intended to allow the provision of programs with targeted assistance funds to those who otherwise would not be able to participate.

Since the Department encourages innovative approaches designed to further refugee employment opportunities, it is emphasized that while targeted assistance funds may not be used for capitalization of an

enterprise, many activities related to business development, such as marketing, management, and employee development, are allowable if pursued through training and technical assistance. The cost-effectiveness of such projects should be addressed in the proposals, with data specifying the number and type of jobs which would result and the portion of the target population which would benefit from them.

Comment: A few comments were received which pertain to the applicability of rules and sanctions to targeted assistance projects and the refugees who participate in them. Specific inquiry was made with regard to the role of targeted assistance projects with respect to refugees who are mandatory participants in the WIN program (45 CFR Part 224).

Response: Targeted assistance is a program of employment-related projects for refugees and is funded under the authority of section 412(c) of the Immigration and Nationality Act, as amended. All targeted assistance projects and all refugee participants of such projects are subject to policies and regulations issued under this authority, as well as to policies and regulations issued under authorities which govern other public programs in which they participate. Where special authorities, such as those for demonstrations, waivers, and other welfare-linked employment programs, may be invoked to aid in integrating targeted assistance projects with existing programs, this would generally be viewed favorabley by the Department. A recommendation or requirement of such linkages, however, is beyond the purview of this notice.

Planning, Application, and Administration Issues

Comment: Some comments were received regarding the proposed arrangement for local planning and administration of targeted assistance activity. a few recommendations were for different arrangements: That the funds be awarded directly to the county; that the State administer the program rather than pass the funds through to the local level; and that specific alternatives be prescribed for circumstances which do not easily accommodate the administrative arrangement as set forth in the proposal.

Response: The Department has designed the proposed targeted assistance program to be, as much as possible, a locally-determined program of activities which are specifically applicable to local refugee needs, while at the same time being coordinated with and within the general scope of the existing State refugee program. It is recognized that, depending upon local structures and relationships, the most effective approach to proposal development and to program administration may vary from site to site and that the determination of the most appropriate approach would be an early and essential part of the planning process. To clarify this intent, the Department has retained and reiterates two essential conditions of this program: That the State be the applicant and the grantee; and that the proposal be developed through a process of local consultation in the targeted assistance area.

It is also intended that, where possible, the program be locally-administered as well. In cases where no system of county governments exists, the State may designate an administering entity, including itself, to perform this function; it may also do so, with county concurrence, if there is no cognizant refugee program or agent in the county. Under any other circumstance, a county would administer the program, or it could delegate such responsibility through any legal means which provides for compliance with the requirements, terms, and conditions that govern the award. Where precedent and/or current practice indicate, State-local consultation and cooperation would be expected in order to ensure the effective and efficient provision of the targeted assistance activity.

Comment: Several commenters requested clarification regarding allowable administrative costs, and limitations on such costs, which relate to State administration, to direct service activity, and to planning costs.

Response: The proposal stipulates that a State must pass through to the local administering entity not less than 95 percent of the total allocation made for that county. Funds thus available to a State are for the purpose of carrying out administrative activity related to planning, review, and submission of proposals on behalf of local entities, and for conducting normal monitoring activities as required of a grantee under 45 CFR Part 74, the Department's regulations governing the administration of grants. In order to account for the use of these funds, we have amended the application requirements for States by adding the requirement that a State submit a budget and narrative which describes its intended use of available administrative funds.

Planning costs may be claimed by both State and local administering agencies as pre-award costs, provided that they are directly attributable to local consultation, proposal development and review, and other activities specifically related to these. Planning costs will be considered administrative costs and will be included in the administrative ceilings as provided in this notice. Administering agencies are authorized to charge these costs against their cash and medical assistance administrative budget prior to the issuance of targeted assistance awards. Upon issurance of those awards, such charges must be offset from the targeted assistance administrative budget. Costs of direct service to refugees, where provided by the local administering entity, will not be considered administrative costs and will not be included in the administrative cost ceiling.

Finally, costs incurred in development and/or operation of any alternative administrative mechanism, such as a consortium or an administrative contractor, will be considered administrative costs and will be included in the administrative ceiling.

Comment: Some commenters indicated that one or more of the time periods identified in the proposal for planning, processing, and implementation, were too short.

Response: The proposal set forth a due date for applications 45 days after the date of publication of this notice. In response to comments that this would not allow sufficient consultation time, the Department has amended the period to 60 days. Recognizing that not all qualifying areas will need 60 days. Recognizing that not all qualifying areas will need 60 days to develop proposals, and that the receipt of all applications at the same time would likely increase the time necessary to review them and issue awards, we encourage States to submit applications for qualifying areas prior to the 60-day due date whenever possible.

Although no specific reference was made in the proposal to a project or budget period for targeted assistance grants, the reporting requirements were taken by many to imply a one-year duration. Awards shall be issued for a project period and budget period of 18 months. Semiannual progress reports, as currently proposed, will be due within 30 days after each 6-month period, beginning with the date on which funds are passed by the grantee to the administering entity, except that the final report is due 90 days after the end of the project period.

A few comments were received regarding the State certification requirement that funds be passed to the administering entity within 45 days of the grant award. The Department

believes that this period is practical and appropriate, and therefore has retained this provision from the original proposal.

Formula, Data, and Allocation Issues

Comment: Some commenters suggested that different criteria, or additional criteria, be employed in determining a county's qualification for targeted assistance. In particular, some commenters suggest that a Standard Metropolitan Statistical Area (SMSA) would better represent service need than a county. Other commenters stated that they would prefer the use of a different criterion, or more than one criterion, in the calculation of allocations for qualified counties. Several commenters specifically mentioned the need for consideration of time-expired refugees, particularly those in areas without broad programs for unemployed parents under AFDC and without State or county general assistance programs.

Response: The Department believes that the two-stage formula for targeted assistance qualification and allocation is a reasonable and programmatically sound method for the distribution of funds under this program. This position was supported by a vast majority of commenters. However, the Department also agrees with comments which recommended adjustments in the application of categories of data to the formula, in order to achieve optimal equity among qualified areas and to allow for the allocation of funds on behalf of an equivalent group of refugees in each qualified county. Therefore, we have made two adjustments to the formula's data base: We applied a compensatory constant to cash assistance figures to construct a standard set of data categories to be used in establishing an "adjusted" cash assistance number of each county; and we aggregated data from geographically contiguous counties which are in the same SMSA for purposes of qualification and allocation. Since the application of these adjustments relates also to data appeals, explanation of this process is presented below.

Comment: Several comments were received which challenged the data used either for determining a county's qualification for targeted assistance or for calculating an allocation amount for qualified counties.

Response: As a result of secondary migration into certain counties, those counties have refugee populations considerably larger than ORR's refugee data system reflects, since the system shows primarily the initial resettlement site. In their submissions, certain counties were able to demonstrate the presence of much larger refugee populations than ORR used in its initial screening, and the arrival figures were adjusted accordingly. Also, ORR requested formal confirmation of the accuracy of the cash assistance figures used in the allocation of funds. In a few cases, this resulted in corrections to the initial figures, and the amounts of the proposed allocations were adjusted. Finally, ORR acknowledges that the county boundaries for a few locations impose an overly narrow definition of the local refugee service area. In these places, ORR combined pairs or groups of counties for purposes of qualifying and/or allocation of funds. Each group of counties allowed to qualify in this manner is in the same SMSA, and at least one of the combined counties would have been unable to qualify alone.

The groups of counties that qualified, or whose allocations were increased, under these conditions are: (1) Riverside/San Bernardino, CA; (2) San Francisco, CA (Marin County was added for allocation purposes); (3) Denver, CO (Adams, Arapahoe, and Boulder Counties were added for allocation purposes); (4) Cook, IL (Kane County was added for allocation purposes); (5) Montgomery/Prince Georges, MD; (6) Jackson, MO (Wyandotte County, KA, was added for qualification and allocation purposes); (7) New York, NY (the five boroughs were included for allocation purposes); (8) Multnomah, OR (Clackamas County, OR, Washington County, OR, and Clark County, WA, were included for allocation purposes); (9) Salt Lake, UT (Davis and Utah Counties were included for allocation purposes); (10) Fairfax, VA (the independent cities of Alexandria, Fairfax, and Falls Church were included for qualification and allocation purposes); and (11) King, WA (Snohomish County was added for allocation purposes).

III. Authorization

Targeted assistance projects will be funded under the authority of Section 412(c) of the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. 1522(c).

IV. Eligible Grantees

The Department is limiting eligible grantees to those agencies of State governments which are responsible for the refugee program under 45 CFR 400.5 (except that under certain circumstances—see section VIII, below—a grant could be made directly to a local entity). Applications for targeted assistance funds, consisting of a locally-developed proposal and required State certifications as outlined in section VIII, below, must be submitted by the above-mentioned State agency on behalf of the county governments of the qualified counties in that State. In the absence of a statewide county system, or in the absence of an appropriate county-level refugee program agent or agency and with the concurrence of the county government, the State may designate a city or other entity, either public or private nonprofit, to administer the targeted assistance funds for a qualified local area. The targeted assistance proposal must be developed by the county government or other designated entity according to local needs and capabilities. The proposed activities are required to be identified and planned in cooperation with local public officials, voluntary refugee resettlement agencies, the business community and refugees in that area. In submitting proposals on behalf of qualified local entities in the State, the State agency must provide assurance that targeted assistance funds do not supplant other refugee program funds which support current assistance and services in the targeted localities and must certify that not less than 95% of each locality's allocated amount will be passed through to the designated administering entity.

Applications submitted in response to this notice are subject to review by State and areawide clearinghouses under the procedures in Part I of Office of Management and Budget Circular No. A–95. To ensure adequate time for all required reviews, applicants are encouraged to immediately advise appropriate clearinghouse personnel of their intentions to apply and to submit applications to the clearinghouses and ORR simultaneously.

V. Qualification and Allocation Formula

The Department has used a two-stage formula for qualification for, and allocation of, targeted assistance funds. The first stage of the formula defines the qualification of counties for targeted assistance through the use of four equally-weighted criteria which have been selected to collectively indicate local conditions and problems which the proposed program is intended to address. In order to qualify for application for targeted assistance funds, a county (or group of adjacent counties within the same Standard Metropolitan Statistical Area, or SMSA, as described in section VI, below) is required to be above the median or above a selected cutoff point of jurisdictions for which data were

reviewed (as described in section VI, below) in three of the four following criteria: (1) The number of refugees placed in the county during Federal fiscal years 1980–82; (2) the ratio of the overall county population to the refugees in item (1), above; (3) the number of refugees in the county who were receiving cash assistance under the programs of aid to families with dependent children program (AFDC), including the unemployed parent (UP) portion of that program, and refugee cash assistance (RCA) on October 1, 1982; and (4) the ratio of refugees in item (3) to the number of refugees in item (1). A county which places above the cutoff point in any three of the above categories is qualified to apply for targeted assistance funds, and is included in the list of qualifying localities for determination of its targeted assistance allocation. Discussion of the derivation and use of date is presented in section VI, below.

The second stage of the targeted assistance formula is designed to reflect the relative level of need for funds among those counties which have qualified to apply under the formula's first stage. The relative degree of need of each qualified locality is best indicated by the number of refugees residing in that locality who are not self-sufficient. Therefore the Department is using the following single criterion as the basis for the allocation of targeted assistance funds among the eligible counties. The number of refugees residing in the county who have been in the United States 36 months or less and who were receiving cash assistance under AFDC, AFDC-UP, or RCA on October 1, 1982. (These data are adopted to represent refugee need for targeted assistance on a basis which makes some adjustment for the variation in caseloads caused by State-to-State assistance program differences. Estimates have been calculated to provide funds to qualifying counties in States which do not have AFDC-UP, or in which refugee inclusion under AFDC-UP is non-existent or minimal, in order to provide an equitable level of funding in all qualifying localities, regardless of differences in Federal-State assistance program availability.) A county's allocation is the proportion of available funds which equals that county's proportion of all such refugee recipients residing in all counties which have qualified to apply for targeted assistance funds under the first stage of the formula. Further discussion of the data and proposed allocation amounts are presented in section VII, below.

In summary, the Department recognizes that local need for targeted assistance funds may be reflected in several different, if interrelated, factors. Such need is addressed in a manner which, to the extent measurable, takes into account both the variety and cumulative impact of those factors. Therefore the first stage of the formula allows for differences in local circumstances and problems by measuring each of four factors separately. It then selects qualified localities by identifying those which exhibit consistently high indications of need in most of the criteria.

With respect to the second stage of the formula, the Department considers the purpose of this program to be to provide self-sufficiency-related services to refugees in all qualifying areas on an equitable basis. Therefore the amount of funds allocated to each county is a proportion of the available funds which is equal to each county's proportion of the refugees in all qualifying counties who are not self-sufficient.

VI. Discussion of Data and Application of Criteria

This section discusses the development and application of the four criteria and explains the data bases used to derive them. A table is included to show how the qualifying counties scored on each criterion.

The Department is using the county as the basic unit to which the critieria are applied. This insures that uniform units are compared nationwide. All relevant data are available at the county level, which is not the case with other possible units. The county is thought to be a meaningful local unit in which need for additional services to the resident refugee population can be identified and addressed.

An initial list of counties was developed which could be screened according to the proposed criteria. From ORR's data system, all counties that received more than 900 initial resettlements of Southeast Asian refugees during either of two time periods were listed. The time periods were October 1979 through December 1980 (a 15-month period during which 196,057 refugees arrived) and January 1981 through September 1982 (a 21-month period during which 175,243 arrived). Thus, all counties were listed that received more than approximately one-half of one percent of the new arrivals in either time period. Together, these time periods constitute the entire 36-month period considered in the allocation of funds for social services for FY 1983. The number of counties meeting this initial criterion was 40. (Washington, D.C., was treated as a county for this purpose.)

The ORR refugee data system contains information on the refugee's initial place of resettlement as recorded in documents carried by the refugee at the time of arrival in the U.S. The system contains records on 99 percent of the Southeast Asian refugees who arrived during the 3-year period considered. The county of arrival could not be identified (although the State was identified) for about 15 percent of those who arrived during 1980, 6 percent of those who arrived during 1981, and 1 percent of those arriving in 1982. Because of this, arrival numbers by county are somewhat understated; however, the "unknown" placements are distributed proportionately across all of the States, and no county is thought to suffer a relative disadvantage due to the missing information.

The population considered was confined to Southeast Asian refugees primarily because this population is in greatest need for targeted assistance services, but also because comparable data are not available at the county level for other groups of refugees over the 3-year period. (Data available to the Department indicate that Southeast Asian refugees have a higher rate of cash assistance use and lower employment rates than other refugee groups; however, eligibility for praticipation in targeted assistance projects is *not* confined to Southeast Asian refugees.)

This initial list was compared with three other lists of places thought to be significantly affected by their refugee populations, as compiled by three organizations: The Committee on Migration and Refugee Affairs of the American Council of Voluntary Agencies for Foreign Service, Inc. (ACVA), the National Association of Counties, and the U.S. Conference of Mayors. In cases where these lists referred to a non-county entity, the county thought to best approximate the organization's meaning was used. From the ACVA list, places designated as either "impacted" or "sensitive" were considered. All counties so identified were added to the ORR list unless they had clearly been determined to be "impacted" due to the presence of Cuban/Haitian entrants rather than refugees. While all lists showed substantial overlap, the review of these additional three sources resulted in the addition of 20 more counties to ORR's initial list of 40. In this way, 60 counties were screened according to the proposed criteria. Following the receipt

of corrected data and requests submitted on behalf of certain counties in response to the notice of March 3, 1983, revisions were made in the data on refugee arrivals and cash assistance.

Criterion 1, the number of Southeast Asian refugees initially resettled in the county during FY 1980, 1981, and 1982, appears in Column B of Table 1. The median of Criterion 1 for the counties screened is 2,066.5. Criterion 2 appears in Column E of the same table; it consists of the county population according to the 1980 U.S. Census divided by the refugee arrival figure in Column B and may be interpreted as persons per refugee. The median of Criterion 2 is 244.5. Criterion 3, the number of refugees receiving ORR-reimbursed AFDC, AFDC-UP, or RCA benefits as of October 1, 1982, appears in Column D. The source of this information was the counties themselves. (Counties that did not meet the first two criteria, and thus would not be eligible in any case, were not asked to supply this information.) The cutoff point for Criterion 3 was established initially at 1,000, in order to insure a sizable pool of refugees needing services. After counties were deemed to have met the criteria for receiving awards, their cash assistance figures were adjusted for the variation in caseloads caused by differences among the States in assistance programs. The adjustment was made by applying a constant percentage to the cash assistance caseloads representing the AFDC-UP proportion of the case loads in States having an AFDC-UP program for which significant numbers of refugees qualify. In States without an AFDC-UP program of this type, an adjustment factor was added to bring the AFDC caseload up to what it would be, on average, if the AFDC program were more inclusive. The cash assistance figure appearing in Column D represents the adjusted figure used to calculate the proposed award, not necessarily the raw data figure reported by the county. Criterion 4, the ratio of refugees receiving assistance adjusted to refugees initially resettled in the county as shown in Column B, appears in Column F. The cutoff point for Criterion 4 was establsihed at 50 percent, the approximate national average dependency rate. This criterion should not be interpreted as a dependency rate, for several reasons: (1) It does not include all types of assistance; (2) refugees of all nationalities are compared only with Southeast Asians in the population base; (3) adequate corrections to the base population figure for secondary migration could not be made. However, the Department feels that Criterion 4 is a good measure of the *relative* need for additional services in the area; and it is an indirect indicator of secondary migration since secondary migrants would be included in the cash assistance data.

Application of these four criteria resulted in the identification of 33 counties or adjacent pairs or groups of counties that meet three of the four criteria and therefore qualify for the proposed program.

While recognizing that differing views may exist, we believe that these criteria comprise good indicators of high-need counties and that the proposed cutoff points establish a reasonable basis for identifying those counties which have the greatest needs and therefore qualify for targeted assistance funds. The basic intent of the targeted assistance program is to concentrate the available funds in those areas which have the greatest need for funds in addition those provided under the social services allocations and where there are appreciable numbers of unemployed and dependent refugees on whose behalf special self-support efforts are required.

VII. Allocation Amounts

Based on the foregoing formula and the available data at this time, the allocation amounts intended to be available for targeted assistance, subject to the applications requirements of this notice, are shown in Column H of Table 1.

TABLE 1.—COUNTIES FOR PROPOSED TARGETED ASSISTANCE PROGRAM AND FORMULA CALCULATION

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
County and state	Arrivals Oct. 1979–Sept. 1982	1980 Census (000)	Cash assistance Oct. 1, 1982[1]	Population ratio	Percent receiving assistance	Formula base[2]	Allocation
Alameda CA	*4,924	1,105	*7,481	*224	*152	7,481	$1,483,669
Contra Costa CA	*2,247	657	*2,139	292	*95	2,139	424,217
Fresno CA	*5,000	515	*4,131	*103	*83	4,131	819,281
Los Angeles CA	*29,088	7,478	*35,272	257	*121	35,272	6,995,319
Orange CA	*13,909	1,932	*16,810	*139	*121	16,810	3,333,843
Riverside/San Bernardino CA	*2,490	1,557	*2,134	625	*86	2,134	423,226
Sacramento CA	*3,950	783	*6,403	*198	*162	6,403	1,269,875
San Diego CA	*10,441	1,862	*12,529	*178	*120	12,529	2,484,814
San Francisco CA[3]	*11,259	679	*9,330	*60	*83	9,330	1,850,372
San Joaquin CA	*2,825	347	*6,461	*123	*229	6,461	1,281,378
Santa Clara CA	*10,207	1,295	*12,514	*127	*123	12,514	2,481,839
Stanislaus CA	1,171	266	*1,169	*227	*100	1,169	231,842
Denver CO[3]	*2,943	491	*2,524	*167	*59	2,524	500,518
Honolulu HI	*3,709	783	*2,779	*206	49	2,779	551,152
Cook/Kane IL	*8,268	5,531	*11,892	667	*87	11,892	2,358,440
Sedgwick KA	*2,929	367	*2,725	*125	*63	2,725	540,500
Orleans LA	*2,432	557	*1,314	*229	44	1,314	260,631
Montgomery/Prince Georges MD	*2,695	1,244	*2,585	462	*74	2,585	512,735
Middlesex MA	*2,557	1,367	*2,042	535	*64	2,042	405,046
Suffolk MA	*6,555	650	*4,667	*99	*58	4,667	929,612
Hennepin MN	*2,193	941	*3,293	429	*131	3,293	653,096
Ramsey MN	*5,573	460	*4,630	*83	*71	4,630	918,292
Jackson MO[3]	*2,093	802	*1,594	383	*54	1,594	316,209
New York NY[3]	*4,806	1,428	*5,297	297	*97	5,297	1,050,573
Multnomah OR[3]	*7,404	563	*7,097	*76	*69	7,097	1,407,416
Philadelphia PA	*7,322	1,668	*4,858	*231	47	4,858	963,382
Providence RI	*2,356	571	*3,470	*242	*92	3,470	688,095
Harris TX	*12,130	2,410	*5,694	*199	34	5,694	1,129,253
Salt Lake UT[3]	*5,118	619	*1,731	*121	21	1,731	343,292
Arlington VA	1,954	153	*3,000	*78	*99	3,000	594,897
Fairfax VA[3]	*2,179	729	*3,617	335	*107	3,617	717,333
King/Snohomish WA	*9,461	1,607	*8,641	*170	*66	8,641	1,713,650
Pierce WA	*2,338	486	*1,847	*208	*52	1,847	366,222

Note.—An asterisk (*) beside a figure indicates county meets that criterion.

[1] Number of refugees receiving AFDC, AFDC-UP, and RCA as of October 1, 1982, adjusted for variations in AFDC-UP program criteria.

[2] The formula base included neighboring counties or independent cities that did not qualify alone and that are part of the same SMSA and service area. See discussion in text.

VIII. Eligible Projects

In applying for targeted assistance funds on behalf of a qualified county in the State, a State agency is required to certify that: (1) The available targeted assistance funds do not supplant other refugee program funds which have been obligated for assistance and services in the local area; (2) the State will make available to the county or designated local entity not less than 95% of the amount of the award for purposes of implementing the proposed activities; (3) the State's authorization to the county or designated local entity to use funds awarded will be made within 45 days of the State's receipt of the notification of the grant award, or, in lieu of this, the State may recommend that the award be granted directly to the eligible entity; (4) the proposal was developed through a local process based upon meaningful consultation with appropriate public and private groups involved in resettlement, including local public officials, representation from voluntary refugee resettlement agencies, the business community, and refugees in the local area. In addition, a State must submit a budget and justification narrative for use of all funds not forwarded to (an) eligible county(ies).

In developing a proposal, a county or designated local entity is required to set forth in detail: (1) Evidence of specific needs and definition of targeted population; (2) a statement of specific employment objectives for use of the funds in increasing refugee self-sufficiency in the area; (3) a description of the strategy proposed to achieve these objectives, including detailed description of individual program components, number of clients to be served, policies regarding eligibility of clients for components, and the integration and/or coordination of proposed activities with the overall refugee service system in the area; (4) an estimation of anticipated outcomes achieved within 6 months and 12 months from the date funds are received by the county or other local administering entity; (5) a brief description of the procurement process to be used for each program component; (6) a description of program monitoring and evaluation of the proposed activities; and (7) a detailed budget, including itemization by program component, and containing a local administration cost not to exceed 10% of the amount allocated to the county.

Allowable activities include any activity permissible under section 412(c) of the INA which is directly related to the furtherance of refugee economic self-sufficiency by aiding refugees in finding and retaining jobs, increasing refugee employability potential, and/or enhancing refugee job market possibilities. Creative approaches to such activities are encouraged. Allowable activities would include, for example, job development, job placement, business and employer incentives (such as on-site employee orientation and vocational English training, or bilingual supervisor assistance), business technical assistance, short-term job training specifically related to opportunities in the local economy, and on-the-job training. Use of targeted assistance funds for venture capital, either as grants or loans, is specifically not allowed.

Stipends or needs-based payments to program participants are allowed if no other source of support is available to them and it can be demonstrated that support is essential to their participation. In any case, no more than 30% of funds used for this program component may be made available for such payments. Support services, such as day care and transportation, are allowable when it is demonstrated that they are directly related to employment opportunities or are a critical component of an employability plan. Proposals which include voluntary corporate participation and a generally high degree of business and refugee group involvement are especially welcomed.

IX. Application Content

In developing targeted assistance proposals, counties or designated local entities must consider and spell out clearly the appropriateness of the proposed activities to the local economy, the appropriateness of the proposed activities for the refugee population(s) in the area, and the relationship of the proposed activities to existing refugee services carried out with Federal funds.

Final targeted assistance grant applications must include the following elements. Those which fail to include all elements will be considered incomplete.

1. Certification by the State agency that, for each local entity on whose behalf an application is being submitted, the four conditions listed in the first paragraph of section VIII, above, have been met, and submission of a State administrative budget.

2. Documentation of specific needs for targeted assistance projects and discussion of characteristics of anticipated refugee client population (e.g., assistance status, ethnicity, occupational and educational background).

3. Description of specific employment objectives for use of funds, including justification that the proposed objectives are appropriate to the needs of the proposed refugee clients and the local economy and will result in jobs and employment of the clients.

4. Results anticipated within 6 months and 12 months from the date funds are received by the county or other local administering entity, including the number of unsubsidized full-time job placements, number of individuals removed from cash assistance, and other specific outcomes related to the services proposed.

5. Justification of the strategic approach to achieving the stated objectives, including number of clients to be served in each component, and complementarity among targeted assistance activities and with other existing refugee services.

6. Adequate justification for an description of each specific activity that is proposed.

7. Adequate plan for determination of measurable, performance-based project outcomes on a semiannual basis (e.g., number of job placements reaching 90-day retention period).

8. Description of the local planning process which was used to develop the proposal, including identification of interests and sectors represented.

9. Assurance that services will be provided by qualified non-profit or for-profit agencies or individuals.

10. Reasonable cost estimates in relation to anticipated results.

X. Review, Technical Assistance, and Award Procedure

Applications will be reviewed on a non-competitive basis by a panel of experts to determine acceptability. Such determination will be based on the completeness of the submission (according to the requirements of section IX, above) and the allowability of proposed activities. The Department will provide technical assistance to the applicant if it is necessary in order to develop a proposal which warrants the award of funds at the proposed

allocation amount and if such assistance is requested by the applying State agency. The panel will make recommendations regarding acceptability of applications to the Director of the Office of Refugee resettlement (ORR). Final determination as to the acceptability of applications and determination of whether an award will be made to a State or local entity are at the discretion of the director of ORR.

XI. HHS Regulations That Apply

The following HHS regulations apply to grants under this Notice:

42 CFR Part 441, Subparts E and F, Services: Requirements and limits applicable to specific services—Abortions and Sterilizations
45 CFR Part 16, Department grant appeals process
45 CFR Part 74, Administration of grants
45 CFR Part 75, Informal grant appeals procedures
45 CFR Part 80, Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare effectuation of Title VI of the Civil Rights Act of 1964
45 CFR Part 81, Practice and procedure for hearings under Part 80 of this title
45 CFR Part 84, Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
45 CFR Part 95, Subpart E General Administration—Grant Programs (Public assistance and medical assistance)—cost Allocation Plans

XII. Reporting and Recordkeeping

Sections VIII and IX of this announcement establish application and reporting requirements that are subject to OMB review and approval under the Paperwork Reduction Act and 5 CFR Part 1320.

Applications for these grants are to be submited on Form SSA–96 which has current OMB approval (0960–0184). In completing Form SSA–96, States must address the evaluation criteria listed in Section IX.

Proposed financial and performance reporting requirements for these grants are curently at OMB undergoing review. Applicants will be notified of OMB's decision when it is received by ORR. The proposed reporting requirements directly follow Departmental grants administration regulations at 45 CFR 74.73 and 74.82.

(No Catalog of Federal Domestic Assistance number has been assigned)

Dated: May 31, 1983.

Paul B. Simmons,

Acting Commissioner of Social Security.

[FR Doc. 83-14911 Filed 6-2-83; 8:45 am]
BILLING CODE 4190-11-M

Proposed Availability of Funding for Targeted Assistance Grants for Services for Cuban and Haitian Entrants in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), SSA, HSS.

ACTION: Notice of proposed availability of funding for targeted assistance grants for Cuban and Haitian entrant services in high-need local areas.

SUMMARY: This notice announces the proposed availability of funds and award procedures for targeted assistance project grants for services to Cuban and Haitian entrants under the Cuban/Haitian Entrant Program (CHEP) in localities with large entrant populations and high entrant concentrations, and where specific needs exist for supplementation of currently available resources. In FY 1983, funds are expected to be available for targeted assistance grants.

DATE: Comments on the requirements and procedures set forth in this notice will be considered if received by July 5, 1983.

ADDRESS: Address written comments, in duplicate, to: David Howell, Office of Refugee Resettlement, Room 1332, Switzer Building, 330 C Street SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: David Howell, (202) 472–6510.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of funds for targeted assistance grants for services to Cuban and Haitian entrants in counties where, because of factors such as unusually large entrant populations and high entrant concentrations, there exists and can be demonstrated a specific need for supplementation of currently available resources for services to this population.

A total of $18,900,000 in funds which Congress has designated for targeted assistance is currently expected to be available for targeted assistance for entrants. (A separate announcement has been made for targeted assistance for refugees. See 48 FR 9067, March 3, 1983.) The amount of funds designated for entrant targeted assistance is based on the proportion (27%) which entrants comprise of the total population of entrants and of refugees who have been in the United States for less than three years, as calculated from the total available appropriation of $70 million for targeted assistance.

The purpose of the proposed grants is to provide to entrants who reside in qualifying counties, through a process of local planning and implementation, targeted projects and services which are intended to result in economic self-sufficiency and reduced dependency. Funds awarded under this proposed program are intended to support projects which enhance entrant employment potential and increase the ability of entrants to find and retain jobs. Innovative approaches to accomplish this objective will be entertained and are encouraged.

Funds awarded under this targeted assistance program will be generally related to the existence of and relative extent of entrant need in each qualifying county, as indicated by a qualification and allocation formula (described in this notice), and to the completeness of applications and allowability of activities proposed. If requested, comment and technical assistance will be provided to the applicant by the granting agency in order that a proposal can be developed which will merit the award of funds at the level determined by the allocation formula. An award of funds will be made only if, and to the extent that, an application is determined acceptable by the Director of ORR.

II. Authorization

Targeted assistance projects would be funded under the authority of section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c) of the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980 (Pub. L. 96–212), 8 U.S.C. 1522(c).

III. Eligible Grantees

The Department proposes to limit eligible grantees to those agencies of State governments which are responsible for the Cuban/Haitian Entrant Program under 45 CFR 401.12 (except that under certain circumstances— see section VII, below—a grant could be made directly to a local entity). It is proposed that the above-mentioned State agency submit proposals on behalf of the county governments of the qualified counties in that State. In the absence of a statewide county system, or in the absence of an appropriate county-level entrant program agent or agency and with the

concurrence of the county government, the State may designate a city or other entity, either public or private nonprofit, to administer the targeted assistance funds for a qualified local area. It is further proposed that the county government or other designated entity develop the targeted assistance proposal according to local needs and capabilities and that the proposed activities be required to be identified and planned in cooperation with local public officials, voluntary resettlement agencies which have resettled entrants, the business community, and entrants in that area. In submitting proposals on behalf of qualified local entities in the State, the State agency would provide assurance that the proposed activities do not supplant other entrant program funds which support current assistance and services in the targeted localities and would certify that not less than 95% of each locality's allocated amount would be passed through to the designated administering entity.

Applications submitted in response to this notice are subject to review by State and areawide clearinghouses under the procedures in Part I of Office of Management and Budget Circular No. A-95.

IV. Qualification and Allocation Formula

The Department proposes to allocate targeted assistance funds for entrants on the basis of each qualifying county's proportion of the total entrant population of counties which qualify for this program. In order to qualify, a county must have received, as initial placements or through secondary migration, more than 1,000 entrants under the Cuban/Haitian entrant resettlement program. Thus a county's proportion of available targeted assistance funds for entrants would be equal to its proportion of the entrant population of all counties which have received more than 1,000 entrants.

The Department believes that a direct proportion formula is equitable and programmatically sound because: (1) Entrants are residing in significant numbers in a limited number of counties; (2) entrants are a relatively homogeneous population in terms of the needs and sociodemographic characteristics of those who would be served under this targeted assistance program; (3) due to the history of the Cuban/Haitian Entrant Program, other types of data which might be indicative of need are not available for all areas, and therefore cannot be utilized uniformly. Section V, which follows, discusses the data base and application of the formula to that data.

V. Discussion of Data

This section explains the sources of data used to develop the estimated entrant populations at the county level.

The U.S. Bureau of the Census, with the cooperation of the Federal Cuban/Haitian Task Force, developed estimates of the Cuban and Haitian entrant and immigrant populations of substate areas having at least 50 entrants. These estimates were limited to persons who arrived in the U.S. between 4/1/80 and 10/1/80. The estimates were published in the **Federal Register** on June 24, 1981; subsequently, revised estimates have been published for a few geographical areas.

To adjust these estimates, ORR applied two correction factors. First, since the Census estimates included immigrants as well as entrants, we deducted the numbers of immigrants from the estimated totals, using copies of worksheets provided by the Census Bureau. Second, we increased the estimates using the available information on Cuban and Haitian entrants who were resettled or who migrated after 10/1/80. This information included data on persons released from resettlement camps, official second resettlements, and estimates of secondary migration based on reports from various States.

A cutoff point of 1,000 was selected because an entrant population smaller than this was thought unlikely to have had such a significant effect on a comumnity as to call for special targeted assistance beyond the cash and medical assistance and social service funds which have already been provided since 1980. Also, a smaller population would be unlikely to contain a significant number of entrants who would be candidates for the kinds of programs to be funded through this announcement. In the revised county entrant population estimates, no county was found to have an entrant population in the 700–1,000 range. Therefore, a cutoff of 1,000 is considered to reasonably identify counties with entrant populations in need of services.

VI. Proposed Allocations

The allocations proposed to be available for entrant trageted assistance are shown in Table 1. The Director of ORR reserves the right to adjust these proposed allocation figures, both upward and downward, upon a persuasive showing by a State or local government that the indicated population estimate for that area requires adjustment.

TABLE 1.—COUNTIES FOR PROPOSED ENTRANT TARGETED PROGRAM AND PROPOSED ALLOCATIONS

County	Estimated entrant population	Proposed allocation
1. Los Angeles, CA	3,600	$497,005
2. Broward, FL	2,130	294,061
3. Dade, FL	108,625	14,996,439
4. Hillsboro, FL	1,895	261,618
5. Palm Beach, FL	2,505	345,833
6. Cook, IL	1,670	230,555
7. Essex, NJ	1,005	138,747
8. Hudson, NJ	6,725	928,433
9. Union, NJ	1,350	186,377
10. Bronx, NY	1,020	140,818
11. Kings, NY	2,300	317,531
12. New York, NY	2,600	358,948
13. Queens, NY	1,475	203,634

VII. Eligible Projects

In applying for targeted assistance funds on behalf of a qualified county in the State, a State agency would be required to certify that: (1) The available targeted assistance funds do not supplant other funds under the Cuban/Haitian Entrant Program (CHEP) which have been obligated for assistance and services in the local areas; (2) the State will make available to the county or designated local entity not less than 95% of the amount of the award for purposes of implementing the proposed activities; (3) the State's authorization to the county or designated local entity to use funds awarded will be made within 45 days of the State's receipt of the notification of the grant award, or, in lieu of this, the State may recommend that the award be granted directly to the eligible entity; (4) the proposal was developed through a local process which involved meaningful consultation with appropriate public and private groups involved in resettlement, including local public officials, representation from entrant voluntary resettlement agencies, the business community, and entrants in the local area. In addition, a State must submit a budget and justification narrative for use of all funds not forwarded to (an) eligible county(ies).

In developing a proposal, a county or designated local entity would be required to set forth in detail: (1) Evidence of specific needs and definition of targeted population; (2) a statement of specific employment objectives for use of the funds in increasing entrant self-sufficiency in the area; (3) a description of the strategy proposed to achieve these objectives, including detailed description of individual program components, number of clients to be served, policies regard eligibility of clients for components, and the integration and/or coordination of proposed activities with the overall

entrant service system in the area; (4) an estimation of anticipated outcomes achieved within 6 months and 12 months from the date funds are received by the county or other local administering entity; (5) a brief description of the procurement process to be used for each program component; (6) a description of program monitoring and evaluation of the proposed activities; and (7) a detailed budget, including itemization by program component, and containing a local administration cost not to exceed 10% of the amount allocated to the county.

Allowable activities include any activity permissible under section 412(c) of the INA which is directly related to the furtherance of entrant economic self-sufficiency by adding entrants in finding and retaining jobs, increasing entrant employability potential, and/or enhancing entrant job market possibilities. Creative approaches to such activities are encouraged. Allowable activities would include, for example, job development, job placement, business and employer incentives (such as on-site employee orientation and vocational English training, or bilingual supervisor assistance), business technical assistance, short-term job training specifically related to opportunities in the local economy, and on-the-job training. Use of targeted assistance funds for venture capital, either as grants or loans, is specifically not allowed.

Stipends or needs-based payments to program participants are allowed if no other source of support is available to them and it can be demonstrated that support is essential to their participation. In any case, no more than 30% of funds used for this program component may be made available for such payments. Support services, such as day care and transportation, are allowable when it is demonstrated that they are directly related to employment opportunities or are a critical component of an employability plan. Proposals which include voluntary corporate participation and a generally high degree of business and refugee group involvement are especially welcomed.

VIII. Application Content

In developing targeted assistance proposals, counties or designated local entities must consider and spell out clearly the appropriateness of the proposed activities to the local economy, the appropriateness of the proposed activities for the entrant population(s) in the area, and the relationship of the proposed activities to existing entrant services carried out with Federal funds.

Final targeted assistance grant application must include the following elements. Those which fail to include all elements will be considered incomplete.

1. Certification by the State agency that, for each local entity on whose behalf an application is being submitted, the four conditions listed in the first paragraph of section VII, above, have been met, and submission of a State administrative budget.

2. Documentation of specific needs for targeted assistance projects and discussion of characteristics of anticipated entrant client population (e.g., assistance status, ethnicity, occupational and educational background).

3. Description of specific employment objectives for use of funds, including justification that the proposed objectives are appropriate to the needs of the proposed entrant clients and the local economy and will result in jobs and employment of the clients.

4. Results anticipated within 6 months and 12 months from the date funds are received by the county or other local administering entity, including the number of unsubsidized full-time job placements, number of individuals removed from cash assistance, and other specific outcomes related to the services proposed.

5. Justification of the strategic approach to achieving the stated objectives, including number of clients to be served in each component, complementarity among targeted assistance activities and with other existing entrant services.

6. Adequate justification for and description of each specific activity that is proposed.

7. Adequate plan for determination of measurable, performance-based project outcomes on a semiannual basis (e.g., number of job placements reaching 90-day retention period).

8. Description of the local planning process which was used to develop the proposal, including identification of interests and sectors represented.

9. Assurance that services will be provided by qualified non-profit or for-profit agencies or individuals.

10. Reasonable cost estimates in relation to anticipated results.

ORR proposes to allow 45 days from the date of publication of the final notice for the submittal of applications.

IX. Review, Technical Assistance, and Award Procedure

Applications will be reviewed on a non-competitive basis by a panel of experts to determine acceptability. Such determination will be based on the completeness of the submission (according to the requirements of section VIII, above) and the allowability of proposed activities. The Department will provide technical assistance to the applicant if it is necessary in order to develop a proposal which warrants the award of funds at the proposed allocation amount and if such assistance is requested by the applying State agency. The panel will make recommendations regarding acceptability of applications to the Director of the Office of Refugee Resettlement (ORR). Final determination as to the acceptability of applications and determination of whether an award will be made to a State of local entity are at the discretion of the Director of ORR.

X. HHS Regulations That Apply

The following HHS regulations apply to grants under this Notice:

- 42 CFR Part 441, Subparts E and F, Services: Requirements and limits applicable to specific services—Abortions and Sterilizations
- 45 CFR Part 16, Department grant appeals process
- 45 CFR Part 74, Administration of grants
- 45 CFR Part 75, Informal grant appeals procedures
- 45 CFR Part 80, Nondiscrimination under program receiving Federal assistance through the Department of Health, Education, and Welfare effectuation of Title VI of the Civil Rights Act of 1964
- 45 CFR Part 81, Practice and procedure for hearings under Part 80 of this title
- 45 CFR Part 84, Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance
- 45 CFR Part 95, Subpart E General Administration—Grant Programs (Public assistance and medical assistance)—Cost Allocation Plans

XI. Reporting and Recordkeeping

Section VII of this announcement establishes reporting requirements which necessitate OMB review and approval. HHS will seek OMB approval of these requirements.

Applications for these grants are to be submitted on Form SSA–96 which has current OMB approval (OMB No. 0960–0184). In completing Form SSA–96, States must address the evaluation criteria listed in Section VIII.

(Catalog of Federal Domestic Assistance No. 13.817, Entrant Assistance Cuban and Haitian Entrants)

Dated: May 31, 1983.

Paul B. Simmons,

Acting Commissioner of Social Security.

[FR Doc. 83-14913 Filed 6-2-83; 8:45 am]

BILLING CODE 4190-17-M

Refugee Resettlement Program; Proposed Formula for Allocation to States of FY 1983 Refugee Social Service Funds

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of proposed formula for allocation to States of FY 1983 refugee social service funds.

SUMMARY: This notice proposes the formula for allocation to States of FY 1983 social services funds under the Refugee Resettlement Program (RRP). The formula will yield the allowable allocation of FY 1983 refugee social services funds for each State participating in the RRP.

DATE: Comments on the allocation method provided for in this notice will be considered if received by July 5, 1983.

ADDRESS: Address written comments, in duplicate, to: David Howell, Office of Refugee Resettlement, Room 1332 Switzer Building, 330 C Street, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: David Howell (202) 472-6510.

SUPPLEMENTARY INFORMATION:

I. Amounts Proposed for Allocation

The Conference Report accompanying the Second Continuing Resolution (Pub. L. 97-377, enacted December 21, 1982) specifies a total of $80,000,000 for social services for refugees and Cuban and Haitian entrants. (H. Rept. No. 980, 97th Cong., 2d Sess. 178 (1982).) Congress has specifically commented upon the use of social service funds, including the importance of case management (S. Rept. No. 638, 97th Cong. 2d Sess. 6 (1982), *see also* H. Rept. No. 541 97th Cong. 2d Sess. 7-8 (1982)], and the problem of critical unmet needs arising from service shortages in some areas (Subcommittee on Immigration, Refugees, and International Law of the House Committee on the Judiciary, 97th Cong., 1st Sess., Immigration and Refugee Issues in Southern California: An Investigative Trip 38 (Comm. Print No. 7, 1981)]. The Director of the Office of Refugee Resettlement (ORR) proposes to make available to State a total of $22 million in social service funds for the following purposes:

- $10 million, on the basis of evidence of underserved populations, in order to reduce the backlog in those areas of refugees with critical unmet needs;
- $3 million, on a basis of evidence of need, for supplementation of existing resources where necessary to assist with development of a case management function;
- $9 million, which has been awarded on a per capita basis to States participating in the Cuban/Haitian Entrant Program (CHEP) for social services to entrants.

Of the remaining $58,000,000, the Director proposes to allocated approximately $50,393,950 (about 87%) to States under a formula based on each State's estimated population of refugees who had been in the United States three years or less as of October 1, 1982. In addition, the Director also proposes to allocate to States approximately $3,500,000 (6%) necessary to: (1) Provide each State which has fewer than 500 refugees with a minimum of $75,000 and provide each State which has 500 or more refugees with a minimum of $100,000; and (2) provide each State with a minimum allocation equal to 86.8% of its FY 1982 social service formula allocation. The former proposal is believed by OR to be a minimal level of funding necessary to carry out a refugee social service program in States with small refugee populations. The latter compensates States which would receive a reduced allocation due to the inclusion of non-southeast Asian, non-Cuban refugees in the FY 1983 data base by providing each State with an allocation at the same ratio as ORR's FY 1983 social service formula amount ($50,393,950) is to its FY 1982 formula amount ($58,056,005). With the adjustments, the amount to be provided under the formula totals nearly $54,000,000.

The remaining funds, approximately $4,000,000, are currently expected to be used on a discretionary basis to meet special and unforeseeable needs of States and to carry out individual projects intended to contribute to the effectiveness and efficiency of the refugee resettlement program in service delivery and self-support. The Director currently anticipates making discretionary funds available to States on the basis of special needs arising from such factors as unanticipated secondary in-migration, changed geographic distribution of new refugee arrivals, special needs of particular refugee groups, and, if needed, to provide additional funding under the proposed formula resulting from any adjustments made in population estimates (see section III, below) beyond the estimate specified in section IV.

Possible individual projects could test approaches to particular problems or be designed to develop model programs in refugee service delivery and self-support, including: Delivery of social services to special refugee populations; development of job opportunities; vocational-English training; and participation of community agencies, refugee organizations, business leadership, and volunteers in increasing refugee self-sufficiency. An announcement of the availability of funding and grant application procedures for such projects will be published in the Federal Register at such time as determinations are made by the Director concerning the appropriate disposition of remaining refugee/entrant social service resources.

II. Proposed Formula

Under this proposal, nearly $54,000,000 of the funds available for FY 1983 refugee social services would be allocated to States in accordance with the formula specified below. Each State's allocation will consist of that State's proportion of the total funds which the Director determines to be available for this purpose. A State's allowable allocation will be calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose;

Divided by—2. The total number of refugees who arrive in the United States not more than three years prior to the beginning of the fiscal year for which the funds are appropriated, as shown by the ORR Refugee Data System;

The resultant per capita amount will be multiplied by—3. The number of refugees, in item 2, above, in the State as of October 1, 1982, adjusted for estimated secondary migration.

The calculation above will yield the allowable allocation for each State.

Example: The following presents a computation for a hypothetical State ABC as derived from the proposed formula. All population figures are from ORR records.

- U.S. Refugee population arriving in FY 1980, 1981, 1982: 442,448
- FY 1983 funds determined by ORR Director to be available for this purpose: $50,393,950
- Per capita allocation available: $50,393,950 ÷ 442,448 = $113.90
- State ABC refugee population: 9,848
- State allowable allocation for refugee social services: $113.90 × 9,848 = $1,121,687

The Director has re-evaluated ORR's policy for determining the allocation of social service funds in light of Congressional views presented during the reauthorization of the RRP in 1982 (Pub. L. 97-363), comments which were

received on the FY 1982 formula, and the total funds available in FY 1983 for social services and targeted assistance. As indicated in section I, above, social service funds beyond those proposed for allocation under the formula are designated specifically to meet critical unmet needs of earlier refugees, to provide additional services for Cuban and Haitian entrants, and to provide additional resources for case management. In addition, targeted assistance funds (announced separately) will provide funds specifically focused on areas of high concentration and need.

The proposed formula is similar to that used by ORR for social service allocations in FY 1982, and incorporates improvements which were recommended last year. States generally supported the concept of the FY 1982 formula, which was also based on 3-year population estimates, but recommended: (a) That minimum amounts be provided to States with small refugee populations (an adjustment which was made at that time) and (b) that the population base include refugees of all nationalities rather than only Southeast Asian and Cuban refugees (an adjustment which was not possible in FY 1982 because adequate data on other groups did not exist). Very few commenters recommended that a State's total refugee population, rather than the 3-year population, be used in the formula. One commenter recommended that greater weight be given to areas with higher concentrations of refugees (as measured by the ratio of refugees to total population), while other commenters supported higher per capita funding to rural areas and to States with only a few refugees. (For discussion of comments on the FY 1982 formula, see 47 FR 42634 *et seq.*)

As indicated in section I, the proposed FY 1983 formula incorporates minimum amounts for States with small refugee populations and contains an adjustment to provide that no State will receive less than 86.8 percent of its FY 1982 formula amount. In addition, the FY 1983 formula responds to a recommendation made frequently in 1982 by including refugees of all nationalities in the population estimates on which the formula is based.

Several other factors argue strongly for the proposed formula: (1) Data on refugee dependency on cash assistance show the highest rates to occur during a refugee's first 3 years in the United States and thus validly reflect the need for services directed toward achieving employment and self-support in the general refugee population; (2) reliable population data for non-Southeast Asian, non-Cuban refugees are available only for the past 3 fiscal years; (3) earlier data on Southeast Asian or Cuban refugees, if included in the formula, would not substantially change the allocation pattern because resettlement patterns have remained nearly constant. While the proposed formula is based on the 3-year refugee population, social service programs are not limited to refugees who have been in the U.S. only three years. Funding may be provided to programs which provide services without regard to an individual refugee's length of residence.

Based on the review of data related to the need for social services, previous experience in the formula allocation of social service funds, comments received on the FY 1982 formula, and subsequent consultations with States, ORR has concluded that the proposed formula, with the adjustments and improvements incorporated, will result in allocations being made available to States on an equitable basis, with each receiving funds in proportion to its population of refugees generally having the greatest need for services.

The population estimates for the proposed allocation of funds in FY 1983 are based on the ORR Refugee Data System, adjusted as of October 1, 1982, for estimated secondary migration (see section III, below). Unlike the data base used in FY 1982, however, ORR is now able to include all refugees, rather than only Southeast Asian and Cuban refugees (not entrants), in these estimates.

III. Basis of Refugee Population Estimates

For fiscal year 1983, ORR's formula allocations to the States for support services for refugees are to be based on the number of refugees who arrived during the preceding three fiscal years: 1980, 1981, and 1982. Therefore, estimates have been developed of the numbers of refugees with arrival dates between 10/1/79 and 9/30/82 who are thought to be living in each State as of 10/1/82. The population estimates for the fiscal year 1983 allocations cover refugees of all nationalities in response to recommendations received on ORR's formula for 1982.

Estimates have been developed separately for Southeast Asians and for all other refugee groups and then combined into a total estimated 3-year refugee population for each State. In doing so, ORR excluded from the population totals nationwide 31,559 refugees who were resettled subject to a full Federal match of $1,000 under ORR's matching-grant program with national voluntary refugee resettlement agencies. The per capita funds available to serve non-matching grant refugees are limited and, ORR believes, should be directed to the areas where those refugees live.

Table 1 below, shows the estimated three-year populations, as of October 1, 1982, of Southeast Asian refugees (col. 1) and of all other refugees (col. 2), excluding those matching-grant refugees discussed above; the total of these figures (col. 3); the formula amounts which the population estimates yield (col. 4); and the proposed allocations (col. 5) after allowing for the minimum amounts and the adjustment so that no State is below 86.8% of its FY 1982 formula amount, as discussed in section II, above.

A detailed explanation of the development of data used in this formula allocation can be obtained by writing to the address indicated in section V of this notice.

IV. Proposed Allocations

The following allocations are proposed for refugee social services in fiscal year 1983:

Table 1.—Estimated Three-Year Refugee Populations of States Participating in the Refugee Program and Social Services Formula Amounts and Proposed Allocations for Fiscal Year 1983 [1]

State	(1) Southeast Asian refugees	(2) All other refugees	(3) Total	(4) Formula amount	(5) Proposed allocation G22
Alabama	1,330	120	1,449	$165,093	$171,333
Alaska [2]					
Arizona	2,244	302	2,546	289,984	333,856
Arkansas	1,404	103	1,507	171,672	171,672
California	129,733	14,276	144,009	16,402,590	16,402,590
Colorado	6,012	697	6,709	764,168	764,168
Connecticut	4,231	1,153	5,383	613,178	613,178
Delaware	182	0	182	20,677	75,000
District of Columbia	816	386	1,202	136,906	142,798
Florida	5,418	14,645	20,063	2,285,140	2,967,250
Georgia	4,082	463	4,545	517,637	600,596
Hawaii	3,303	69	3,372	384,118	518,962
Idaho	909	83	991	112,912	112,912
Illinois	13,990	6,114	20,104	2,289,856	2,289,856
Indiana	2,280	430	2,709	308,588	308,588

Table 1.—Estimated Three-Year Refugee Populations of States Participating in the Refugee Program and Social Services Formula Amounts and Proposed Allocations for Fiscal Year 1983 [1]—Continued

State	(1) Southeast Asian refugees	(2) All other refugees	(3) Total	(4) Formula amount	(5) Proposed allocation G22
Iowa	5,381	34	5,415	616,736	682,107
Kansas	5,826	191	6,017	685,377	685,377
Kentucky	1,656	90	1,747	198,999	198,999
Louisiana	6,940	112	7,052	803,205	803,205
Maine	796	31	827	94,202	100,000
Maryland	4,676	933	5,609	638,917	638,917
Massachusetts	9,500	652	10,152	1,156,276	1,156,276
Michigan	5,824	2,398	8,222	936,461	936,461
Minnesota	14,398	371	14,769	1,682,229	2,308,468
Mississippi	578	49	627	71,411	136,470
Missouri	3,377	282	3,659	416,786	416,786
Montana	670	16	687	78,237	100,000
Nebraska	1,365	236	1,601	182,365	182,365
Nevada	949	312	1,260	143,570	176,792
New Hampshire	302	64	366	41,639	75,000
New Jersey	3,080	2,464	5,544	631,478	631,478
New Mexico	2,040	184	2,225	253,422	251,502
New York	12,432	13,397	25,829	2,941,942	2,941,942
North Carolina	2,462	258	2,719	309,722	420,331
North Dakota	500	131	630	71,814	100,000
Ohio	5,418	1,009	6,426	731,960	731,960
Oklahoma	4,824	289	5,113	582,324	582,324
Oregon	11,801	976	12,777	1,455,277	1,509,865
Pennsylvania	13,656	1,887	15,543	1,770,404	1,785,412
Rhode Island	4,824	265	5,089	579,634	579,634
South Carolina	1,336	215	1,550	176,592	176,592
South Dakota	558	59	617	70,299	100,000
Tennessee	3,043	285	3,328	379,059	409,412
Texas	24,121	2,429	26,550	3,024,043	3,804,066
Utah	5,306	452	5,759	655,898	733,345
Vermont	366	0	368	41,903	75,000
Virginia	11,577	1,542	13,119	1,494,274	1,494,274
Washington	19,927	407	20,334	2,316,049	2,374,719
West Virginia	348	24	371	42,307	75,000
Wisconsin	5,159	307	5,465	622,492	923,288
Wyoming	157	30	187	21,323	75,000
Guam	120	0	120	13,668	75,000
Total	371,226	71,223	442,448	50,394,812	53,950,128

[1] These calculations may appear incorrect due to rounding. They were performed with a computer program that added and multiplied unrounded figures, which are displayed here rounded to the nearest person or dollar.
[2] Allows for minimums and adjustment discussed in section II.
[3] Not currently participating in refugee program.

V. State Evidence on Refugee Population

If a State wishes ORR to reconsider its population estimate, it should submit written evidence through the ORR Regional Director. Requests will be evaluated according to a strict standard. The following is the type of evidence which would be considered appropriate:

- Documentation and discussion should be confined to the population entering during fiscal years 1980, 1981, 1982, and should clearly identify what refugee groups are being discussed.
- Evidence should include a description of the information collection system(s) used by the State, including data sources, time period covered, timeliness, and validation procedures.
- Special studies and reports can be considered only if they are submitted for review.
- An example of acceptable evidence would be a list of refugees identified by name, alien number, and case size, if appropriate

Any State evidence on population estimates should be submitted separately from comments on the proposed allocation formula no later than 30 days from date of publication of this notice and should be addressed to: Dr. Linda Gordon, Office of Refugee Resettlement, Room 1332 Switzer Building, 330 C Street, S.W., Washington, D.C. 20201, Telephone: (202) 472–4130.

Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 13.814 Refugee Assistance State Administered Programs)

Dated: May 31, 1983.

Paul B. Simmons,

Acting Commissioner of Social Security.

[FR Doc. 83-14912 Filed 6-2-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-83-1247]

Announcement of Fund Availability (Fiscal Year 1983) for a Rural Demonstration Under the Congregate Housing Services Program for the Elderly and Non-Elderly Handicapped

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

ACTION: Notice of fund availability.

SUMMARY: This notice announces the availability of $500,000 in Fiscal Year (FY) 1983 funds for the Congregate Housing Services Program (CHSP). Grant assistance will be made available for use by four or five local Public Housing Agencies (PHAs) and nonprofit Section 202 borrowers in rural areas to provide meals and other services to elderly and non-elderly handicapped project residents who require such services to remain independent. This competition covers that portion of the FY 1983 CHSP funding which is set aside for existing rural projects. For purposes of this notice, "existing rural projects" include only those rural area projects in which PHAs and Section 202 borrowers achieved occupancy by June 30, 1982.

DATE: Applications must be received by August 5, 1983.

ADDRESS: Applications should be submitted to HUD at the following address: Office of Procurement and Contracts, Community Services Division, Room 5252, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Cheryl Yeargins, Contracts Specialist, Community Services Division Office of Procurement and Contracts (OPC), Assistant Secretary for Administration, Room 5252, 451 7th Street, SW., Washington, D.C. 10410, telephone (202) 755–5662. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Title IV of the Housing and Community Development Amendments of 1978 (Public Law 95–557, 92 Stat. 2104, 42 U.S.C. 8001), the Congregate Housing Services Act of 1978 (the Act), authorizes HUD to enter into three- to five-year grant contracts with eligible PHAs and Section 202 borrowers to provide meals and other supportive

services to eligible project residents. The services to be funded are those which allow the handicapped or temporarily disabled residents, whether elderly or nonelderly, to live independently and prevent premature or unnecessary institutionalization. Such services must include a full meal service adequate to meet nutritional requirements and may also include personal assistance, housekeeping and other services required by participating residents in order to live independtly.

Congress appropriated $4,000,000 in FY 1983 for the CHSP. The Conference Report states that $3,500,000 will be used for continuing those CHSDP grants scheduled to end in 1983 and $500,000 will be used for a three-year rural demonstration grant program. Four to five grants will be approved for a maximum of $125,000 each. The overall division of available funding will be about $250,000 for PHAs and $250,000 for Section 202 borrowers.

Length of Grant: HUD will provide three-year grants to selected PHAs and Section 202 borrowers for eligible congregate services to be provided to program participants.

Maximum Funding Level: HUD funding for each CHSP grant is limited to a *maximum* of $125,000 total grant amount, to be provided in approximately equal annual sums over the three-year grant period. The first year funding request may not exceed 30 percent of the total grant requested.

Mandatory Meals: The Congregate Housing Services Act of 1978 requires each grantee to provide to program participants a full meal service adequate to meet nutritional needs, which has been defined administratively as a minimum of two meals a day, seven days a week. If the applicant anticipates providing one of the required two meals per day from other than CHSP grant funds, then funding for additional meal(s) and other eligible services may be requested. At least one meal a day must be served in the central dining room. Any application proposing all home-delivered meals shall be rejected and returned to the applicant.

Other Services: An applicant may request CHSP funds for the provision of housekeeping, personal assistance, transportation, escort and other supportive services that are considered necessary to maintain the participants' independence. HUD approval for funding each additional services will be used on the anticipated needs of residents, availability of funding from other sources, and the extent to which the service is necessary to maintain the participants' independence.

Number of Participants-Elderly: Because of the limited level of funding, applicants will be expected to limit participation in CHSP to no more than 20 percent of a project's total resident population. A higher level of participation may be requested for these project if it is justified in the context of local need and within budgetary limitations. Such request are subject to approval by HUD.

Number of Participants-Nonelderly Handicapped: Small group homes and independent living complexes for the nonelderly handicapped may justify the participation of all residents in the CHSP, provided the focus is on meals and limited support services, within budgetary limitations.

Identified Project: The applicant shall apply for CHSP funding *only* for the project identified in the Federal Assistance Request, Standard Form (SF–424). Each applicant is limited to one proposed project. A proposal for 2–4 small group homes owned by the applicant in the same geographic locality will be considered as a single project.

Recapture Authority: Any grantee failing to initiate the approved congregate services within six months of the effective date of its CHSP grant contract will have it award terminated by HUD.

Professional Assessment Committee (PAC): Each grantee shall appoint a PAC made up of at least one medical professional and two others qualified to asses functional ability of elderly and nonelderly handicapped and temporarily disabled residents. The PAC will screen all interested project residents for eligiblility and admission to or termination of participation in the CHSP, and make appropriate recommendation to program management for action.

Consulation and Review by State or Local Agencies: In designing the CHSP services plan, all applicants proposing projects with elderly residents shall consult with the Area Agency on Aging (AAA), or State Agency on Aging if no AAA exists. Those projects with both elderly residents and nonelderly handicapped residents shall consult also with the State/local agencies providing services to do the nonelderly handicapped. Applicants serving only nonelderly handicapped residents in the proposed project(s) need not consult with the Area or State Agency on Aging but must consult with the State/local agencies for the nonelderly handicapped.

The applicant shall present the completed CHSP application (SF–424) to the appropriate State/local agencies for review and comment. Their comments must be submitted to HUD with the CHSP application.

HUD recommends that, in addition, applicants consult with the single State Agencies providing Social Service Block Grant funds and medicaid reimbursements, and with other appropriate Federal agencies; e.g., the Department of Labor and the Department of Agriculture.

Consultation in Program Planning and On-going Operation: Each applicant shall consult with the members of the proposed PAC and the elderly handicapped, nonelderly handicapped and temporarily disabled project residents when preparing the CHSP application. Each applicant shall also establish procedures which ensure the participation of the project tenants in the ongoing operations and employment opportunities of the program.

Maintenance of Effort for Services: Each applicant shall provide a specific written assurance that its own funding for meals and other services currently being provided to project residents admitted to the CHSP after the initiation of the program will be continued. The assurance shall provide that this funding will continue at the same level provided before the HUD funding become available, and that annual inflation adjustments will be provided by the applicant, as needed, in subsequent years.

Coordination with Service Providers in the Community: The applicant is expected to contact all external providers of services currently available in the project and to obtain a commitment to maintain the existing funding level for the current fiscal year, and a similar commitment "in principle" for funding in subsequent years for the term of the CHSP grant, subject to the external providers' own future appropriations. In addition, the applicant is expected to seek available funding to supplement the HUD-funded CHSP so that all residents who qualify can be served.

Sliding Fee Scale: Each applicant shall establish a sliding fee scale related to income under which program participants pay part or all of the cost of meals and services received and which permits the provision of services to such residents who cannot afford meal and service fees. Under the fee scale, each participant may be charged only for the services actually received. The fee scale must be reasonable and may not exceed the cost of the services.

HUD Evaluation: HUD is conducting an in-depth evaluation to determine: the extent to which coordination is achieved

between other Federal programs and HUD; the extent to which the CHSP avoids or creates a duplication of existing programs; and the extent to which the program is successful in preventing unnecessary or premature institutionalization of elderly or nonelderly handicapped persons. All CHSP grantees are expected to cooperate with and participate in the HUD evaluation, if requested. By virtue of selection for participation in the CHSP, the grantee must agree to cooperate fully with the HUD evaluation over the life of the CHSP grant.

Self-Assessment Requirements: Each grantee shall plan and conduct an annual assessment of program activities which will be tied closely to the HUD evaluation effort. Grantees may purchase consultant assistance to carry out the self-assessment requirements. However, applicants are encouraged to absorb these costs or use funds from other programs and resources. If the applicant requires CHSP funds to conduct the self-assessment, no more than one percent (1%) of the total CHSP funds provided may be used for the self-assessment.

Eligibility: Eligibility under the competition cited in this notice is limited to those applicants which have an existing public housing or Section 202 project meeting the requirements set forth below and which have not been selected for a fiscal year 1979, 1980 or 1982 CHSP award.

1. The project must have achieved occupancy by June 30, 1982; and it must be:

a. A conventional congregate public housing project as defined in Section 7 of the United States Housing Act of 1937, or

b. Housing for the elderly or nonelderly handicapped owned by a nonprofit corporation and funded under Section 202 of the Housing Act of 1959. (Note: A Section 202 project with Section 8 Rent Subsidy (Section 202/8) is eligible for the CHSP.)

2. The project must be located in a rural area. A "rural area" means: any open country, or any place, town, village or city which is not associated with an urban area, and: (1) Has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500, but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000 and: (A) Is not contained within a standard metropolitan statistical area, and (B) has a serious lack of mortgage credit as defined by the Secretaries of the Department of Agriculture and HUD. Eligible areas are those which have been designated by the Department of Agriculture to be eligible for participation in its rural housing programs.

3. The project must have a central dining facility, defined as:

a. For projects under construction before January 1, 1979, a common space of sufficient size within or in proximity to the project, where at least 50 percent of those receiving meals under this program can be served at one sitting; and

b. For projects not under construction before January 1, 1979, a kitchen equipped for food preparation and a central common space within the project where at least 50 percent of the project residents can be served at one sitting.

4. Both the central dining facility and routes from dwelling untis where the residents live to the central dining facility must be accessible to residents. Applicable procedures for accessibility are contained in HUD Handbook 4900.1, Minimum Property Standards for Multifamily Housing and the American National Standards Institute (ANSI) A117.1–1961, Specifications for Making Building and Facilities Accessible to, and Usable by, Physically Handicapped Persons (Rev. 1980).

The following projects are not eligible for funding under the CHSP:

1. A public housing or Section 202 project which provides overnight medical care on an ongoing basis, e.g., has a nursing wing or is certified as an intermediate care facility, and eligible for funds under Title XIX (Medicaid) of the Social Security Act.

2. Section 8 projects (other than Section 202/8), including those owned by PHAs.

3. Any project sponsored by a State Housing Agency.

4. Section 202 projects converted to Section 236 projects.

5. A project under any other HUD-assisted or non-assisted multifamily housing program.

Application Process: All potential applicants shall submit a letter requesting the CHSP grant application kit to: Department of Housing and Urban Development, Office of Procurement and Contracts, Community Services Division, 451 7th Street, SW., Room 5252, Washington, D.C. 20410.

The application kit contains the prescribed application, the Request for Grant Application (RFGA), the Certificate of Eligibility and other grant materials and instructions.

Application submission:

1. One signed original and two (2) conformed copies of the completed grant application must be received by July 1983 at 4:00 p.m., EST, at the following address: Department of Housing and Urban Development, Office of Procurement and Contracts, Community Services Division, 451 7th Street, S.W., Room 5252, Washington, D.C. 20410.

2. The application must be signed by the representative designated in the resolution of the governing body of the applicant, who should be either Executive Director or Board Chairperson, and should identify the name and address of the project being proposed for participation in the CHSP.

3. The application must also include the Certificate of Eligibility completed and signed by the appropriate HUD Field Office, certifying that the proposed project meets the eligibility requirements as described in the previous section on eligibility. Applications submitted to HUD Headquarters without the Certification of Eligibility will not be considered for this competition and will be returned.

Review and Evaluation Process: All applications submitted to HUD pursuant to this notice will be reviewed by the HUD Headquarters staff and the HUD Field Office staff. The applications will be reviewed for all mandatory items, as stated in the Application Kit. Failure to include any mandatory item will result in rejection of the application; such applications will be returned to the applicant. Applicants meeting all mandatory requirements will receive a full technical review based on the following criteria:

1. Objectives and Need for Assistance;
2. Expected Results and Benefits;
3. Technical Approach;
4. Review and Consultation by State and Local Agencies;
5. Sliding Fee Scale(s);
6. Summary Budget.

The full review process and selection criteria are explained in the Application Kit.

Selection:

1. The Secretary of HUD will announce fiscal year 1983 rural demonstration CHSP selectees on or about September 30, 1983. HUD expects to make 4 to 5 awards. Nonselectees will receive written notification from the Office of Procurement and Contracts.

2. Selectees will enter negotiations with HUD to determine the proposed program and budget about 30 calendar days after the date of written notification of selection. At the completion of negotiations, the grant contract will be executed by HUD and the appropriate official on behalf of the selected applicant.

Other Matters: The Catalog of Federal Domestic Assistance program title and

number is Congregate Housing Services, 14.803.

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB). The OMB number is 2506–0040.

Authority: Section 410(d), Congregate Housing Services Act of 1978, 42 U.S.C. 8009.

Dated: May 27, 1983.

Philip Abrams,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc 83-14981 Filed 6-2-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 803]

California; Notice of Filing of Plat of Survey

May 25, 1983.

1. This plat of survey of the following described land will be officially filed in the California, State Office, Sacramento, California immediately:

San Bernardino Meridian, California

T. 6 S., R. 4 W.

T. 6 S., R. 5 W.

T. 7 S., R. 4 W.

2. This plat, representing the dependent resurvey of a portion of the boundaries of Lot 38, Rancho Santa Rosa, a portion of the south and west boundaries of T. 6 S., R. 4 W., a portion of the south and east boundaries of T. 6 S., R. 5 W., a portion of the west boundary, a portion of the subdivisional lines, and the survey of the subdivision of fractional sections 7 and 18, T. 7 W., R. 4 W., San Bernardino Meridian, under Group No. 803, California, was accepted April 28, 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 and Information Section.

May 25, 1983.

[FR Doc. 83-14620 Filed 6-2-83; 8:45 am]

BILLING CODE 4210-84-M

California; Use Fee Schedule for Permitted Recreation Activities; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; California; Special Recreation Permit Fee; Correction.

SUMMARY: This document corrects a notice that appeared on p. 21665 in the Federal Register of Friday, May 13, 1983 (48 FR 21665). The action is necessary to correct the effective date which was inadvertently omitted and an addition to the description for commercial use fees.

FOR FURTHER INFORMATION CONTACT: John Skibinski, Outdoor Recreation Planner, Bureau of Land Management, (916) 484–4636.

The following corrections are made in FR Doc. 83–12694 appearing on 21665 in the issue of May 13, 1983.

EFFECTIVE DATE: May 13, 1983.

The statement which describes commercial use fees is corrected to read:

1. Commercial use fees (other than permits for events that are both commercial and competitive) for all recreation use on lands and rivers managed by the Bureau in California are $3.00 per user day except for the following rivers:

Dated: May 27, 1983.

Ronald D. Hofman,

Associate State Director.

[FR Doc. 83-14632 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[C-3357, C-3358]

Colorado; Classification Decision Termination

Correction

In FR Doc. 83–11159 beginning on page 19082 in the issue of Wednesday, April 27, 1983, make the following corrections:

1. On page 19082, third column, under Tomichi Site, the land description should have read as follows:

T. 49 N., R. 2 E.,
Sec. 16, NW¼NW¼, S½NE¼NW¼, S½NW¼NE¼NW¼, S½NW¼NW¼NE¼NW¼, and SW¼NE¼NE¼NW¼ (State Minerals).

2. In the same column, under Cathedral site, T.44 N., R. 2 W., the description for Sec. 12 should have read as follows:

Sec. 12, lots 4 (SW¼NW¼), 5 (SE¼NW¼), and 6 (SW¼NE¼), (Subject to PLO 5309, and PLO 5386).

3. Same column, under Granodiorite Site, next to the last line,

"390 acres"

should have read

"290 acres".

4. On page 19083, first column, twenty two lines from the bottom of the page, "is authorized" should have read "is unauthorized".

BILLING CODE 1505-01-M

Colorado, Filing of Plats of Survey

May 25, 1983.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., May 25, 1983.

Sixth Principal Meridian

T. 26 S., R. 57 W.

The plat representing the dependent resurvey of a portion of the Fifth Standard Parallel South (south boundary), T. 25 S., R. 57 W., the Seventh Guide Meridian West (east boundary), and subdivisional lines, and the survey of the subdivision of certain sections, T. 26 S., R. 57 W., Sixth Principal Meridian, Colorado, Group 549, was accepted May 2, 1983.

T. 25 S., R. 56 W.

The plat representing the dependent resurvey of a portion of the Fifth Standard Parallel South (south boundary), the Seventh Guide Meridian West (west boundary), and subdivisional lines, and the survey of the subdivision of section 31, T. 25 S., R. 56 W., Sixth Principal Meridian, Colorado, Group 549, was accepted May 2, 1983.

T. 26 S., R. 54 W.

The plat representing the dependent resurvey of a portion of the west boundary and subdivisional lines, and the survey of the subdivision of section 30, T. 26 S., R. 54 W., Sixth Principal Meridain, Colorado, Group 549, was accepted May 5, 1983.

T 26 S., R. 55 W.

The plat representing the dependent resurvey of a portion of the south boundary and subdivisional lines, and the survey of the subdivision of section 32, T. 26 S., R. 55 W., Sixth principal

Meridian, Colorado, Group 549, was accepted May 5, 1983.

T. 31 S., R. 47 W.

The plat representing the dependent resurvey of a portion of the Sixth Standard Parallel South (south boundary), T. 30 S., R. 47 W., the subdivisional lines, and Tract 46, and the survey of the subdivision of section 4, T. 31 S., R. 47 W., Sixth principal Meridian, Colorado, Group 549, was accepted may 5, 1983.

T. 32 S., R. 51 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of section 23, T. 32 S., R. 51 W., Sixth principal Meridian, Colorado, Group 549, was accepted May 5, 1983.

T. 33 S., R. 55 W.

The plat representing the dependent resurvey of a portion of the west boundary and subdivisional lines, and the survey of the subdivision of section 18, T. 33 S., R. 55 W., Sixth principal Meridian, Colorado, Group 549, was accepted May 6, 1983.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

T. 6 S., R. 78 W.,

The plat, in four sheets, representing the dependent resurvey of a portion of the south and east boundaries, a portion of the subdivisional lines, and a portion of certain mineral surveys, T. 6 S., R. 78 W., Sixth principal Meridian, Colorado, Group 429, was accepted May 6, 1983.

This survey was executed to meet certain administrative needs of this Bureau

All inquires about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Harold R. Martin

Chief, Division of Operations.

[FR Doc. 83-14828 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

Draft North Central California Wilderness Study Areas Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of and public hearing on the draft North Central California Wilderness Study Areas Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 and Section 603(a) of the Federal Land Policy and Management Act (FLPMA) of 1976; The Bureau of Land Management has prepared a draft environmental impact statement which analyzes management alternatives for two wilderness study areas (WSAs) in the Alturas Resource Area, Susanville District. The WSAs are Timbered Crater (18,690 acres) and Lava (11,632 acres). The proposed action for both WSAs recommends a nonsuitable designation.

Copies of the Draft North Central California Wilderness Study Area Environmental Impact Statement are available from: Bureau of Land Management 355 Hemsted Drive, Redding, CA 96002, Telephone (916) 246-5325.

DATES: Written comments on the draft should be submitted to the Redding Resource Area Office, 335 Hemsted Drive, Redding, CA 96002 by September 1, 1983. A public hearing will be held on July 20, 1983 at 7:30 p.m. at the Civic Auditorium, Redding, California.

FOR FURTHER INFORMATION CONTACT: Robert Korfhage, Bureau of Land Management, 335 Hemsted Drive, Redding, CA 96002 or (916) 246-5325.

SUPPLEMENTARY INFORMATION: The draft EIS analyzes the potential environmental effects of various management alternatives, including designation as wilderness, for the Timbered Crater and Lava WSAs. BLM's preferred alternatives are nonsuitable designations which propose management for multiple use in the following manner: Timbered Crater WSA—resources and resource uses would be minimally developed. Management would allow all resources to be developed as long as the naturalness of the area is maintained. Lava WSA—management of the area would allow full development of the resources under FLPMA. The analysis of the EIS indicates there would be no significant effects from implementing any of the alternatives. Wilderness designation would guarantee the continued preservation and enhancement of wilderness values and a nonwilderness designation would not. However, based on past and predicted resource demands and uses, it has been determined that existing wilderness values would not be significantly impaired under the nonwilderness designation.

The recommendations made in the wilderness draft EIS are not final decisions. Following the public comments on the DEIS, a final EIS, report, and recommendation will be prepared and submitted from the Secretary of Interior to the Congress for a final decision.

Oral and written comments will be received at a public hearing July 20, 1983, 7:30 p.m. at the Civic Auditorium, Redding, California. Oral and written comments should be substantive and focus on: (1) The views of the interested public on the wilderness recommendations for consideration by the BLM, the Secretary of Interior, the President, and the Congress, in accordance with requirements of the Wilderness Act; and, (2) obtaining the views of the public on the draft EIS, in accordance with requirement of the National Environmental Policy Act.

Requests to testify orally should be received by the Redding Area Office at the above address prior to close of business on July 15th. Requests should identify the organization represented and should be signed by the prospective witness.

Dated: May 23, 1983.

Van Manning,

District Manager.

[FR Doc. 83-14764 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Albquerque District Advisory Council, Meeting

The BLM Albuquerque District Advisory Council will meet July 21, 1983 in the conference room of the District Office, 3550 Pan American Freeway, NE, Albuquerque, Beginning at 9 a.m.

Following its field trip to the Bistri coal region and the Rio Puerco Water pipeline system at its April 25-27 meeting, the District Advisory Council will determine which management issues facing the district Manager it will focus on to provide timely advice. Among the issues being considered are: Federal coal leasing in the San Juan Basin; maintenance options for the Rio Puerco range watering system; public lands suitable for sale under BLM's asset management program; and planning issues and planning criteria for the Rio Puerco Resource Area's Resource Management Plan.

This council is managed in accordance with the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Rangeland Improvement act of 1976.

The public is welcome to attend all portions of this meeting. Statements by the public to members of the Council may be made at 11:30 a.m., July 21, 1983.

Minutes of the meeting will be prepared and made available for review within 30 days following the meeting.

L. Paul Applegate,

District Manager.

[FR Doc. 83-14629 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

Organization and Functions; Western Region; Onshore Minerals Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; change of functions.

SUMMARY: By Secretary Order 3087, dated December 3, 1982, the Bureau of Land Management (BLM) assumed all onshore minerals management functions including oil and gas, geothermal, and solid leasable minerals not related to Royalty Management, on Federal and Indian lands. These functions, which were formerly assigned to the Minerals Management Service (MMS), include both supervision of operations and mineral resource evaluation. The placement of all onshore mineral functions in BLM will eliminate duplication, provide one location approval for mineral actions, and reduce the time required for mineral approvals. All functions related to royalty and minerals revenue management will continue to be the responsibility of the Minerals Management Service.

EFFECTIVE DATE: The Western Region states will handle all minerals correspondence and inquiries effective June 13, 1983.

FOR FURTHER INFORMATION CONTACT: James W. Sutherland, Deputy State Director, Mineral Resources, Bureau of Land Management, Sacramento, California, (916) 484-4515.

SUPPLEMENTAL INFORMATION: Western Region states (Arizona, California, Idaho, Nevada, Oregon, and Washington) have now reached the stage of this transition when the BLM organization can accommodate all mineral industry correspondence, requests, submittals, plan approvals, inspection and enforcement actions. Therefore, effective June 13, 1983, all onshore minerals correspondence formerly addressed to Western Region MMS office must be submitted to the appropriate BLM offices. This does *not* include royalty and mineral revenue correspondence which will continue to be submitted directly to the Minerals Management Service, Royalty Management Office, Denver, Colorado. Onshore minerals management activities in each state will be approved and regulated by an appropriate state BLM office. Each BLM state office has established a position of Deputy State Director, Minerals Resources, to address mineral issues. These positions will be staffed by June 1, 1983. Questions concerning the appropriate state or district BLM office for correspondence submittals in each state should be referred to the appropriate Deputy State Director, Minerals Resources, at the following numbers:

State	Deputy State director minerals Resources	Telephone No.
Arizona	Ray A. Brady	(602) 261-3873
California	James W. Sutherland.	(916) 484-4515
Idaho	Bill LaVelle	(208) 334-1401
Nevada	Tom Leshendok	(702) 784-5676
Oregon/ Washington.	Pat Geehan	(503) 231-6251

Ronald D. Hofman,

Associate State Director, California.

[FR Doc. 83-14631 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[I-18302]

Public Land Exchange; Management Framework Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—Exchange, Public Lands in Bannock County, Idaho; Notice of Intent to Amend Pocatello Management Framework Plan (MFP).

Notice is hereby given that BLM is proposing to amend the Pocatello MFP to allow disposal through exchange of 100 acres of public land. Specifically, the following language would be incorporated into the MFP:

L-9: Allow disposal through exchange of 100 acres of public land in T. 6 S., R. 35 E., Boise Meridian, Sec. 7: SE¼SE¼, Sec. 8: NW¼W½SW¼SW¼, Sec. 17: W½W½N W¼NW¼, and Sec. 18: NE¼NE¼

Additionally, this notice serves as the Notice of Realty Action as required by 43 CFR Part 2201. The above described public lands have been determined to be suitable for disposal by exchange under Sec. 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716. In exchange for these lands, the Federal Government will acquire the following lands from Kent and Emi Lee Yost; Gordon and Sheri Yost and Gladys Call:

Boise Meridian, Idaho

T. 8 S., R. 38 E.,
Sec. 23: SW¼NE¼, S½NW¼, NW¼SE¼, Sec. 24: SE¼SW¼, Sec. 25: N½NW¼; and Sec. 26: NE¼NE¼.
T. 9 S., R. 39 S.,
Sec. 17: E½SW¼

Comprising 400 acres of private land.

The purpose of the exchange is to acquire lands with high recreational and wildlife values for public use. The acquisition of these lands is consistent with the Bureau's planning system. The public interest will be well served by the exchange. The value of the lands to be exchanged is approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The public lands will be transferred subject to: (1) the reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of Aug. 30, 1890 (43 U.S.C. 945); (2) those rights for pipeline purposes as have been granted to the Intermountain Gas Co. under serial number I-08382; (3) the reservation to the United States of the oil/gas rights; and (4) all other valid existing rights. The surface and mineral estate of the private lands will be transferred to the United States subject to valid existing rights.

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Burley District Office, Route 3, Box 1, Burley, ID 83318.

Comments: For a period of 45 days interested parties may submit coments to the Burley District Manager, at the above address. Any adverse comments may be evaluated by the District Manager, who may vacate or modify

this realty action and issue a final determination.

Nick James Cozakos,
District Manager.
May 27, 1983.
[FR Doc. 83-14818 Filed 6-2-83; 8:45 am]
BILLING CODE 4310-84-M

[U-44905]

Realty Action; Exchange of Public and State Lands in Iron County, Utah

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Sec. 6, T. 35 S., 17 W., Salt Lake Base and Meridian, Utah.

Comprising 674.89 acres of public lands.

In exchange for these lands, the United States will acquire the following described lands from the State of Utah:

Sec. 16, T. 35 S., R. 18 W., Salt Lake Base and Meridian, Utah.

Comprising 640 acres of State lands.

The purpose of this exchange is to acquire non-Federal lands which have public values for livestock and wildlife forage production and to facilitate the administration of public lands. The public interest will be served by completing the exchange.

The values of the lands to be exchanged are equal.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. All minerals will be exchanged except that oil and gas leases, present on both the offered and selected lands, will be reserved to the State of Utah and the United States respectively for the term of the leases or as long as there is production.

2. Excepting and reserving to the United States, a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, (26 Stat. 391; 43 U.S.C. 945).

Further information concerning the exchange is available for review at the Beaver River Resource Area Office at 444 South Main, Cedar City, Utah 84720.

For a period of 45 days from the date of first publication, interested parties may submit comments to the District Manager, Cedar City District Office, P.O. Box 724, Cedar City, Utah 84720.

Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action. In the absence of any action by the District Manager, this notice will become the final determination of the Department.

Dated: May 23, 1983.
J. Kent Giles,
Acting District Manager.
[FR Doc. 83-14825 Filed 6-3-83; 8:45 am]
BILLING CODE 4310-84-M

[C-35465]

Realty Action; Noncompetitive Sale of Public Lands in Custer County, Colorado (Parcel No. 1)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described public land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value of $34,000.

New Mexico Principal Meridian

T. 45 N., R. 12 E.,
Sec. 12, lot 1.

The parcel described above contains 13.6 acres.

The sale of this land will be held on August 17, 1983. A detailed prospectus on the offered land and the procedures for the sale will be sent to the person designated below.

The lands are being offered as a direct, noncompetitive sale to Mr. Paul C. Hutton III, the owner of a cabin and outbuilding located on the parcel. The above mentioned improvements were thought to be on private land until a remonumentation of property boundaries revealed they were located on public land. Disposal by direct sale to Mr. Hutton, rather than by public auction, will legalize his use of the parcel and protect his equity investment in his improvements on the land and avoid any undue hardship if he were required to cease his use of the parcel. The cabin has been in existence since approximately 1910. The sale will resolve an unauthorized use situation.

The parcel has not been used for and is not required for any Federal purpose. Due to the location and physical characteristics of the parcel, it is difficult and uneconomical to manage as public land. Disposal would not have any significant effect on existing public use or resource values. Disposal would best serve the public interest.

The proposed sale will be consistent with the Bureau of Land Management land use plans. Disposal would not conflict with local planning and zoning. The Custer County Commissioners have not objected to the proposed sale of the parcel.

Any patent issued as a result of this proposed sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for rights-of-way for ditches and canals constructed by the United States under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945), and all minerals will be reserved to the United States as required by Section 209(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). Any patent issued for this parcel will also be subject to those rights for an access road as have been granted under Right-of-Way Colorado 35428 and to those rights for existing water facilities located on the parcel.

Additional information concerning this proposed sale, including the planning documents and environmental assessment is available for review in the Royal Gorge Resource Area Office, Bureau of Land Management, 9th and Royal Gorge Boulevard, Canon City, Colorado. For a period of 45 days from the date of this notice interested parties may submit comments to the District Manager, Canon City District Office, Bureau of Land Management, P.O. Box 311, Canon City, Colorado 81212. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue his final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Melvin D. Clausen,
District Manager.
[FR Doc. 83-14827 Filed 6-2-83; 8:45 am]
BILLING CODE 4310-84-M

[C-35461 through C-35464]

Realty Action; Sale of Public Lands in Custer County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described public lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than fair market value shown for each parcel:

Parcel No.	Legal description	Acreage	Value
2, S-35464	T. 45 N., R. 12 E., NMPM, sec. 12, lot 2.	22.4	$31,000
3, C-35463	T. 22 S., R. 73 W., 6th PM, sec. 18, W½NE¼, NE¼NW¼.	120.0	78,000
4, C-35461	T. 22 S., R. 73 W., 6th PM, sec. 8, NW¼SE¼.	40.0	32,000
5, C-35462	T. 22 S., R. 73 W., 6th PM, sec. 17, SW¼SW¼.	40.0	40,000

The above lands have not been used for and are not required for any Federal purpose. Due to the location and physical characteristics of each parcel, it is difficult and uneconmical to manage as public lands. Disposal would not have any significant adverse effect on existing public use or on resource values. Disposal would best serve the public interest.

The proposed sale will be consistent with the Bureau of Land Management land use plans. Disposal would not conflict with local planning and zoning. The Custer County Commissioners have not objected to the proposed sale of the parcels.

Each patent issued as the result of the proposed sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for rights-of-way for ditches and canals constructed by the United States under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945) and all minerals will be reserved to the United States as required by section 209(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719). Any patent issued for Parcel No. 2 (C-35464) will also be subject to those rights for an access road as have been granted under Right-of-way Colorado 35428. Any patent issued for Parcel No. 3 (C-35463) and Parcel No. 4 (C-35461) will also be subject to a right-of-way for an existing county road. Any patent issued for Parcel No. 5 (C-35462) will also be subject to those rights for a county road as have been granted under Right-of-Way Colorado 35433 and a right-of-way for an existing irrigation ditch.

The lands will be sold at public auction. For Parcel No. 2 and Parcel No. 5 which presently have no public access, the adjoining landowners of record will be given a preference right to meet the high bid. Parcel No. 3 and Parcel No. 4 will be sold by competitive bidding with no preference right. The competitive bidding will be by sealed bids, followed by oral auction. The public sale will be held at the Royal Gorge Resource Area Office, Bureau of Land Management, 9th and Royal Gorge Boulevard, Canon City, Colorado 81212, at 2 p.m., August 24, 1983. A detailed prospectus on the offered lands and the bidding procedures may be obtained from the Royal Gorge Resource Area Office, P.O. Box 1470, Canon City, Colorado 81212.

Additional information concerning this proposed sale, including the planning documents and environmental assessment, is available for review in the Royal Gorge Resource Area Office, 9th and Royal Gorge Boulevard, Canon City, Colorado.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Canon City District Office, Bureau of Land Management, P.O. Box 311, Canon City, Colorado 81212. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue his final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Melvin D. Clausen,

District Manager.

[FR Doc. 83-14826 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

Worland District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Worland District Grazing Advisory Board. The agenda for this meeting includes:

1. Opportunity for public comment—9:15 a.m.

2. FY 1984 project proposals and recommendations—9:30 a.m.

The meeting will be open to the public. Interested persons may make oral statements to the Board, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager by June 21, 1983.

DATE: June 28, 1983, 9:00 a.m.

ADDRESS: Bureau of Land Management Office, Conference Room, 1700 Robertson Avenue, Worland, Wyoming.

FOR FURTHER INFORMATION CONTACT: Gary Blincow, District Office, Bureau of Land Management, 1700 Robertson Avenue, Worland, Wyoming 82401.

SUPPLEMENTARY INFORMATION: Summary minutes of this meeting will be on file in the District Office and available for public inspection (during regular business hours) within 30 days of the meeting.

Chester E. Conrad,

District Manager.

[FR Doc. 83-14822 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[A 17796]

Application for Issuance of Disclaimer of Interest to Lands in Arizona

May 27, 1983.

Notice is hereby given that the United States of America, pursuant to the provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), Section 315, 43 U.S.C. 1745 (1976), does hereby give notice of its intention to disclaim all interest in the following property, to wit:

Gila and Salt River Meridian, Arizona

T. 18 N., R. 24 E.,
Sec. 31, E½SW¼.
Containing 80 acres.

After review of the official public land records, it is the position of the Bureau of Land Management that the Atlantic and Pacific Railroad (now Santa Fe Pacific Railroad) acquired the above land from the United States pursuant to the Act of July 27, 1866 (14 Stat. 292), as amended. On September 27, 1887 the Atlantic and Pacific Railroad Company (A&P) conveyed the subject land to Stephen G. Little, by warranty deed, recorded July 8, 1892. The Department of the Interior erroneously issued an order restoring to public demain status the land that was granted to the Railroad. A chain of title on the subject land exists from the time the A&P Railroad deeded the land to Sephen G. Little in 1887 until it was sold for taxes in 1941. A tax deed was issued on August 13, 1941, from Apache County, Arizona, to the State of Arizona and the land was subsequently transferred to the Summers family. The subject land is currently on the Apache County tax rolls.

An persons wishing to sumit a protest or comments on the above disclaimer should do so in writing before the expiration of 90 days from the date of publication of this notice. If no protest(s) is received, the disclaimer will become effective on the date set out below.

Disclaimer of title and release of all interest of the United States shall not issue before August 29, 1983.

Information concerning this land and the proposed disclaimer may be obtained from and the protest filed with the State Director, Bureau of Land

Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Mildred C. Kozlow,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-14852 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M-58097]

Montana; Realty Action, Direct Noncompetitive Sale of Public Land in Carbon County, Montana

The following described lands have been examined and found suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743) at no less than the fair market value.

Principal Meridian

T. 9 S., R. 27 E.,
Sec. 25: NE¼SW¼NW¼SW¼,
S½SW¼NW¼SW¼,
W½SW¼SW¼.

The area described contains 27.5 acres.

The land will be offered for direct sale by noncompetitive bidding procedure. Mildred Wallin is the proposed designated buyer and will be offered the right to pay the appraised fair market value. Refusal or failure to meet that price shall cause cancellation of the sale.

The subject land is located approximately 15 miles north of Lovell, Wyoming. The land adjoins Mildred Wallin's private land which lies directly west of the parcel. The land is included in the area designated as the Pryor Mountain Wild Horse Range, but lies outside of the horse range boundary fence. The land has very low productivity, contains no unique values, is difficult and uneconomical to manage, and has therefore been identified as unneeded by the BLM.

The proposed sale is consistent with the Bureau's planning system and Carbon County government officials have been notified of the proposed sale. Since the land has a low resource value, the transfer of the tract into private ownership will benefit the public interest and provide for better land management.

The terms and conditions applicable to the sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove them under applicable laws and regulations;

2. A right-of-way for ditches and canals will be reserved to the United States; and

3. The sale of this land will be subject to all valid existing rights and reservations of record.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

Information related to the sale, including planning documents, environmental assessment, and the record of public discussions, is available for review at the Miles City District Office, P.O. Box 940, Garryowen Road, Miles City, Montana 59301.

Dated: May 26, 1983.

Robert A. Teegarden,

District Manager.

[FR Doc. 83-14853 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M-58098]

Montana; Realty Action—Exchange

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Principal Meridian

T. 9 S., R. 27 E.,
Sec. 25: W½W½NW¼, NW¼NW¼SW¼, NW¼SW¼NW¼SW¼.

Containing 52.5 acres of public land.

In exchange for these lands, the United States will acquire the following described lands:

Principal Meridian

T. 9. S., R. 27 E.,
Sec. 25: SW¼SE¼.

Containing 40 acres of private land.

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 BLM, Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

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, Garryowen Road, Miles City, Montana 59301.

The publication of this notice segregates the public lands described above from settlement, sale, 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.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C. 945.

2. The reservation to the United States of all minerals in the federal land being transferred.

3. All valid existing rights (e.g., rights-of-way, easements, and leases of record).

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 26, 1983.

Robert A. Teegarden,

District Manager.

[FR Doc. 83-14854 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M10562(SD)]

South Dakota; Order Providing for Opening of Public Lands and National Forest Lands

May 23, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This order opens the reserved mineral interests in the described lands to the operation of the public land laws. These mineral interests have been open to location and entry under the United States mining laws since March 4, 1983 due to Public Land Order 6356.

EFFECTIVE DATE: July 8, 1983.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6090.

By virtue of the authority vested in me it is ordered as follows:

1. The reserved mineral interest in the following described lands is opened to the operation of applicable public land laws at 8 a.m. on the effective date of this order:

Black Hills Meridian

T. 18 N., R. 7 E.,
Sec. 13, SE¼NW¼;

Sec. 14, W½E½, SE¼NW¼, NE¼SW¼, and NE¼SE¼;
Sec. 15, N½;
Sec. 17, NE¼SW¼ and N½SE¼;
Sec. 23, S½NE¼ and W½SE¼;
Sec. 24, N½NE¼;
Sec. 32, S½NE¼ and SE¼NW¼;
Sec. 33, SW¼NW¼ and NW¼SW¼
T. 18 N., R. 8 E.,
Sec. 18, W½NW¼SW¼NE¼ and SW¼SW¼NE¼;
Sec. 19, SE¼SW¼, NE¼SE¼, SW¼SE¼, and N½SE¼SE¼;
Sec. 20, W½NW¼SW¼ and NW¼SW¼SW¼.

The areas described aggregate 1,385 acres in Harding County.

2. This opening is subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law.

Inquiries concerning the interests should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P. O. Box 30157, Billings, Montan 59107.

Kannon Richards,

Acting State Director.

[FR Doc. 83-14849 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M-57736]

Montana; Notice of Realty Action—Competitive Sale of Public Land in Chouteau County, Mont.

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M-57736, Competitive Sale of Public Land in Chouteau County.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than fair market value:

Principal Meridian Montana

Tract III of Plat Number 53C and Reception Number 390060 of Block 19 of the Townsite of the Town of Fort Benton, and part of Block "C" of the Reservation Addition of the Townsite of Fort Benton—Containing 0.22 acres.

The land will be offered for sale by competitive bid utilizing sealed and oral bidding procedures on August 5, 1983.

The subject land is located in the commercial district on Front Street in downtown Fort Benton. The land has limited resource values and no unique values. The parcel is difficult and uneconomic to manage as part of the public lands system, was previously used as an administrative site, and is no longer needed for this purpose.

The proposed sale is consistent with the Bureau's planning system and Chouteau County government officials have been notified of the proposed sale. Since the land is no longer needed as an administrative site, the transfer into private ownership will benefit the public interest and provide for better land management.

Terms and Conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

4. Protective covenants will be placed on the deed for protection of historical values of the area. A copy of the list of required covenants is available from the Lewistown District Office.

DATE: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

The competitive sale of the above-described land in Chouteau County will be held at the Fort Benton Courthouse at 1:00 p.m. on August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including planning documents, environmental assessment, and the record of public discussions is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457, or Havre Resource Area Office, Drawer 911, Havre, Montana 59501.

SUPPLEMENTARY INFORMATION:

Bidder Qualifications: The bidder must be a U.S. citizen or, in the case of a corporation, subject to the laws of any state or the U.S. A state, state instrumentality, or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of Montana. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $10,600.00 and bids must include all of the land identified in this notice.

Method of Bidding: The land will be sold by a combination of sealed or oral bidding. Sealed bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, Lewistown District Office, Airport Road, Lewistown, Montana 59457, prior to 4:00 p.m. on August 4, 1983. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Bureau of Land Management for not less than one-fifth of the amount bid. The sealed bid envelope must be marked in the lower lefthand corner as follows:

Public Land Sale M-57736

Date _____

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared. The proceedings shall then be opened to oral bidding. The bidding shall begin at the amount of the highest qualifying sealed bid and proceed in minimum $100 increments. After the oral bids, if any, are received, the highest qualifying bid, whether sealed or oral, shall be declared by the authorized officer.

Final Details: The person declared to have entered the highest qualifying bid shall submit payment by cash, personal check, bank draft, money order, or any combination for not less than one-fifth of the amount of the bid immediately following the close of the sale. The successful bidder shall submit the remainder of the full bid price prior to the expiration of 30 days from the date of the sale. Failure to submit the full bid price prior to the 30th day shall result in cancellation of the sale, and the deposit will be forfeited. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

If no bids for the land are received on August 5, 1983, they will remain available for sale on a continuing basis Sealed bids will be received at the Lewistown District Office and will be opened at 9:00 a.m. each succeeding Wednesday through September 7, 1983. If no bids are received by September 7, 1983, this sale is cancelled.

Dated: May 25, 1983.

Glenn W. Freeman,

District Manager.

[FR Doc. 83-14919 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M-57738]

Montana; Notice of Realty Action—Modified Competitive Sale of Public Land in Phillips County, Montana

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M-57738, Modified Competitive Sale of Public Land in Phillips County.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than fair market value:

Principal Meridian Montana

T. 24 N., R. 24 E.,
Sec. 28, NW¼NW¼;
Sec. 27, E½NE¼, NE¼SE¼, N½SE¼SE¼.
Containing 180 acres.

The land will be offered for sale by sealed bid utilizing modified competitive bidding procedures. Square Butte Grazing Association, the current grazing lessee, is the proposed designated bidder and will be offered the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The subject land is located approximately 55 miles south of Malta, Montana, adjacent to secondary State Route 376 at the D-Y Junction. The tract has no unique values and has historically been used for livestock grazing. The tract of land is difficult and uneconomical to manage and by transferring the land into private ownership will benefit the public interest and provide for better land management. The proposed sale is consistent with the Bureau's planning system and the Phillips County government officials have been notified of the sale.

Terms and Conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States; and

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

The modified competitive sale of the above-described land in Phillips County will be held at the Montana State Office, 222 North 32nd Street, Billings, Montana, on August 3, 1983 at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including planning documents, environmental assessment, and the record of public discussions is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457 or the Phillips Resource Area, 501 South 2nd Street East, Malta, Montana 59538.

SUPPLEMENTARY INFORMATION:

Bidder Qualifications: The bidder must be a U.S. citizen or, in the case of a corporation, subject to the laws of any state or the U.S. A state, state instrumentality, or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of Montana. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $9,600.00 and bids must include all of the land identified in this notice.

Method of Bidding: The land will be sold by sealed bid. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Bureau of Land Management for not less than one-fifth of the amount bid. Sealed bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107 prior to August 3, 1983.

The sealed bid envelope must be marked in the lower lefthand corner as follows:

Public Land Sale M-57738

Date ———————.

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Modified Bidding: For a period of 30 days following the date of the sale, Square Butte Grazing Association, the designated bidder, will be offered the right to meet the highest qualifying bid. The designated bidder must submit a bid of at least the fair market value prior to the sale date in order to be considered under the modified bidding provisions. If he meets the highest bid, the land will be sold to him, and the other bid will be returned. His refusal to meet the highest bid or to submit any bid at all prior to the sale date shall constitute a waiver of such bidding provisions.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the allotted time will result in cancellation of the sale and the deposit will be forfeited. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

Dated: May 25, 1983.

Glenn W. Freeman,

District Manager.

[FR Doc. 83-14921 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M-57737]

Montana; Notice of Realty Action—Modified Competitive Sale of Public Land in Phillips County, Montana

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M-57737, Modified Competitive Sale of Public Land in Phillips County.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than fair market value:

Principal Meridian Montana

T. 24 N., R. 24 E.,
Sec. 27, W½E½,
Containing 160 acres.

The land will be offered for sale by sealed bid utilizing modified bidding procedures on August 3, 1983. Charles E. Schwenke, one of the current grazing

lessees, is the proposed designated bidder and will be offered the right to meet the highest bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The subject land is located approximately 55 miles south of Malta, Montana, adjacent to Secondary State Route 376 at the D–Y Junction. The tract has no unique values and has historically been used for livestock grazing. It is difficult and uneconomical to manage and transferring the land into private ownership will benefit the public interest and provide for better land management. This tract was identified for disposal through the Asset Management inventory. The proposed sale is consistent with the Bureau's planning system and the Phillips County government officials have been notified of the sale.

Terms and Conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager; Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

The modified competitive sale of the above-described land in Phillips County will be held at the Montana State Office, 222 North 32nd Street, Billings, Montana, on August 3, 1983 at 2:00 p.m.

FOR FURTHER INFORMATION CONTACT: Information related to the sale, including planning documents, environmental assessment, and the record of public discussions is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457 and at the Phillips Resource Area, 501 South 2nd Street East, Malta, Montana.

SUPPLEMENTARY INFORMATION:

Bidder Qualifications: The bidder must be a U.S. citizen or, in the case of a corporation, subject to the laws of any state or the U.S. A state, state instrumentality, or political subdivision submitting a bid must be authorized to hold property. Any other entity submitting a bid must be legally capable of holding and conveying lands or interests therein under the laws of the State of Montana. Bids must be made by the principal or his agent.

Bid Standards: No bid will be accepted for less than the appraised value of $8,200.00 and bids must include all of the land identified in this notice.

Method of Bidding: The land will be sold by sealed bid. Each bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Bureau of Land Management for not less than one-fifth of the amount bid. Sealed bids delivered or sent by mail will be considered only if received by the Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107 prior to August 3, 1983.

The sealed bid envelope must be marked in the lower lefthand corner as follows:

Public Land Sale M–57737

Date ——————.

If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing, if required, shall be held immediately following the opening of the sealed bids. The highest qualifying sealed bid shall then be publicly declared.

Modified Bidding: For a period of 30 days following the date of the sale, Charles E. Schwenke, the designated bidder, will be offered the right to meet the highest qualifying bid. The designated bidder must submit a bid of at least the fair market value prior to the sale date in order to be considered under the modified bidding provisions. If he meets the highest bid, the land will be sold to him, and the other bid will be returned. His refusal to meet the highest bid or to submit any bid at all prior to the sale date shall constitute a waiver of such bidding provisions.

Final Details: Once a high bid is accepted, the successful bidder shall submit the remainder of the full bid price within the time period designated by the authorized officer. Failure to submit the required amount within the alloted time will result in cancellation of the sale and the deposit will be forfeited. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

Dated: May 25, 1983.

Glenn W. Freeman,

District Manager.

[FR Doc. 83-14822 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M–57739]

Montana; Notice of Realty Action—Noncompetitive Sale of Public Land in Phillips County, Montana

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M–57739, Noncompetitive Sale of Public Land in Phillips County.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than fair market value:

Principal Meridian Montana

T. 24 N., R. 24 E.
Sec. 27, S½SE¼SE¼
Sec. 34, N½NE¼NE¼NE¼, NE¼NW¼ NE¼NE¼
Containing 27.5 acres.

The land will be offered for direct sale to Roger Ereaux at the appraised fair market value of $10,200.00. Refusal or failure to meet that price by August 31, 1983, shall cause the lands to be offered for sale through competitive bidding procedures. Sealed bids will be received at the Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107 and will be opened at 2:00 p.m. each Wednesday during the month of September 1983. If no bids are received by September 28, 1983, this sale is cancelled. Further information on competitive bidding procedures may be obtained from the Montana State Office.

The subject land is located in the junction of U.S. Highway 376, approximately 55 miles south of Malta, Montana. The subject land has no unique values and has historically been used for livestock grazing. In addition some unauthorized facilities are located on a portion of the tract associated with the operation and maintenance of a Bar-Cafe, and other facilities. The sale, if consummated, will resolve this unauthorized use.

This tract was identified for sale in the Asset Management inventory process. The proposed sale is consistent with the Bureau's planning system and the general public as well as the Phillips County government officials have been notified of the sale. Since the land has

low resource value, the transfer of the tract into private ownership will benefit the public interest and provide for better land management.

Terms and Conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove same under applicable law and regulation;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior. If the decision to sell is made, Roger Ereaux shall submit the full purchase price and publishing costs within the time period designated by the authorized officer. Failure of Roger Ereaux to submit the required amount within the allotted time will result in the cancellation of the sale to him. The lands will then be put up for competitive sale through September 28, 1983.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale, including planning documents, environmental assessment, and the record of public discussions is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457 and at the Phillips Resource Area, 501 South 2nd Street East, Malta, Montana 59538.

Dated: May 25, 1983.

David E. Little,

Acting District Manager.

[FR Doc. 83-14923 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[M-57735]

Montana; Notice of Realty Action—Noncompetitive Sale of Public Land in Toole County, Montana

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action M-57735, Noncompetitive Sale of Public Land in Toole County.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), at no less than fair market value:

Principal Meridian Montana

T. 32 N., R. 2 W.,
Sec. 17: NE1/4NE1/4;
Containing 40.00 acres.

The land will be offered for direct sale to the Shelby Airport Commission at the appraised fair market value of $7,000.00. Refusal or failure to meet that price by August 31, 1983, shall cause the lands to be offered for sale through competitive bidding procedures. Sealed bids will be received at the Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107 and will be opened at 2:00 p.m. each Wednesday during the month of September 1983. If no bids are received by September 28, 1983, this sale is cancelled. Further information on competitive bidding procedures may be obtained from the Montana State Office.

The subject land is located 2–3 miles northwest of Shelby, Montana. The land adjoins the Shelby Airport on the southwest and is located at the end of a runway. The subject land has no unique values and has historically been used for livestock grazing. The sale, if consummated, will create a buffer zone for safety reasons at the end of the runway at the Shelby Airport.

The subject tract was identified for sale, through the planning system, to the Airport Commission to ensure public safety by protecting air flight paths. Toole County government officials have been notified of the proposed sale. The transfer of the tract into private ownership will benefit the public interest and provide for better land management.

Terms and Conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, and remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States; and

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior. If the decision to sell is made, Shelby Airport Commission shall submit the full purchase price and publishing costs within the time period designated by the authorized officer. Failure of the Shelby Airport Commission to submit the required amount within the allotted time will result in the cancellation of the sale to him. The lands will then be put up for competitive sale through September 28, 1983.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale, including planning documents, environmental assessment, and the record of public discussions is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457 and at the Havre Resource Area, Drawer 911, Havre, Montana 59501.

Dated: May 26, 1983.

David E. Little,

Acting District Manager.

[FR Doc. 83-14924 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

Nevada; Classification Vacated

May 12, 1983.

1. Pursuant to the authority delegated by Bureau Order 701 and an amendment thereto, the Bureau of Land Management multiple use classification N-2710 was published in the **Federal Register** on July 25, 1969 (FR Doc. 59-8714). Pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the 43 CFR Part 2460 regulations, this action classified approximately 23,451.97 acres of public land in Humboldt County, Nevada, for disposal under the Public Land Sale Act of September 19, 1964, Section 8 of the Taylor Grazing Act of June 28, 1934, and the Recreation and Public Purposes Act of June 14, 1926. All the land was segregated from the mining laws and 3,466 acres were also segregated from the mineral leasing laws.

2. Pursuant to 43 CFR 2461.5(c)(2), the classification is hereby vacated in its entirety:

Mount Diablo Meridian, Nevada

T. 36 N., R. 38 E.,
Sec. 28, SE¼SE¼.
T. 37 N., R. 38 E.,
Sec. 2, Lots 1, 2, 3, 4, S½NW¼, S½;
Sec. 3, Lots 1, 2, 3, 4, S½NE¼, S½NW¼, S½;
Sec. 11, SW¼;
Sec. 12, Lots 1, 2, 3, 4, W½NE¼, W½, W½SE¼;
Sec. 14, Lots 1 thru 7, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
Sec. 15, NE¼;
Sec. 16, NE¼NE¼;
Sec. 22, E½NE¼, NW¼NE¼, NE¼NW¼, SW¼NW¼, SW¼, NE¼SE¼, SW¼SE¼;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, N½, SW¼, E½SE¼;
Sec. 28, NE¼, E½SE¼NW¼, SW¼;
Sec. 33, N½, SW¼, N½SE¼;
Sec. 34, W½NW¼;
Sec. 36, N½NW¼, SW¼NW¼.
T. 38 N., R. 38 E.,
Sec. 36, N½NE¼, SW¼NE¼, NW¼, N½SW¼, SW¼SW¼, SE¼SE¼.
T. 37 N., R. 39 E.,
Sec. 4, Lots 1, 2, 3, 4, S½N½, S½;
Sec. 6, Lots 1 thru 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, all;
Sec. 16, all;
Sec. 17, SE¼;
Sec. 18, Lots 1, 2, 3, 4, NE¼, W½W½, SE¼;
Sec. 19, SE¼;
Sec. 20, all;
Sec. 21, NW¼;
Sec. 24, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 26, NW¼NE¼, S½NE¼, W½, SE¼;
Sec. 28, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 29, NW¼;
Sec. 30, Lots 1, 2, 3, 4, E½, E½W½;
Sec. 36, all.
T. 38 N., R. 39 E.,
Sec. 36, all.
T. 36 N., R. 40 E.,
Sec. 6, Lots 2 thru 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.

The land vacated comprises approximately 16,725.49 acres. The remaining 6,726.48 acres are now in private ownership.

3. At 9:00 a.m. on July 5, 1983, the land described above is hereby open to the public land laws, subject to valid existing rights. All valid applications received prior to or at 9:00 a.m. on July 5, 1983 will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

4. At 9:00 a.m. on July 5, 1983, the land described above is hereby open to the operation of the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

5. All the land segregated against the mineral leasing laws is now in private ownership. All minerals on the private land are withdrawn in accordance with the Public Land Sale Act of September 19, 1964.

Inquiries concerning this land should be addressed to the District Manager, BLM, 705 E. 4th Street, Winnemucca, Nevada 89445.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 83-13959 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[W-33472, W-37418, W-61985, W-63448, W-64792, W-69098, and W-73358]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Leases

Pursuant to the provisions of Pub. L. 31-245 and Title 43 Code of Federal Regulations, Section 3108.2-1(c), and Pub. L. 97-451, petitions for reinstatement of the above-listed oil and gas leases have been received.

The proposed reinstatement of the leases would be under the same terms and conditions of the original leases, except the rentals will be increased to $5 per acre per year, and royalty increased to 16⅔ percent with the exception of lease W-73358. All future rentals for lease W-73358 will be at the rate of $10.00 per acre or fraction thereof, and royalties will be paid at a rate of 16⅔ percent computed on a sliding scale based upon average production per well per day.

Lessees will reimburse the Department for the cost of the notice published in the **Federal Register.**

Harold G. Stinchcomb,

Chief, Branch of Fluid Minerals.

[FR Doc. 83-14037 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

[CA-8297]

California; Proposed Withdrawal and Reservation of Land; Correction

May 25, 1983.

In Federal Register Document 83-10589 appearing on pages 17148 and 17149 of the issue of April 21, 1983, the 19th, 20th, 21st and 22nd lines read "T. 5 N., R. 25 E., Sec. 21, E½NE¼, NE¼SE¼, S½SE¼; Sec. 28, N½NE¼, SW¼NE¼. The area described aggregates 320 acres." It is corrected to read, "That part of the E½E½, SW¼SE¼ Sec. 21; E½NE¼NE¼, W½NW¼NE¼ Sec. 28, lying easterly of the easterly right-of-way line of highway No. 182, and the SW¼NE¼ Sec. 28, T. 5 N., R. 25 E. The area described aggregates approximately 180 acres * * *."

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 83-14031 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

Record of Decision for 1982 Amendment Review of the California Desert Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice is hereby given that the Record of Decision for the second amendment (1982) to the California Desert Conservation Area Plan has been prepared, and that the decisions it includes are in effect.

FOR FURTHER INFORMATION CONTACT: Gerald Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: The Record of Decision (ROD) describes each proposed amendment, indicates whether it was accepted or rejected, and presents the rationale for the decision. Final decisions were made by the District Manager and concurred in by the State Director. Decisions were based on the findings of an Environmental Impact Statement prepared for the amendments, public review, and input from the California Desert District Advisory Council. Members of the public wanting a summary of the ROD may obtain one by writing to the address given above. The complete ROD is available for public inspection, also at the above address.

Dated: May 27, 1983.

Hugh Riecken,

Associate District Manager.

[FR Doc. 83-14806 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ARCO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 1608, 2137, and 2943, Blocks 59 and 60, South Pass Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 26, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-14982 Filed 6-2-83; 8:45 am]

BILLING CODE 4310 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1088, Block 89, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 27, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-14890 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

Determination of Valid Existing Rights Within the Otter Creek Wilderness Area of Monongahela National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Request for additional comments.

SUMMARY: The Otter Creek Coal Company has requested a determination by the Office of Surface Mining Reclamation and Enforcement (OSM) that its proposed underground coal mining operation on Federal lands in the Otter Creek Wilderness Area, West Virginia, is not prohibited or limited by Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (the Act). The Company has specifically requested that OSM determine that Otter Creek has valid existing rights under that section of the Act. On April 19, 1983, OSM gave notice of receipt of the request and established a comment period scheduled to expire on July 18, 1983. See 48 FR 16763 (April 19, 1983). To further clarify the issues in this proceeding and to ensure that the agency decides Otter Creek's application based upon a complete administrative record, OSM is soliciting additional public comments on the application.

DATES: Written comments will be accepted until 5:00 p.m., E.D.T., on July 18, 1983. Public meetings will be scheduled on request only.

ADDRESSES: Documents comprising the administrative record are available for public review and copying during regular business hours at the address below. Copies of relevant notices may be obtained at the same location.

Administrative Record Room, Room 5315L, Office of Surface Mining, Department of the Interior, 1100 L Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Murray Newton, Chief, Branch of Regulatory Programs, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone (202) 343–5866.

Background

Otter Creek Coal Company (the Company, or Otter Creek) initially filed an action in the United States Court of Claims pursuant to the just compensation clause of the Fifth Amendment to the U.S. Constitution and 28 U.S.C. 1491, seeking compensation for the alleged taking by inverse condemnation by the United States of its mineral estate underlying the Otter Creek Wilderness Area (OCWA) in Randolph and Tucker counties, West Virginia. Among other things, the Company alleged that the Act prohibits all surface coal mining within the OCWA, thereby depriving Otter Creek of all use or enjoyment of its property, requiring the payment of compensation.

In subsequent judicial proceedings, the United States Court of Claims ordered Otter Creek Coal Company to file an application for a valid existing rights (VER) determination pursuant to Section 522(e) of the Act. If OSM grants Otter Creek's VER application, then Otter Creek would be exempt from the 522(e) restrictions on mining in the Otter

Creek Wilderness Area; however, its operations would remain subject to the permitting and performance standards of the Act. Otter Creek complied with the court order by filing its VER application on January 28, 1983; OSM announced receipt of the application and solicited public comment in the April 19, 1983, *Federal Register* 48 FR 16763.

In its opinion dated June 24, 1982, the Court of Claims held that the threshold issue to be determined before the Court could proceed to the merits of Otter Creek's "taking" claim is whether the Company is to be barred from conducting surface coal mining activities within the OCWA. In this regard, the Court held that Otter Creek should initially seek a determination from OSM on the question of whether it has valid existing rights to conduct mining operations that disturb the surface on the OCWA. Section 522(e) of the Act prohibits all surface coal mining operations on lands within the boundaries of units of the National Wilderness Preservation System, subject to valid existing rights. While the term "valid existing rights" is not further defined by statute, Congress intended by its inclusion in the Act to avoid constitutional taking of property as a result of implementation of the statute. See 123 Cong. Rec. 12878, April 19, 1977. *Accord, Hodel* v. *Virginia Surface Mining and Reclamation Association, Inc.*, 452 U.S. 264, 293, n. 37 (1981). While the regulations initially promulgated at 30 CFR 761.5 do not specifically refer to a taking standard in defining valid existing rights, the Secretary stated clearly in the preamble that VER should be determined "on a case-by-case basis" and that it should be defined as "those rights which cannot be affected without paying compensation." 44 FR 14992–3 (1979).

In the litigation pending before the Court of Claims, the Government suggested that it was possible for Otter Creek to mine its reserves within the wilderness area without disturbing the surface of the OCWA by locating mine entries and portals on adjacent Federal lands outside wilderness land areas. Otter Creek has rejected any contention that it is feasible to mine without committing surface disturbances of the OCWA in violation of Section 522(e) of the Act, 30 U.S.C. 1272(e). In order to determine whether Otter Creek has valid existing rights, the Court of Claims has suggested that OSM may want to consider the feasibility or practicality of mining from outside the wilderness area boundaries.

In reviewing Otter Creek's application for a valid existing rights determination and its arguments regarding the feasibility of the Government's alternative approach, OSM is requesting additional public comments on the following matters:

(1) Whether the Government's alternative plan of mining operations would result in subsidence or require the construction of ventilation shafts within the wilderness area and, if so, whether this would constitute a prohibited surface disturbance within the meaning of 30 U.S.C. 1272(e).

(2) Whether there are any legal restrictions affecting the Company's ability to mine from contiguous Federal lands outside the Wilderness Area.

(3) Any additional general comments relating to this proceeding and any facts which are relevant to the question of whether it is feasible to mine from locations outside the Wilderness Area.

(4) Any comments concerning the application of the "taking" standard set forth in the order of the Court of Claims in determining whether Otter Creek Coal Company has valid existing rights.

Dated: May 27, 1983.

Arthur W. Abbs,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 83-14936 Filed 6-2-83; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[No. MC-FC-80141TA]

Motor Carriers; L. R. Bouma, d.b.a. Bouma, Transport—Transferee—Shoemaker Trucking Company (Loren Wetzel, Trustee in Bankruptcy)—Transferor

On April 22, 1983, Division 1, Acting as an Appellate Division, voted to grant the application of L. R. Bouma, d.b.a. Bouma Transport of Choteau, MT, to temporarily lease the motor carrier rights of Shoemaker Trucking Company of Boise, ID.

Approval of the TA is subject to the following conditions. By July 5, 1983, lessee must:

(1) Comply with the appropriate statutory and regulatory provisions governing insurance, tariffs, and designation of agents (see 49 U.S.C. 10927, 10761–62, and 10330; accord 49 CFR Parts 1043, 1044, and 1300–1310);

(2) Commence operations pursuant to the authority granted;

(3) Confirm, in writing, to the Commission, immediately upon commencement of operations, the date operations were commenced; and

(4) File with the Commission 3 copies of the approved lease agreement, if this has not previously been done.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-14940 Filed 6-2-83; 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 49 CRF 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative

requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, (202) 275-7289.

Volume, No. OP5-FC-258

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC-FC 81493. By decision of May 24, 1983 issued under 49 U.S.C. 10926 and the transfer rules 49 CFR Part 1181, Review Board Number 1 approved the transfer to CUSTOM FREIGHT, INC., of Booneville, MS, of Certificate No. MC-154999 issued October 22, 1981, to DIAMOND G. TRUCKING, INC., of Blue Springs MS, authorizing the transportation of (1) *furniture and fixtures*, and (2) *machinery and supplies* used in the manufacture and distribution of the commodities in (1) between points in MS, on the one hand, and, on the other, points in the U.S. Representative: Fred W. Johnson, Jr., P.O. Box 1291, 109 North State St., Jackson, MS 39205.

For the following, please direct status calls to Team 2 at 202-275-7030.

Volume No. OP2-FC-249

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81406. By decision of May 24, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board No. 2 approved the transfer to INDUSTRIAL TRANSPORT SERVICE, INC., of Tenley Park, IL, of Certificates No. MC-147962 Sub-Nos.3X (and the underlying authority under MC-147962 Sub-No. 1), 4, and 5, issued March 25, September 14, 1981, and December 3, 1982, respectively, to DONDO TRUCKING, INC., of Oak Lawn, IL, authorizing the transportation, over irregular routes, of (1) food and related products, between Chicago, IL, on the one hand, and, on the other, points in IN, WI, Scott County, IA, and Henry County, OH; (2) chemicals and related products, metal products, and textile mill products, between Chicago, IL, on the one hand, and, on the other, points in the U.S.; and (3) general commodities (with exceptions), between points in IL and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI). Representative: Joseph Winter, 29 LaSalle St., Chicago, IL 60603, 312-263-2306.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-FC-323

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC-FC-81469, filed May 11, 1983. By decision of May 24, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 2 approved the transfer to TWIN CITY FRUIT, INC. d.b.a. TWIN CITY FREIGHT, Deadwood, SD, of Certificate No. MC-141737 (Sub-No. 1), issued July 17, 1981, to WALKER FREIGHT LINE, INC., Black Hawk, SD, authorizing the transportation of *general commodities* (except classes A and B explosives), between points in South Dakota, and of Certificate No. MC-141737 (Sub-No. 2)X, issued April 7, 1982, and the underlying authority in MC-141737 Lead, issued June 18, 1981, authorizing the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk, and those requiring special equipment), between Scottsbluff, NE and Rapid City, SD, serving all intermediate points and off-route points in Dawes County, NE: from Scottsbluff over Nebraska Hwy 71 to junction Nebraska Hwy 2, then over Nebraska Hwy 2 to junction U.S. Hwy 20 to Crawford, then over U.S. Hwy 20 to junction U.S. Hwy 385, then over U.S. 385 to U.S. Hwy 16, then over U.S. Hwy 16 to Rapid City, and return over the same route. An application for temporary authority has been filed. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501.

Volume No. OP4-FC-329

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79943, filed July 19, 1982. (Republication). By decision of May 26, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to Eazor Special Services, Inc., Of Pittsburgh, PA, of Certificate No. MC-591207 Sub-Nos. 44, 45 and 46, issued December 29, 1981, May 27, 1982, and June 18, 1982, respectively, to Eazor Express, Inc., of Pittsburgh, PA, authorizing the transportation of: Sub 44: *machinery, metal products, and transportation equipment*, between points in the U.S. under continuing contract(s) with Rockwell International, of Pittsburgh, PA; Sub 45: *general commodities* (except household goods, commodities in bulk, and classes A and B explosives, between points in the U.S. (except AK and HI), under continuing contract(s) with Edgewater Steel Company, of Oakmont, PA, and Toyad Corp., of Latrobe, PA; Sub 46: *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Mars Forge Company, of Mars, PA. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471-1800.

Note.—The sole purpose of this republication is to reflect the authority to be transferred in Certificate No. MC-59120 Sub-Nos. 44, 45, and 46.

[FR Doc. 83-14844 Filed 6-2-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified

prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in interstate commerce over regular routes as motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 4 at 202–275–7669.

Volume No. OP4–325

Decided: May 26, 1983.

By the Commission, Review Board No. 2, members Carleton, Williams, and Ewing.

MC 42487 (Sub-1074), filed May 12, 1983. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208 (503) 226–4692. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with the Monsanto Company of St. Louis, MO.

MC 51146 (Sub-870), filed May 12, 1983. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant) (414) 498–7623. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of capital goods and industrial materials and supplies, between points in the U.S. (except AK and HI), under continuing contract(s) with shippers of the described commodities.

MC 59206 (Sub-37), filed May 10, 1983. Applicant: HOLLAND MOTOR EXPRESS, INC., 750 E 40th St., Holland, MI 49423. Representative: Kenneth De Vries (same address as applicant) (616) 392–3101. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 79687 (Sub-42), filed May 13, 1983. Applicant: WARREN C. SAUERS CO., INC., 200 Rochester Rd, Zelienople, PA 16063. Representative: David M. O'Boyle, 1610 Two Chatham Center, Pittsburgh, PA 15219 (412) 765–1600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 134257 (Sub-5), filed May 12, 1983. Applicant: CARROLL'S TRANSFER, INC., P.O. Box 265, Dublin, NC 28332. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602 (919) 828–0731. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Robeson County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138146 (Sub-6), filed May 13, 1983. Applicant: OLYMPIA TRAILS BUS COMPANY, INC., Rear 30–116 Port St., Newark, NJ 07105. Representative: Joseph L. Steinfeld, 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004 (202) 737–1030. Over regular routes, transporting *passengers*, between Newark International Airport, Newark, NJ, and New York, NY: (1) from Newark International Airport to junction U.S. Highway 1/9, then over U.S. Hwy 1/9 to junction NJ Hwy 439, then over NJ Hwy 439 to junction U.S. Hwy 278, then over U.S. Hwy 278 to junction Goethals Bridge, then over Goethals Bridge to New York, NY, (2) from Newark International Airport to junction U.S. Hwy 1/9, then over U.S. Hwy 1/9 to junction Holland Tunnel, then through the Holland Tunnel to New York, NY, (3) from Newark International Airport to junction U.S. Hwy 1/9, then over U.S. Hwy 1/9 to junction New Jersey Turnpike Interchange #14, then over New Jersey Turnpike to Interchange #16(E), then over turnpike access roads to junction NJ Hwy 3, then over NJ Hwy 3 to junction Lincoln Tunnel, then through the Lincoln Tunnel to New York, NY, and (4) from New Jersey Turnpike Interchange #14, over New Jersey Turnpike to Interchange #18(W), then over turnpike access roads to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction George Washington Bridge, then over the George Washington Bridge to New York, NY, returning over the same routes, serving all intermediate points.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce in accordance with the provisions under 49 U.S.C. 10922(c)(2)(B), over the same route.

MC 158577 (Sub-1), filed May 10, 1983. Applicant: L & L CARTAGE COMPANY, INC., P.O. Box 1041, 101 Jessup Drive Jonesboro, AR 72401. Representative: James T. Darby, 1021 Irving Ave., Colonial Beach, VA 22443 (804) 224–0773. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI.)

MC 159037 (Sub-1), filed May 11, 1983. Applicant: B & D MACHINERY SERVICES, LTD,. P.O. Box 116, Elrose, Saskatchewan, Canada SOL OZO. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108 (701) 237–4223. Transporting *machinery, and chemicals and related products,* between the ports of entry on the International Boundary line between the U.S. and Canada at points in MT and ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162778 (Sub-3), filed May 9, 1983. Applicant: DMi TRUCKING, INC., State Road 64, Huntingburg, IN 47542. Representative: J. M. Summerly (Same address as applicant) (812) 683–2332. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Specialty Brands, Inc., of San Francisco, CA, Gerico, Inc., of Thornton, CO, Highway Transport Service, of Atlanta, GA, Arvey Paper & Supplies and American Backhaulers, both of Chicago, IL.

MC 164237 (Sub-1), filed May 12, 1983. Applicant: E. PRITT LEASING & TRUCKING, INC., 5441 Whitney Court, Swartz Creek, MI 48473. Representative: David E. Jerome 436 N. Center St., Northville, MI 48167 (303) 348–4433. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI) under a continuing contract(s) with Soo Transportation Service Ltd., of Grand Blanc, MI.

MC 165616 (Sub-1), filed May 9, 1983. Applicant: J. M. HOLT & SONS CONSTRUCTION, INC., P.O. Box 794, Graham, NC 27253. Representative: Terrell Price, 800 Briar Creek Rd., Ste. DD504, Charlotee, NC 28205 (704) 372–8212. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC, VA, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4–327

Decided: May 25, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 97357 (Sub-58), filed May 19, 1983. Applicant: ALLYN TRANSPORTATION COMPANY, 980–A East Orangethorpe Ave., Anaheim, CA 92801. Representative: Charles Carbonaro (Same address as applicant) (714) 992–4261. Transporting *general commodities* (except classes A and b explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 133466 (Sub-8), filed May 18, 1983. Applicant: FORT CALHOUN EXPRESS, INC., 12th & Madison, Fort, Calhoun, NE 68023. Representative: Cole Sparkman (Same address as applicant) (404) 468–5511. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 141476 (Sub-1), filed May 12, 1983. Applicant: ADVANCE INDUSTRIES TRANSPORTATION CORP. 2301 Bridgeport Dr., Sioux City IA 51102. Representative: George L. Hirschbach, 920 W. 21 St., P.O. Box 155, South Sioux City, NE 68776 (402) 494–5466. Transporting (1) *lumber and wood products,* (2) *clay, concrete, glass or stone products,* (3) *rubber and plastic products,* (4) *metal products,* (5) *machinery,* and (6) *transportation equipment,* between points in the U.S.

MC 142037 (Sub-3), filed May 12, 1983. Applicant: SCHULTZ BROS., INC., State Highway 36, P.O. Box 373, Guy TX 77444. Representative: Thomas F. Sedberry, P.O. Box 2023 (78768), 2600 InterFirst Tower, Austin, TX 78701 (512) 472–8355. Transporting *building materials,* between points in Tarrant County, TX, on the one hand, and, on the other, points in TX.

MC 148556 (Sub-5), filed May 19, 1983. Applicant: KEEBLER COMPANY, One hollow Tree Lane, Elmhurst, IL 60126. Representative: John M. Sanderson, Jr. (Same address as applicant) (312) 833–2900. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with American Licorice Company of Alsip, IL.

MC 150096 (Sub-2), filed May 11, 1983. Applicant: GLENDALE TRUCKING CORP., 57–40 Flushing Ave., Maspeth, NY 11378. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048 (212) 381–7000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 153877 (Sub-1), filed May 18, 1983. Applicant: A. L. ZARY TRANSPORT LTD., 210 Vancouver Ave. South, Saskatoon, SK Canada S7M 3M9. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102 (206) 325–8875. In foreign commerce only, transporting *lumber and lumber products,* and *forest products,* between points on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points, in NV, CA, AZ, UT, WY, CO, NM, ND, SD, NE, KS, OK and TX.

MC 156107 (Sub-5), filed May 18, 1983. Applicant: VARDAROS MOTOR LINES, INC., 510 Plaza Dr., Suite 1530 H, College Park, GA 30349. Representative: Virgil H. Smith, 74 Hwy N. Box 245, Tyrone, GA 30290 (404) 969–1980. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 162056 (Sub-1), filed May 19, 1983. Applicant: BOSTEDER TRUCKING, INC., P.O. Box 236, Big Rock, IL 60511. Representative: Charles E. Dye, Swan Lake Village, Saddle Ridge #832, Portage, WI 53901 (608) 742–3579. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Hoe K. Bosteder and Sarah A. Bosteder Warehouse Company, of Big Rock, IL.

[FR Doc. 83-14846 Filed 6-2-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not

fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team Five at 202-275-7289.

Volume No. OP5-251

Decided: May 19, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 167868, filed May 9, 1983. Applicant: R.R. BOWMAN, d.b.a. RAINER BROKERS, P.O. Box 30389, Portland, OR 97230. Representative: R. R. Bowman (same address as applicant), (503) 255-4236. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167889, filed May 9, 1983. Applicant: SCORPIO 7 ENTERPRISES, INC., 50 Emjay Blvd., Brentwood, NY 11717. Representative: Joseph F. Stern, 17 Bradley Drive, Shoreham, NY 11786, (516) 744-1227. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167948, filed May 9, 1983. Applicant: CARL MATUSEK, INC., 1001 North America Way, Dodge Island, Miami, FL 33132. Representative: Peter S. Herrick, 3139 S.W. 27th Ave., Suite 2, Miami, FL 33133, (305) 445-2112. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167949, filed May 9, 1983. Applicant: BYRAM BUS LINE, INC., R.D. 5, Sparta Stanhope Rd., Stanhope, NJ 07874. Representative: Edward F. Bowes, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, (201) 992-2200. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167958, filed May 10, 1983. Applicant: KEVIN SHEPHERD, 704 S. 60th Ave., Yakima, WA 98908. Representative: Kevin Shepherd (same address as applicant), (509) 966-4523. 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 167959, filed May 10, 1983. Applicant: JAMES VANDERKOLK, d.b.a. J & B TRUCKING, 8558 Adams, Zeeland, MI 49464. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797-6060. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume, No. OP5-253

Decided: May 20, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 167938, filed May 9, 1983. Applicant: CONSOLIDATED FREIGHTWAYS, EXPORT-IMPORT SERVICES, INC., 244 Jackson St., San Franscisco, CA 94111. Representative: Mark J. Andrews, 1660 L. St., N.W., Suite 1100, Washington, D.C. 20036, 202-452-7438. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167968, filed May 12, 1983. Applicant: KENNETH S. MACKAY, 1 Sprucewood Lane, Avon, CT 06001. Representative: Hugh M. Joseloff, 410 Asylum St., Hartford, CT 06103 (202) 728-0700. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167969, filed May 12, 1983. Applicant: CHARLES B. WAYTE, One Hackensack Ave., South Kearney, NJ 07032. Representative: Charles B. Wayte (same address as applicant), (201) 589-5959. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167989, filed May 12, 1983. Applicant: ANCHOR TOURS OF FLORIDA, INC., 5281 SW 106th Ave., Ft. Lauderdale, FL 33330. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53rd St., Miami, FL 33166 (305) 592-0036. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 168008, filed May 13, 1983. Applicant: RICHARD E. WERNING, R.R. #2, Box 81-A2, Higginsville, MO 64037. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102 (314) 636-2321. Transporting *passengers*, in charter and special operations beginning and ending at points in Carroll, Lafayette, Ray, and Saline Counties, MO, and extending to points in AL, AR, CO, FL, GA, IL, IN, KS, KY, MN, NE, OK, SD, TN, TX, and WI.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP5–255

Decided: May 23, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 167759, filed May 3, 1983. Applicant: INDUSTRIAL SECURITY SYSTEMS, INC., P.O. Box 7193, Concord Hights Station, Concord, NH 03301. Representative: Kelvin H. Clark (same address as applicant), (603) 225–7734. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167939, filed May 9, 1983. Applicant: MICHAEL T. FRANICH, d.b.a. FRANICH TRUCKING, Rte. 1, Box 1518, Whitehall, MT 59759. Representative: Mike Franich (same address as applicant), (406) 287–3532. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5–257

Decided: May 24, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 145138 (Sub-2(B)), filed May 13, 1983. Applicant: GOLDEN VALLEY TRANSPORTATION INC., P.O. Box 130, Roberts, ID 83444. Representative: Todd Ross Clement (same address as applicant), (208) 524–3331. (1) Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.; and (2) As a *broker* of *general commodities* (except household goods), between points in the U.S.

Note.—Applicant seeks additional authority in MC 145138 Sub 2 (A) published in this same issue.

MC 167928, filed May 9, 1983. Applicant: FREIGHT SPECIALIST, INC., 470 Raintree Ct., Glen Ellyn, IL 60137. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602, (312) 236–8225. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 168039, filed May 13, 1983. Applicant: AL McKNIGHT, P.O. Box 4, 504—5th St., Culver, OR 97734. Representative: Al McKnight (same address as above), (503) 546–6432. 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 168048, filed May 16, 1983. Applicant: AMERICAN-ITALIAN TOURS, INC., 369 Sip Ave., Jersey City, NJ 07306. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, (212) 239–4610. 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 168058, filed May 16, 1983. Applicant: JAKE TIEMERSMA, 670 Reservoir Rd., Port Angeles, WA 98362. Representative: Jake Tiemersma (same address as applicant), (206) 457–0318. 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 HI).

MC 168079, filed May 16, 1983. Applicant: USA TRANSPORT COMPANY, P.O. Box 57, Route 1, Rector Corner Rd., Marshall, NC 28753. Representative: Leonard F. Ponder (same address as applicant), (704) 649–3181 or (704) 645–7161. To operate as a *broker* of *General Commodities* (except household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–318

Decided: May 23, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 167986, filed May 12, 1983. Applicant: REGINALD G. HILL, d.b.a. HILL TRANSPORTATION SERVICE, P.O. Box 11941, Baltimore, MD 21207. Representative: Raymond G. Hill (same address as applicant), (301) 466–8383. Transporting *passengers*, in charter and special operations, between points in MD, PA, DE, VA, WV, NY, NJ, and DC.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167987, filed May 12, 1983. Applicant: KIEFFERS OF AUBURNDALE, INC., Route 2, Auburndale, WI 54412. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54958 (414) 722–2848. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167997, filed May 12, 1983. Applicant: EDGEE CORPORATION, 615 Shunpike Rd., Cape May, NJ 08204. Representative: George E. Campbell, 985 Old Eagle School Rd., Suite 501, Wayne, PA 19087 (215) 293–9220. 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 168007, filed May 13, 1983. Applicant: ROSE P. BAIRD, d.b.a. BAIRD TRUCK LINE, Rt. 1, Winsted, MN 55395. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting *foodstuffs*, between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 168016, filed May 12, 1983. Applicant: PAWNEE, INC., 5101 St. Charles Rd., Bellwood, IL 60104. Representative: Timothy Dubiel (same address as applicant), (312) 544–2300. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 168017, filed May 13, 1983. Applicant: CONNIE M. CALHOUN, d.b.a. CONNIE M. CALHOUN TRUCKING, 53 North Second St., Ashland, OR 97520. Representative: Kenneth A. Bohn (same address as applicant), (503) 482–3711. 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 168027, filed May 13, 1983. Applicant: OKLAHOMA PACKAGE EXPRESS INC., P.O. Box 22353, Oklahoma City, OK 73123. Representative: Stephen L. Plake, 8017 McKee, Oklahoma City, OK 73123, (405) 721–1958. (1) Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI). (2) As a *broker of general commodities* (except household goods), between points in the U.S.

MC 168087, filed May 16, 1983. Applicant: DENNIS KOST, d.b.a.

CENTRAL WEST EXPRESS, R.R. 1 Box 132, Letcher, SD 57359. Representative: Dennis Kost (same address as applicant), (605) 996–9375. 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 168096, filed May 13, 1983. Applicant: THE PARRISH TRANSPORTATION COMPANY, 34 Pittston Ave., Yatesville, PA 18640. Representative: Paul J. Kenworthy, P.O. Box 25, Clarks Summit, PA 18411, (717) 587–2533. Transporting *passengers*, in charter and special operations, beginning and ending at points in Columbia, Lackawanna, Luzerne, Wayne, and Wyoming Counties, PA, and extending to those points in the U.S. in and east of MN, IA, MO, AR, and LA.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 168116, filed May 13, 1983. Applicant: L & M TRANSPORTATION SERVICES, INC., 3126 N. Boulevard, Raleigh, NC 27604. Representative: Joseph L. Steinfeld, Jr., 915 Pennsylvania Bldg., 425–13th St., NW., Washington, DC 20004, (202) 737–1030. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–328

Decided: May 25, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 139986 (Sub-1), filed May 12, 1983. Applicant: FRANK C. SCHEER, d.b.a. ALLSTATES COACH SERVICE, 4371 NW 32d Court, Ft. Lauderdale, FL 33319. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 NW 53d St., Miami, FL 33166, (305) 592–0036. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 152956 (Sub-1), filed May 18, 1983. Applicant: COORDINATED DISTRIBUTION SYSTEMS, INC., P.O. Box 330, Mt. Holly, NJ 08060. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791–2270. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 168157, filed May 19, 1983. Applicant: CHISM BUS LEASING, INC., d/b/a Chism Trails, Route 12, State Park Rd., Greenville, SC 29609. Representative: Henry H. Chism (same address as applicant), (803) 244–9285. Transporting *passengers* in charter and special operations, beginning and ending at points in Greenville, Anderson, Spartanburg, Laurens, Pickens, Oconee, Cherokee, Newberry, Greenwood, and Richland Counties, SC, and extending to points in the U. S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83–14847 Filed 6–2–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATE: Comments must be received within 30 days after the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

Volume No. OP5–F–259

Decided: May 26, 1983.

Convaire Corporation—Control—F.M.S. Transportation, Inc. and McBride Express, Inc.

[No. MC–F–15270]

Convaire Corporation (Convaire) (a non-carrier), Air Meridian, Inc. (Air Meridian) (a non-carrier), and G. Leonard Rochon (Rochon) (an individual who controls Convaire and Air Meridian) seek an exemption from the requirement under section 11343 of prior regulatory approval for the acquisition of control of F.M.S. Transportation, Inc. (F.M.S.) (No. MC–139206) and McBride Express, Inc. (McBride) (No. MC–112049) by Convaire through transfer of stock. At present, Air Meridian holds control of F.M.S. and McBride. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423 and (2) Petitioner's representative, Richard H. Streeter, Esq., Wheeler & Wheeler, 1729 H Street NW., Washington, D.C. 20006. Comments should refer to No. MC–F–15270.

Volume No. OP2–248

Decided: May 27, 1983.

William E. Benckart, W. E. Benckart, Jr., and Fleurete M. Benckart—Continuance in Control Exemption—B&B Investments, Inc., Moon Freight Lines, Inc., Mid-South Freight Lines, Inc., Louis Shannon, Inc. and Stone Belt Freight Lines, Inc.

[No. MC–F–15265]

William E. Benckart, W. E. Benckart, Jr. and Fleurete M. Benckart seek an exemption from the requirement under section 11343 of prior regulatory approval for their continuance in control of multiple carriers as set forth below. William E. Benckart and Fleurette M. Benckart own B & B Investments, Inc., a holding company which in turn owns all the stock of Moon Freight Lines, Inc., operating as a common carrier in No. MC–16903. W. E. Benckart, Jr. is an officer and director of both these companies. In addition, William E. Benckart and W. E. Benckart, Jr. own stock in and serve as officers and directors for Louis Shannon, Inc. (MC–154707), Mid-South Freight Lines, Inc. (MC–155372) and Stone Belt Freight Lines, Inc. (MC–120843), all newly authorized carriers. Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423 and (2) Donald W. Smith P.O. Box 40248, Indianapolis, IN 46240. Comments should refer to No. MC–F–15265.

[FR Doc. 83–14845 Filed 6–2–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one

day's notice.[1] These exemptions may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washinton, DC 20423.

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

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be constued to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract No., and specifics	Review Board [1]	Decided date
941	Seaboard System Railroad, Inc., ICC-SBD-C-0075, (Fertilizer)	1	5-26-83
942	Norfolk and Western Railway Co., ICC-NW-C-0070, (Motor vehicles)	2	5-27-83

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-14842 Filed 6-2-83; 8:45 am]

BILLING CODE 7035-01-M

[MC-F-15295 [1]]

Rail Carriers; Hoover Universal, Inc.—Control Exemption—Cadiz Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Hoover Universal, Inc., is a manufacturing company that owns all of the stock of the Cadiz Railroad Company. Cadiz operates a 10.3-mile rail line between Cadiz and Gracey, KY. Hoover has filed an application for a motor common carrier certificate and seeks exemption from the requirement of prior Commision approval of its continuance in control of Cadiz upon becoming a motor carrier.

DATES: Comments must be received by June 20, 1983.

ADDRESSES: Send comments referring to MC-F-15295 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's reprsentative: Terrence D. Jones, 2033 K Street, NW., Washington, D.C. 200006.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Hoover seeks the exemption pursuant to 49 U.S.C. 11343(e), and the Commission's regulation in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (19832), 47 FR 53303 (November 24, 1982).

Notice of the application for motor carrier authority, No. MC-165259, was published in the **Federal Register** on January 11, 1983 (48 FR 1241).

A copy of the petition for exemption may be obtained from petitioner's representative, or it may be inspected at the Washington, D.C. offices of the Interstate Commerce Commission during usual business hours.

Decided: May 27, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-14843 Filed 6-2-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Proposed Consent Decree in Clean Water Act Enforcement Action

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Quaker State Oil Refining Corporation*, Civil Action No. 83-0049-W(K) has been lodged with the United States District Court for the Northern District of West Virginia. The consent decree provides for payment by Quaker State of stipulated penalties. The terms and conditions of Quaker State's NPDES permit effective October 27, 1979 shall remain in effect unless and until superseded by a new NPDES permit.

The consent decree may be examined at: (1) The Office of the United States Attorney, Northern District of West Virginia, Post Office Box 591, Wheeling, West Virginia, 26003, (2) the Office of the Environmental Protection Agency, Region III, Office of Regional Counsel, 6th and Walnut Streets, Philadelphia, Pennsylvania, 19106, and (3) the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. The Department of Justice will receive comments relating to the consent decree for a period of thirty (30) days from the day of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C., 20530 and should refer to *United States* v. *Quaker State Oil Refining Corporation*, DOJ Reference #90-5-1-1-1794.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-14830 Filed 6-2-83; 8:45 am]

BILLING CODE 4410-01-M

Superseding Consent Judgment in Marine Protection, Research, and Sanctuaries Act Enforcement Action

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed superceding consent judgment in *United States* v. *County of Westchester, et al.*, 79 Civ. 2186 (ADS), has been lodged with the United States District Court for the Southern District of New York. The superceding consent judgment requires the County of Westchester to submit a permit application to ocean dump its sewage sludge.

The consent judgment may be examined at (1) the office of the United States Attorney, Southern District of New York, One St. Andrews Plaza, New York, New York 10007, (2) the office of the Environmental Protection Agency, Region II, Office of Regional Counsel, 26 Federal Plaza, New York, New York 10278, and (3) the Environmental Enforcement Section, Land and Natural Resources Division, of the Department of Justice, Room 1521, Ninth Street and

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[1] Note tariff supplements advancing contract's effective date shall refer to these decisions for authority.

[1] This proceeding was initially assigned as Finance Docket No. 30104.

Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, of the Department of Justice. The Department of Justice will receive comments relating to the consent judgment for a period of thirty (30) days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to *United States* v. *County of Westchester et al.*, DOJ Reference #90–4–83.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83–14850 Filed 6–2–83; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–13,706]

Amstar Corp., Philadelphia, Pennsylvania; Negative Determination on Reconsideration

On April 11, 1983, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of Amstar Corporation's Philadelphia, Pennsylvania refinery. This determination was published in the **Federal Register** on April 19, 1983 (48 FR 16777).

The company in its application for reconsideration claims that the closing of Amstar's Philadelphia refinery was the result of (1) imports of both sugar and blended syrups from Canada and (2) the classification rulings by the U.S. Customs Service on blended syrups, permitting them to be imported without duty or quota. It also claims that the syrups are like or directly competitive with refined sugar. It also claims that the Department of Agriculture's denial of Amstar's request for an exemption from the quota on raw cane sugar prevented Amstar from using refining capacity to continue its refined sugar export business.

The Philadelphia refinery which ceased operations in September 1982, was engaged in the production of refined sugar. Initially, the Department found that the worker petition did not meet the increased import criterion of the Trade Act of 1974. U.S. imports of refined sugar decreased both absolutely and relative to domestic production in each year from 1978 through 1981 and decreased absolutely in the first five months of 1982 compared to the same period in 1981.

The petitioner's claim that the classification rulings by the U.S. Customs Service permitting liquefied sugars to be imported especially from Canada as blended syrups without duty or quota, even if true, would not provide a basis for certification since such Canadian imports of blended sugar which represented nearly 90 percent of total U.S. imports of blended sugar were insignificant in the first nine months of 1982. Further, the impact of imported liquefied blended sugars on production sales and employment at Philadelphia was de minimis since production of liquefied sugar or blends at Philadelphia accounted for only a small percent of that refinery's FY 1982 production.

Additional facts obtained on reconsideration show that U.S. consumption of liquefied blends has decreased each year from 2.4 million short tons in 1978 to 1.7 million short tons in 1981. The liquid sugar share of all sugar deliveries in 1981 was only 18 percent down from 25 percent in 1978. This decline is particularly noticeable in liquid sugar use in beverages, processed foods and dairy foods and reflects the growing use of High Fructose Corn Sweeteners (HFCS) in food and beverage products. During the past five years the per capita consumption of HFCS has increased from five pounds in 1975 to 45 pounds per capita in 1981. During the first six months of 1982, declines in sugar consumption and production have been more than offset by increases in production and consumption of HFCS. This has occurred notwithstanding substantial price reductions that have been in effect since 1980 for refined sugar. U.S. imports of HFCS are negligible.

The Department's denial is not proven wrong by the fact that the workers at Philadelphia and other related facilities of Amstar Corporation's American Sugar Division were eligible for trade adjustment assistance under petitions TA–W–5719 and TA–W–5760 certified earlier.

The Department of Agriculture's denial of Amstar's request for an exemption from the quota of imported raw cane sugar, which Amstar claims prevented it from using refining capacity to continue its refined sugar export business would not provide a basis for certification.

Based on these findings, it is determined that increased imports of refined sugar or liquefied blends did not contribute importantly to the decline in production or sales and to the separation of workers at Amstar Corporation's Philadelphia, Pennsylvania sugar refinery.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to former workers of Amstar Corporation's sugar refinery in Philadelphia, Pennsylvania.

Signed at Washington, D.C. this May 24, 1983.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 83–14917 Filed 6–2–83; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program; Extended Benefits; Ending of Extended Benefit Period in the State of Iowa

This notice announces the ending of the Extended Benefit Period in the State of Iowa, effective on June 4, 1983.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when the rate of insured uemployment in the State reaches the State trigger rate set in the Act and the State law. During an Extended Benefit Period individuals are eligible for a maximum of up to 13 weeks of benefits, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when the rate of insured unemployment in the State is no longer at the trigger rate set in the law. A benefit period actually terminates at the

end of the third week after the week for which there is an off indicator, but not less than 13 weeks after the benefit period began.

An Extended Benefit Period commenced in the State of Iowa on February 20, 1983 and has now triggered off.

Determination of "off" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the period consisting of the week ending on May 14, 1983, and the immediately preceding twelve weeks, fell below the State trigger rate, so that for that week there was an "off" indicator in the State.

Therefore, the Extended Benefit Period in the State terminated with the week ending on June 4, 1983.

Information for Claimants

The State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits of the end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits. 20 CFR 615.13(d)(3).

Persons who wish information about their rights to Extended Benefits in the State named above should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on May 31, 1983.

Albert Angrisani,

Assistant Secretary of Labor.

[FR Doc. 83-14918 Filed 6-2-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,862]

Union Carbide Corp., Carbon Products Division, Fostoria, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 19, 1983 applicable to all workers engaged in employment related to the production of midget electrodes at the Fostoria, Ohio plant of the Union Carbide Corporation, Carbon Products Division. The Notice of Certification was published in the Federal Register on May 3, 1983 (48 FR 19960).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification for the Fostoria, Ohio plant workers, TA-W-13,862. The additional information reveald that a few layoffs occurred a few weeks after the Department's initial termination data of March 1, 1983. These workers were engaged in employment related to midget electrodes. All production operations on midget electrodes ceased by the end of 1982. Consequently these layoffs were not covered by the initial certification.

The intent of the certification for workers at the Fostoria, Ohio plant was to cover all workers engaged in employment related to the production of midget electrodes. The certification for workers at the Fostoria, Ohio plant, TA-W-13,862, therefore is amended by changing the March 1, 1983 termination date to April 15, 1983.

The certification applicable to TA-W-13,862 is hereby amended and issued as follows:

All workers engaged in employment related to the production of midget electrodes of Union Carbide Corporation, Carbon Products Division, Fostoria, Ohio who became totally or partially separated from employment on or after May 1, 1982 and before April 15, 1983 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of May 1983.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 83-14916 Filed 6-2-83; 8:45 am]

BILLING CODE 4510-30-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency form number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small business or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension (No Change)

Labor Management: Services Administration
Final Regulation: Alternative Method of Compliance for Certain Simplified Employee Pensions
LMSA-NMSEP-1
Other
Business or other institutions; small business or organization
SIC: All
100 responses; 9 hours
The regulation relieves sponsors of "non-model" simplified employee pensions (SEPs) of the reporting and disclosure requirements of Part I title 1 of ERISA that would otherwise be applicable to such plans.

Signed at Washington, D.C., this 27th day of May, 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-14915 Filed 6-2-83; 8:45 am]

BILLING CODE 4510-23-M

LEGAL SERVICES CORPORATION

Interpretation of Severance Pay Restrictions for Recipients

AGENCY: Legal Services Corporation.

ACTION: Adoption of LSC Instruction 83-2.

SUMMARY: The Continuing Resolution under which the Legal Services Corporation received its 1983 funds limited payment of severance pay to both Corporation and recipient employees. This Instruction conveys to recipients the Corporation's interpretation of the limits on allowable severance pay to employees of recipients if funded with 1983 funds.

EFFECTIVE DATE: This Instruction is effective July 5, 1983.

FOR FURTHER INFORMATION CONTACT: Phyllis K. Fong, (202) 272-4010.

Authority

Pursuant to Sec. 1008(e), Pub. L. 93-355, 88 Stat. 378 (42 U.S.C. Section 2996g(e) and Pub. L. 97-377, 96 Stat. 1874, the following Legal Services Corporation Instruction is adopted:

LSC Instruction 83-2, Interpretation of Severance Pay Restrictions for Recipients in Pub. L. 97-377

Public Law 97-377 (December 21, 1982) which appropriated $241 million to the Legal Services Corporation for fiscal year 1983, contains a provision restricting the use of such funds for severance payments. All recipients received a copy of the continuing resolution with their 1983 grants, and are specifically bound by grant condition to comply with all Congressional restrictions set forth therein. This Instruction is intended to provide assistance to recipients in interpreting and implementing the severance provision of Pub. L. 97-377.

The continuing resolution provides, in pertinent part:

> * * * That no officer or employee of the Legal Services Corporation or a recipient program shall be reimbursed for membership in a private club, or be paid severance pay in excess of what would be paid a Federal employee for comparable service.

Based on the specific language of this provision, we conclude that both the Corporation and its recipients are bound by the restriction on severance pay. Corporation grantees cannot spend 1983 Corporation grant funds to pay severance in excess of the amount payable to federal employees.

The continuing resolution does not require recipients to adopt the federal standards in computing severance pay. It does, however, establish a ceiling on severance pay by prohibiting grantees from using FY 1983 funds to make severance payments that are larger than those permitted under federal standards. Within these limits, recipients are free to adopt their own policies governing the amount and circumstances under which severance may be paid.

Under the federal system, federal employees who have worked for at least one year are entitled to one week of severance pay[1] for each year worked for the first 10 years of creditable service, and two weeks' of severance for each year of additional service.[2] Employees over age 40 are entitled to an age adjustment allowance equal to ten percent (10%) of their basic severance pay for each year that their age exceeds 40. In making these computations, employees are credited with twenty-five percent (25%) of a year for each three (3) months of creditable service and each 3 months that their age exceeds 40 years. The amount of severance benefits payable per year of experience or age over 40 is equal to the amount of one week's basic pay at the rate received by the employee immediately before his or her separation.[3] No employee may be paid over his or her lifetime more than one year's pay (52 weeks) as severance benefits by the federal government. Finally, if an employee has receives severance benefits for prior federal service, the number of weeks of such severance pay must be deducted from the current number of weeks of severance pay to which the employee would otherwise be entitled, based on age and service.

Under the federal system, certain categories of employees are not entitled to severance benefits.[4] Employees with less than one (1) year of federal service are not entitled to severance benefits. Employees whose salaries are fixed by the executive schedule or are in excess of the highest rate of grade GS-18 are excluded from coverage, as are employees in the excepted service serving under a Presidential appointment, such as a Senior Executive Service (SES) non-career appointment,[5] a Schedule C appointment,[6] or a non-career executive assignment appointment.[7]

Finally, there are sections which govern the definition of "creditable service" in calculating severance pay under the federal system. The basic provision is that all service creditable for annual leave purposes may be considered in computing severance pay, except that military service may be included only where it interrupts creditable civilian service.[8] In general, this means that all service with a federal agency during which an employee made contributions to the federal retirement system can be credited. Additionally, experience with the postal service and periods during which an employee received worker's compensation can be included.[9] Each severance claim by employees must be handled individually in order to determine precisely which types of job experience can be considered in computing severance benefits.

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[1] Note that OPM's severance regulations provide that severance is only available "to an employee who is *involuntarily* separated from the service, not by removal for cause on charges of misconduct, delinquency, or inefficiency." 5 CFR 550.702 (1982) (emphasis added).

[2] 5 U.S.C. 5595 (1978); 5 CFR 550.701-08 (1982); Chapter 550, Federal Personnel Manual, Subchapter 7 (1975).

[3] The severance provisions of OPM's regulations and the Federal Personnel Manual do not define the term "1 week's basic pay." It would be reasonable to interpret this, for most employees, as a 5-day work week, equal to 1/52nd of their annual salary. Part-time employees could be paid on the basis of the usual number of hours worked per week.

[4] *See* 5 U.S.C. 5595(a)(2) and Chapter 550 of the Federal Personnel Manual pages 550-21 and 550-22 for a complete list of exclusions from coverage.

[5] This provision appears to cover positions with responsibility for or involvement in determining or advocating major controversial policies of an Administration or an agency. 5 CFR 214.402 (1982). It does not cover positions that require impartiality or involve day-to-day operations of an agency.

[6] This provision covers positions of a confidential or policy-making character, or which involve a close and confidential working relationship with an agency head or key appointed office. 5 CFR 213.3301 (1982).

[7] This provision covers positions whose incumbents are expected to be deeply involved in advocating or formulating Administration programs, to participate in determining major political policies for an Administration, or to serve as advisors to Presidential appointees. 5 CFR 305.701 (1982). This provision does not cover positions that are principally involved in the internal management of an agency or that involve longstanding recognized professional duties based on a politically neutral body of knowledge.

[8] This provision cites 5 U.S.C. 6303 (1979), which basically provides that federal employees with a certain number of years of federal service receive a certain number of hours of annual leave per pay period. More important, 5 U.S.C. Section 6303 provides that in determining "years of service" for purposes of calculating annual leave, an agency must consider all service creditable under 5 U.S.C. 8332 (retirement and annuity provisions).

[9] *See* 5 U.S.C. 8332 for a complete list of creditable service. It appears, from OPM's regulations governing retirement and annuity, that some types of service with the District of Columbia government can also be credited. 5 CFR 831.201 (1982).

A question is raised as to whether prior experience with a grantee of the Corporation or OEO can be credited. We conclude that, with respect to Corporation employees, Corporation and federal government experience can be used in determining creditable service. Corporation employees can not receive credit for prior grantee experience because such experience was not subject to the federal retirement system, and a federal employee could not include grantee experience in calculating his or her severance or retirement benefits for that reason.

When Congress applied these restrictions on severance pay to employees of recipients, it necessitated the development of a definition of creditable service for such employees. There is, however, no guidance as to what that definition should be in the legislative history of this provision. Application of the Federal definition of creditable service would be illogical since employees of recipients do not participate in the Federal retirement system; thus most of them would never have any creditable service. Clearly, Congress did not intend to forbid payment of severance pay to them, but rather to limit it.

Consequently, it is necessary to define creditable service for such employees by analogy to the definition applied to Corporation employees. Recipient employees may receive credit for service with their current employer as well as for previous related service with another Corporation or OEO grantee. This approach is consistent with our interpretation allowing Corporation employees to receive credit for service with the Corporation as well as for previous service with other Federal agencies. Recipient employees may not be credited for previous service with the Corporation or the Federal government, since recipients do not participate in the Federal retirement system, but instead have their own pension and benefits arrangements.

Thus, it is the opinion of this Office that employees of recipients may include all current and prior experience as employees of recipients or grantees of the Corporation and of OEO, but may not include Federal government or Corporation experience in calculating creditable service time to determine maximum allowable severance benefits payable with 1983 Corporation funds.

Recipients of funding from the Corporation are directed to review their severance policies in light of OPM's severance regulations, the contract rights of employees and governing state law, and applicable collective bargaining agreements and this opinion. The Corporation realizes that, in many cases, recipients may have entered into collective bargaining agreements that contain severance provisions that are more generous than comparable federal standards. Nothing in this Instruction is intended to abrogate the rights and obligations of the parties to such agreements. Recipients are reminded, however, that they may use 1983 Corporation funds to pay only severance amounts permitted under the continuing resolution. Recipients may use other funds where they conclude that they are obligated to pay severance in excess of the amount permitted by federal law. This office will be available to answer specific inquiries.

Dated: May 31, 1983.

Alan R. Swendiman,

General Counsel.

[FR Doc. 83-14933 Filed 6-2-83; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Council (Overview Section); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, as amended, notice is hereby given that a meeting of the Music Advisory Panel (Overview Section) to the National Council on the Arts will be held on June 28-29, 1983, from 9:00 a.m.-5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 28, 1983, from 9:00 a.m.-5:30 p.m. and on June 29, 1983, from 2:00 p.m.-5:30 p.m. Topics for discussion will include reports on 1982 Music Seminar, programming accomplishments in partnership with the private sector, Music Program Reorganization, Guidelines for Consolidated Presenting Category and New Music-Chamber Music.

The remaining sessions of this meeting on June 29, 1983 from 9:00 a.m.-2:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

Dated: May 26, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-14932 Filed 6-2-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence; Inoperable Containment Spray System

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). One of the general criteria notes that major degradation of essential safety-related equipment can be considered an abnormal occurrence. In addition, Example II.A.3 ("For Commercial Nuclear Power Plants") in Appendix A notes that loss of plant capability to perform essential safety functions such that a potential release of radioactivity in excess of 10 CFR Part 100 guidelines could result from a postulated transient or accident can be considered an abnormal occurrence. The following description of the incident also contains the remedial actions taken to date.

Date and Place—On October 28, 1982, Alabama Power Company (the licensee) notified the NRC that the manual isolation valves for both train A and train B of the containment spray system were found locked in the closed position at their Farley Nuclear Plant Unit 2. Farley Unit 2 utilizes a Westinghouse designed pressurized water reactor and is located in Houston County, Alabama.

Nature and Probable Consequences—Farley Unit 2 was taken to cold shutdown on October 24, 1982 to begin a refueling and maintenance outage. On October 28, 1982, while aligning valves for certain scheduled inservice inspections, the licensee found the containment spray header isolation valves on each of the two supply

headers locked in the closed position. These valves, located inside the Unit 2 containment building, supply separate, redundant, containment spray rings. After investigation and record searches of valve movement documentation, the licensee concluded that the valves had been closed since before the plant achieved initial criticality on May 8, 1981. Thus, the redundant containment spray systems were inoperable during this period and consequently would have been unable to fulfill their safety function.

The safety function of the containment spray system is to spray borated water into the containment to limit the maximum pressure in the containment to less than the design pressure following certain steam line breaks or loss of coolant accidents (LOCA) and to reduce the pressure and temperature to minimize containment leakage. The system is also designed to spray sodium hydroxide into the containment to remove radioactive iodine which would limit iodine doses to less than 10 CFR Part 100 limits should a LOCA occur.

The plant also has a containment fan cooler system which is used during normal operation to recirculate and cool the containment atmosphere. Following a LOCA or steam line break accident, the system acts in conjunction with the containment spray system to reduce containment temperature and pressure. The amount of pressure and temperature reduction depends upon the number of containment spray rings and fan coolers that would operate following such an accident. The licensee's technical specifications require a minimum of one containment spray system and one fan cooler to be operable. As discussed below, the containment fan cooler system working alone, even with only one fan operable, can be expected to protect the integrity of the containment and the safety equipment inside. However, the containment fan cooler system does not have the radioactive iodine removal capabilities of the containment spray system.

Conservative calculations were made by the NRC and the licensee to determine the effect on containment pressure, containment temperature, and iodine doses had a LOCA or a main steam line break (MSLB) accident occurred while the containment sprays were inoperable.

In regard to containment pressure, the most limiting accident would be a MSLB of 0.7 square feet at 30% power with a single failure of the containment fan coolers. With two out of four fan coolers in operation, the calculated peak pressure would be 55.1 psig. With only one fan cooler in operation (based on the plant's technical specifications requiring only one fan cooler per train such that the worst single failure would result in only one fan cooler being operational), the analysis predicts a peak containment pressure of 61.6 psig. Both calculated pressures are higher than the containment design pressure of 54 psig. However, even for the more conservative calculation, containment integrity would likely be maintained since the containment has been tested at 62.1 psig.

Peak containment temperature, based on the most limiting MSLB, was conservatively calculated by the licensee to compare to the equipment qualification temperatures. Generally, the calculated peak temperature exceeded the qualification temperatures by less than 20°F. In one case, the difference was about 50°F. However, the required operating times for many components are short and the thermal lag inside the equipment housings would be expected to preclude damage to the internal components prior to performing their specified functions.

The radiological consequences at both the exclusion area and the low population zone boundaries were conservatively calculated based on a LOCA and rupture of fuel cladding. Calculations were made by the NRC staff for the maximum allowable containment leak rates permitted by the licensee's technical specifications and for the leak rate as measured at the plant when last tested. In both cases, analyses indicate that thyroid doses would exceed 10 CFR Part 100 limits at both the exclusion area and the low population zone boundaries.

The licensee also made calculations based on what the licensee considered more "realistic" assumptions. The licensee concluded that offsite exposures could be expected to be less than 10 CFR Part 100 guidelines values, based on the "realistic" assumptions. However, since the valves had been closed since before initial plant startup, variations could be expected in such parameters as containment leak rates (last performed and reported to the NRC in mid-1980) and meteorological conditions.

The importance of the event is emphasized since the subject valves at Farley are located inside containment and are manually operated. Therefore, in the event of a LOCA or a MSLB accident, the valves would not be accessible to be opened by plant personnel.

Cause or Causes—The event was caused by the valves not being in conformance with design drawings and by a procedural inadequacy used for operator determination of valve position. A unique condition developed in these valves when the vendor, Westinghouse, made a design change that lengthened the valve stem to increase the valve's adaptability to a motor-operated valve (however, as described above, the valves are manually operated at Farley). The design change resulted in a valve stem that makes the valve appear to be open when it is actually closed. That is, in the closed position, the extra long valve stem shows six inches of threaded stem extending out of the bonnet.

Therefore, operators who are instructed and trained to observe valve stem positions, in order to verify the valve positions, erroneously interpreted these valves as being open when they were, in fact, closed. However, similar valves were found in the correct (locked open) position in Unit 1. This indicates that operator error may have been a contributing factor to this event.

In addition, Westinghouse did not provide revised drawings showing the valve modification. As a result, the overall dimension of the installed valve stem was six inches longer than that specified.

Actions Taken To Prevent Recurrence

Licensee—Alabama Power Company has obtained concurrence from Westinghouse Corporation to cut the excess stem off the valves so as to conform with design drawings and with other rising stem gate valves throughout the plant. In addition, as a further safeguard to prevent recurrence, plant administrative procedures covering valve position verification have been changed to require that manual valves which are locked open will be moved in the shut direction to verify their position; then the valve will be returned, if applicable, to the original position.

As stated previously, the licensee performed analyses of the effects on containment pressure, containment temperature, and iodine dosages had a design basis accident occurred while the containment sprays were inoperable. These analyses were submitted to the NRC for review on November 30, 1982, and December 30, 1982.

After the locked valves were found on Unit 2, the licensee checked the containment spray valves on Unit 1. The valves were found to be locked open as required. Since the Unit 1 valves are identical to those of Unit 2, the corrective actions described above are applicable to both units.

NRC—As stated previously, the NRC performed conservative analyses of

containment pressure and iodine release to compare to the licensee's analyses.

An enforcement conference was held in the NRC Region II (Atlanta) office with the licensee on November 19, 1982. The licensee presented their program for preventing recurrence. The NRC concurred with the licensee's corrective actions. NRC Region II performed inspections to determine the circumstances associated with this event. Based on these inspections, a Notice of Violation and Proposed Imposition of Civil Penalty (for $40,000) was issued to the licensee on February 2, 1983. The licensee paid the civil penalty on February 28, 1983.

Dated in Washington, D.C., this 31st day of May 1983.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-14953 Filed 6-2-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Quality Assurance During Construction; Cancellation of Meeting

The ACRS Subcommittee meeting on Quality Assurance During Construction scheduled for June 1, 1983, Washington, D.C. has been cancelled. The Subcommittee is tentatively scheduled for late June or early July. Notice of this meeting was published May 13, 1983 (FR 48 21679).

Further information regarding the meeting 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., EDT.

Dated: May 31, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc 83-14946 Filed 6-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumers Power Co.; Consideration of Issuance of Amendment to Provisional Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-20, issued to Consumers Power Company (the licensee), for operation of the Palisades Plant located in Van Buren County, Michigan.

The amendment would allow surveillance tests that require cold shutdown conditions to be performed on a refueling cycle frequency rather than the current 18-month cycle, in accordance with the licensee's application for amendment dated May 5, 1983. The proposed technical specification changes are requested in order to prevent unnecessary plant shutdowns or the extension of plant outages for the sole purpose of performing surveillance tests.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission's staff has determined that this proposed amendment does no involve a significant hazards consideration because the proposed change would potentially slightly increase the interval between testing certain components and systems to verify their operability.

The testing of these components and systems either require a cold, shutdown condition to perform or, in a few cases, could impact on safe operation of the plant if performed during operation. The types of tests included in this request involve:

(1) Isolation of transmitters of signals to the reactor protection system and engineered safety features actuation systems for the purpose of calibrating the transmitters;

(2) Automatic initiation and operation of engineered safety feature systems; and

(3) Tests or calibrations of a small number of components which are inaccessible during plant operation (e.g., containment radiation or humidity monitors, containment sump water level monitors, snubbers on pipes in high radiation areas, fire barriers in high radiation areas, etc.).

Based on the results of the last three tests for each of these items with successful verification of operability, this will not involve a significant reduction in equipment reliability or have any other significant effect on plant safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By July 6, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the 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 the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. 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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

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, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Dennis M. Crutchfield: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Kalamazoo Public Library, 315 South Rose Street, Kalmazoo, Michigan 49006.

Dated at Bethesda, Maryland, this 31st day of May, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-14947 Filed 6-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power and Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-67, issued to Florida Power and Light Company (the licensee), for operation of the St. Lucie Plant, Unit No. 1, located in St. Lucie County, Florida.

The amendment would permit operation with an improved and larger capacity 125 volt DC battery system. The current system consists of two 1800 amp. hr. batteries and three 300 ampere chargers. The new system will consist of two 2160 amp. hr. batteries and five 300 ampere chargers. This modification to the existing system is needed because of increased loads that are being added during the cycle 6 refueling outage. The amendment is supported by reference to the system installed in Unit 2 and its approved surveillance requirements. The amendment will change the Technical Specifications with regard to surveillance requirements in a manner to make them similar to Unit 2 and incorporate the latest industry testing standards in accordance with the licensee's application dated February 16, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In NUREG-0737, "Clarification of TMI Action Plan Requirements" the Commission detailed the TMI-related items approved for implementation. The requirements set forth in NUREG-0737, along with earlier correspondence with the licensee caused modifications to be made to the licensee's St. Lucie Plant, Unit No. 1 requiring an increased

capacity in the DC distribution system. The upgraded DC distribution system of Unit 1 is identical to the system used for St. Lucie Plant, Unit No. 2. The changes to the surveillance requirements being imposed on the modified and improved DC distribution system is not significantly different than those previously reviewed and approved at this facility. The staff, therefore, proposes to determine that the application does not involve a significant hazard since it will apply to the same 125 volt DC distribution system as approved for the operation of Unit 2 and it will make the Unit 1 Technical Specifications similar to those approved Unit 2 operation.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By July 6, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the 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 the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. 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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

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, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, D.C., and at the Indian River Junior College Library, 3209

Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland, this 25th day of May, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-14948 Filed 6-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power and Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-67, issued to Florida Power and Light Company (the licensee), for operation of the St. Lucie Plant, Unit No. 1 located in St. Lucie County, Florida.

The amendment would permit operation after deletion of the flux peaking augmentation factor curve from the Technical Specifications. The need for this curve is based on postulated axial gaps occurring in the fuel rod pellet stack. Evaluation of the conditions that are necessary to form such gaps have shown that these conditions will not occur in the future operation of St. Lucie 1. Therefore, the flux peaking augmentation factor curve is no longer needed in accordance with the licensee's application for amendment dated February 8, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples (vi) of actions not likely to involve a significant hazards considerations relates to small refinements of previously used models.

The current need for the flux peaking augmentation factor curve is based on postulating axial gaps in the fuel rod pellet stack because of fuel column densification in combination with an increase in cladding ovality. The staff proposes to determine that the application does not involve a significant hazard since densification is complete after a few thousand MWD/MT exposure. Calculations show that changes in the fuel cladding (i.e., ovality) does not proceed to the point that pellets are gripped by the cladding until after densification. In addition the use of an upper plenum spring is used to keep a positive pressure on the pellets to inhibit gap formation. As a result it is concluded that axial gaps will not occur.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By July 6, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the 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 the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. 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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

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, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold R. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, NW., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is 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, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland, this 27th day of May, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-14949 Filed 6-2-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–286]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License and Final No Significant Hazards Consideration Determination and Opportunity for Hearing and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. DPR–64, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

This amendment involves three principal sets of changes, all relating to resumption of operation after steam generator repairs at the facility. The first set adds requirements for surveillance of steam generator upper girth welds governing operation after repair of cracking in certain steam generator shell upper girth welds. The second set modifies steam generator tube surveillance provisions, permits operation with steam generator tubes repaired by sleeving, and provides limits on degradation of sleeves. The third set of changes imposes secondary water chemistry monitoring requirements.

Before issuance of the license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a determination that the amendment request involves no significant hazards consideration. Under the Commission's standards in 10 CFR 50.92, this means that operation of the facility in accordance with the license amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

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 the issuance of the amendment. The Commission has also prepared an environmental impact appraisal for the completed repair work and has concluded that there has been no environmental impact attributable to the repair work other than that which was previously predicted and described in the Commission's Final Environmental Statement for the facility.

The Commission has provided guidance concerning the application of these standards by providing certain examples, which was published in the **Federal Register** on April 6, 1983 (48 FR 14864). None of the examples, relating to whether significant hazards considerations are likely or unlikely, appears to be directly applicable to this amendment. Consequently, the Commission has determined that the application does not involve a significant hazards consideration, since the applicant proposes compensatory measures to provide a level of safety in operation with the repaired steam generators commensurate with that of a facility that had not experienced the need to repair steam generators anticipated when the facility was initially licensed to operate.

The Commission did not seek public comments on this determination since it had planned to issue this amendment prior to the effective date of its new regulations governing procedures for no significant hazards determinations. Under preexisting practice notice of amendments which did not involve significant hazards were issued after the amendment's effective date. *See* 48 FR 14877. Since failure to issue this amendment before the expiration of a public comment period would result in a shutdown of the Indian Point 3 facility (*See* 10 CFR 50.91(a)(5)), the Commission has determined the amendment should be issued without prior notice and opportunity for hearing or for public comment. However, the Director of Technological Development Programs, New York State Energy Office was

advised of the subject of the licensee's request and of the NRC's actions.

By July 6, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the 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 proceedings 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 the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. 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.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

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, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request; that determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see (1) the submittal dated October 18, 1982, as supplemented by letters dated January 19, 1983, May 2, 1983 and May 3, 1983, (2) Amendment No. 47 to License No. DPR-64, (3) the Commission's related Safety Evaluation, (4) the Commission's related letter dated May 27, 1983, and (5) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2), (3), (4), and (5) 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 27th day of May 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-14950 Filed 6-2-83; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, ES 115-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Guidelines for Modeling Ground-Water Transport of Radioactive and Nonradioactive Contaminants at Tailings Disposal Sites" and is intended for Division 3, "Fuels and Materials Facilities." It discusses the use of models for predicting ground-water contaminant transport associated with tailings disposal activities at uranium recovery facilities and provides guidance on describing the models chosen for evaluation by the NRC staff

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by August 5, 1983.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regualtory guides are available for inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland, this 25th day of May 1983.

For the Nuclear Regulatory Commission.

Frank J. Arsenault,

Director, Division of Health, Siting, and Waste Management, Office of Nuclear Regulatory Research.

[FR Doc. 83-14952 Filed 6-2-83; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Power Planning Council; Proposed Criteria for Acquisition of Land

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council.

ACTION: Notice of proposal and opportunity to comment.

SUMMARY: On May 18, 1983, the Pacific Northwest Electric Power and Conservation Planning Council ("the Council") approved the release, for public review and comment, of a preliminary proposal of criteria for acquisition of land to compensate for wildlife losses related to development and operation of hydroelectric facilities in the Columbia River Basin. This notice sets out the preliminary proposal and describes the process for submitting comments. The Council will take the comments into account in refining the proposal for eventual incorporation into its Columbia River Basin Fish and Wildlife Program through a program amendment process beginning November 15, 1983.

DATE AND ADDRESS: Written comments on the preliminary proposal must be received in the Council's Central Office, 700 Southwest Taylor Street, Suite 200, Portland, Oregon 97205, by 5 p.m., Friday, October 14, 1983. They should be addressed to the attention of Curt Marshall, Fish and Wildlife Program Manager.

FOR FURTHER INFORMATION CONTACT: Curt Marshall, Fish and Wildlife Program Manager at 503-222-5161 (toll-free 1-800-222-3355 from Washington, Idaho, and Montana; 1-800-452-2324 from Oregon) or Marty Montgomery, Wildlife Coordinator, at 1-208-334-2956.

SUPPLEMENTARY INFORMATION: By passage of the Pacific Northwest Electric Power and Conservation Act, Pub. L. 96-501, 94 Stat. 2697, 16 U.S.C. 839 et seq. ("the Act"), Congress provided for the establishment of the Pacific Northwest Electric Power and Conservation Planning Council ("the Council"), a regional agency composed of two appointees each from the states of Idaho, Montana, Oregon and Washington. Congress charged the Council with two major responsibilities (1) Preparation of a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development, operation, and management of hydroelectric facilities on the Columbia River and its tributaries; and, (2) Development of a conservation and electric power plan for the Pacific Northwest. The Council adopted its Columbia River Basin Fish and Wildlife Program ("the Program") on November 15, 1982, and its Regional Conservation and Electric Power Plan on April 27, 1983.

In Section 1004(d)(1) of the Program, the Council indicated its intent to develop criteria for acquisition of land to compensate for the losses of wildlife and wildlife habitat attributable to development and operation of the hydroelectric system in the Columbia River Basin. In Section 1404 of the Program, the Council established a process for amending the Program to incorporate new elements, such as the criteria for land acquisition discussed in this notice.

On May 18, 1983, in a public meeting in Boise, Idaho, the Fish and Wildlife Committee of the Council voted to recommend that the full Council take these actions: (1) Authorize publication of criteria for acquisition of land to compensate for wildlife losses as a preliminary Council proposal for amendment of the Program; (2) Invite written comment on the preliminary proposal between June 1, 1983 and October 15, 1983; and, (3) Consider the proposed criteria as a Program amendment in the amendment proceedings starting November 15, 1983. On May 19, 1983, in a public meeting in Boise, Idaho, the full Council approved a motion to undertake the actions recommended by the Fish and Wildlife Committee.

The Council staff developed the preliminary proposal after consultation with wildlife agencies, Indian tribes, federal project operators, managers, and regulators, and federal land management agencies. The proposed criteria are designed to ensure that: (1) Local concerns are addressed; (2) Use of leases, easements, and management rights is preferred over outright purchase of land; (3) Land acquisitions are consistent with all relevant standards in the Act and provisions of the Program; (4) Management plans are prepared and operation and maintenance costs are taken into account; and, (5) Requirements of the National Environmental Policy Act are satisfied. The proposed criteria would alter Program Section 1004(d) to read as follows:

(1) The Council supports mitigation of losses to wildlife and its habitat associated with the development and operation of the projects listed in Tables 7 and 8 [of the existing Program]. This compensation shall be based on the best available scientific knowledge and consistent with the program standards set out in Section 4(h)(5) and 4(h)(6) of the Northwest Power Act. The Council also will seek agreements regarding the levels of mitigation and enhancement through consultation with all affected parties.

(2) The Council will consider the acquisition, operation and maintenance

costs of wildlife habitat as mitigation and enhancement for the projects listed in Table 8 [of the existing Program]. The Council may consider acquisition of habitat for projects listed in Table 7 pending completion and Council review of the requirements in Section 1004(b)(1) and (2) [of the existing Program].

(3) The council supports the following land management methods for achieving mitigation and enhancement in the following order of priority:

(a) *First priority:* Obtain the management authority to develop and enhance wildlife habitat on lands owned by federal or state agencies, groups, corporations or individuals, rather than acquiring land in the name of the wildlife agencies for that purpose.

(b) *Second priority:* Obtain long-term leases to lands owned by other federal or state agencies, groups, corporations or individuals.

(c) *Third priority:* Obtain fee title to existing lands from willing sellers.

(4) Upon approval by the Council, Bonneville shall fund the acquisition, operation and maintenance costs of suitable wildlife habitat to mitigate for the losses of habitat associated with the development and operation of the projects listed in Tables 7 and 8 [of the existing Program], if the following criteria are satisfied:

(a) Completion of the mitigation status reports under Sections 1004(b)(1) and (2) of the Fish and Wildlife Program and a determination by the Council that full mitigation has not been achieved;

(b) A determination by the Council that such funding will meet the criteria in Sections 4(H)(5) and (4)(h)(6) of the Pacific Northwest Electric Power Planning and Conservation Act;

(c) Satisfaction of requirements of the consultation and coordination provisions of Section 1304(c)(2) of the Council's Fish and Wildlife Program;

(d) Completion of a written explanation of the agency's effort to meet the criteria found in 1004(d)(3) (as amended) of the Council's Fish and Wildlife Program;

(e) Completion of a detailed description of the cost of the proposed acquisition, including a cost estimate of the annual operation and maintenance costs;

(f) Completion of a detailed management plan for the acquired lands that would explain the anticipated benefits that the management entity expects to achieve; and,

(g) Completion of a plan for the development of any documents needed to satisfy the requirements of the National environmental Policy Act.

The Council welcomes written comment on this preliminary proposal between now and October 14, 1983. It will consider all comments in proposing a Program amendment on land acquisition in the amendment proceedings starting November 15, 1983. The Program amendment proceedings will include opportunities for further written comment and consultation, as well as for hearings, as provided in the Act and Section 1404 of the Program.

Once the Council adopts land acquisition criteria as an amendment to the Program, the Bonneville Power Administration, U.S. Department of Energy ("Bonneville") will be required, under the terms of the Act, to use its financial resources and legal authorities consistently with those criteria. In addition, Bonneville and the federal agencies which manage, operate, or regulate Columbia River Basin hydroelectric facilities will be required by the Act to take the Program criteria into account "at each relevant stage of decisionmaking processes to the fullest extent practicable." Until the Council adopts such criteria as part of its Program, the Council requests Bonneville and the other federal hydropower agencies to consider these proposed criteria as guidelines.

James F. Fell,

Deputy Director.

[FR Doc. 83-14838 Filed 6-2-83; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval.

Rule 6a-3.

No. 270-15.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 6a-3 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) which requires each registered or exempted exchange to supplement its application and annual amendments for registration as a national securities exchange, or for an exemption from such registration, by filing certain categories of information with the Commission. The potential affected entities are approximately 10 national securities exchanges.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, 202-395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: May 27, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-14976 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval.

Rules 15a-4, 15b1-1 and form BD, 15b1-2, 15b1-3, 15b1-4, 15b2-1, 15b3-1, 15b6-1(a) and form BDW.

Nos. 270-7, 19, 12, 8, 9, 10, 11, 17.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 15a-4 (17 CFR 240.15a-4) which permits a natural person who terminates his association with a registered broker-dealer to continue to do business on an exchange while the Commission reviews his application for registration as a broker-dealer, Rule 15b1-1 (17 CFR 240.15b1-1) which provides that application for registration as a broker-dealer be filed on Form BD, Form BD (17 CFR 249.501) which requires certain information be disclosed on application for registration as a broker-dealer, Rule 15b1-2 (17 CFR 240.15b1-2) which requires on application for registration as a broker-dealer that an applicant file a statement of financial condition and make arrangements with respect to personnel, facilities, and financing, Rule 15b1-3 (17 CFR 240.15b1-3) which permits an unregistered broker-dealer to succeed to the business of an existing registered broker-dealer if the unregistered broker-dealer files a new application for registration within 30 days, Rule 15b1-4 (17 CFR 240.15b1-4) which permits a qualified fiduciary who succeeds to the business of a registered broker-dealer to continue operation of the business if the fiduciary files a statement with the Commission within 30 days of succession, Rule 15b2-1 (17 CFR 240.15b2-1) which permits application for registration as a broker-dealer to be filed on behalf of a corporation or partnership by a predecessor and permits the successor to adopt that

application as its own. Rule 15b3–1 (17 CFR 240.15b3–1) which provides for amendments to Form BD, Rule 15b6–1(a) (17 CFR 240.15b6–1(a)) which provides that a notice of withdrawal from registration as a broker-dealer be filed with the Commission on Form BDW, and Form BDW (17 CFR 249.501a) which requires certain information from registered broker-dealers upon withdrawal of registration. These rules are promulgated under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

The potential respondents are certain members of national securities exchanges, registered securities broker-dealers and their associated persons. The respective burdens imposed by these rules and forms remain unchanged from the burdens stated in the previous submissions.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395–4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

May 27, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-14975 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142.
Upon Written Request Copy Available From: Securities and Exchange Commission Office of Consumer Affairs
New.
Rule 24f–2.
No. 270–131.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed amendments to Rule 24f–2 (17 CFR 270.24f–2) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) which would require registered investment companies which have elected to register securities pursuant to Rule 24f–2 to include a statement to that effect on all subsequent post-effective amendments. They would also be required to include a statement indicating when they have filed, or intend to file, the annual notice as required by Rule 24f–2 or that they need not file a notice because they have not sold any securities pursuant to Rule 24f–2.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395–4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

May 27, 1981.

[FR Doc. 83-14974 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22957; 70–5943]

American Electric Power Co., Inc.; Proposed Issuance and Sale of Common Stock Pursuant to Dividend Reinvesment and Stock Purchase Plan

May 27, 1983.

American Electric Power Company, Inc. ("AEP"), 180 East Broad Street, Columbus, Ohio 43215, a registered holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

By orders in this proceeding dated February 8, 1977, April 19, 1978, March 29, 1979, August 8, 1979, May 1, 1980, June 30, 1981, and June 15, 1982, (HCAR Nos. 19879, 20506, 20979, 21180, 21544, 22113, and 22539), AEP was authorized to issue and sell, from time to time through June 30, 1983, up to 25,000,000 shares of its authorized but unissued common stock, $6.50 par value, pursuant to its Dividend Reinvestment and Stock Purchase Plan ("Plan"). Through April 10, 1983, a total of 21,820,365 shares had been issued and sold, leaving a balance of 3,179,635 shares available for issuance and sale.

AEP now propose to issue and sell, from time to time through June 30, 1984, up to an additional 8,000,000 shares of its authorized unissued common stock, plus the unsold balance of the shares of common stock heretofore authorized by the Commission for issuance, pursuant to the Plan. The price of shares purchased with reinvested cash dividends is 95% of the average of the daily high and low sales prices of AEP's common stock on the New York Stock Exchange for the five trading days ending on the day of purchase.

The amended declaration and any further 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 24, 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 case of an attorney at law, by certificate) should be filed with the request. Any request for 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. 83-14966 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13284; 811–1887]

Cambridge Appreciation Fund, Inc.; Filing of an Application

May 27, 1983.

Notice is hereby given that The Cambridge Appreciation Fund, Inc. ("Applicant") 580 Sylvan Avenue, Englewood Cliffs, New Jersey 07632, an open-end, non-diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on April 13, 1983, pursuant to Section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Organized as a corporation under Delaware law, Applicant filed its initial registration statement on October 24, 1969. Applicant commenced its initial public offering on or about December 30, 1971. On October 19, 1982, Applicant's board of directors approved Applicant's filing for deregistration. Applicant did not distribute its assets because its shareholders had already redeemed their securities.

Applicant declares that when it filed its application it had no assets other than those reserved for the liability it will incur when it files for voluntary dissolution in Delaware. Applicant states that it is not engaged nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs, that it has no outstanding liabilities other than the previously mentioned dissolution fee, and that it is not a party to any litigation or administrative proceeding. Applicant represents that, when it filed its

application, it had no securityholders. Applicant expects to file a certificate of dissolution in Delaware as well as any other documents required by that state.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company under the Act shall terminate.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 21, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her 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. 83-14968 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22959; 70-6862]

Maine Yankee Atomic Power Co.; Proposed Issuance of Secured Notes by Subsidiary; Exception From Competitive Bidding

May 27, 1983.

Maine Yankee Atomic Power Company ("Maine Yankee"), Edison Drive, Augusta, Maine 04333, a subsidiary of New England Electric System ("NEES") and Northeast Utilities ("Northeast"), registered holding companies, has filed an application with this Commission pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder. Maine Yankee is owned by eleven New England electric companies, including NEES and Northeast (collectively, "Sponsors").

Maine Yankee proposes to issue not more than $40.5 million principal amount of promissory notes ("Notes") to a group of international banks ("Banks") with Union Bank of Switzerland acting as agent bank ("Agent Bank"). The Notes will be secured by (i) a second lien on Maine Yankee's nuclear fuel inventory, (ii) its rights to be paid its fuel costs under power contracts with its Sponsors and (iii) its rights under capital funds agreements with its Sponsors which require the Sponsors to purchase the common stock of, contribute capital, or make loans or advances to Maine Yankee to finance the costs of obtaining and maintaining an inventory of nuclear fuel. A first lien on the nuclear fuel, the power contracts and capital funds agreements was granted by Maine Yankee to MYA Fuel Company ("MYA Fuel") pursuant to a security agreement between Maine Yankee and MYA Fuel. MYA Fuel has assigned its rights under the agreement to Manufacturers Hanover Trust Company.

The Notes will be issued pursuant to a Eurodollar Credit Agreement ("Credit Agreement") among Maine Yankee, the Banks and the Agent Bank, under which the Banks have agreed to make available to Maine Yankee a revolving credit facility and term loan facility in an aggregate principal amount at any one time outstanding of not more than $40.5 million. Under the Credit Agreement, Maine Yankee may from time to time borrow funds under the revolving credit facility, subject to the maximum amount, together with all outstanding term loans, of $40.5 million, such revolving credit facility to expire two years after the date of execution of the Credit Agreement. Maine Yankee may also from time to time borrow funds under the term loan facility subject to the maximum amount, together with all outstanding revolving credit loans, of $40.5 million, such term loan facility to expire four years after the date of execution of the Credit Agreement. Maine Yankee may, on any interest payment date or on the expiration date of the revolving credit facility, convert all or part of the then outstanding revolving credit loans to term loans, which will mature four years after the date of execution of the Credit Agreement. The revolving credit loan from each Bank will be evidenced by a revolving credit note and each term loan by each Bank will be evidenced by a term note.

The Credit Agreement provides that Maine Yankee may from time to time select interest periods for ech revolving credit loan and each term loan of one, three or six months' duration. The interest rate on each revolving credit loan and term loan will be the London Inter-Bank Offering Rate ("LIBOR") for the interest period selected plus ⅝%, if such interest period ends before the second anniversary of the date of the Credit Agreement or ¾%, if suchg interest period ends thereafter. However, if due to circumstances affecting the Eurodollar market, adequate and reasonable means do not exist for ascertaining LIBOR, the interest rate shall be determined on the basis of the lenders' actual cost of funding such loan plus ⅝%, if such interest period ends before the second anniversary of the date of the Credit Agreement or ¾%, if such interest period ends therefore. Maine Yankee will also pay a commitment fee during the term of the revolving credit facility of ⅜% per annum of the unused portion of the total revolving and term loan credit facility. Assuming a six month LIBOR of 9.50% and borrowings of $40.5 million for an interest period ending after the second anniversary of the Credit Agreement, the effective cost of borrowings would be 10.25%. Maine Yankee has the right at any time to terminate in whole or reduce in part the unused portion of the facility.

Maine Yankee may, on any interest payment date, prepay all or part of any outstanding loans under the Credit Agreement upon payment of accrued interest and, in the case of term loans prepaid prior to the first anniversary of the Credit Agreement, a prepayment fee equal to ¼% of the principal amount of the term loan to be prepaid. The commitments of the Lenders to make loans under the Credit Agreement are reduced by the amount of any term loans which are prepaid.

Maine Yankee request an exception from the competitive bidding requirements of Rule 50 pursuant to Section 50(a)(5) because of the nature of the proposed transaction.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 20, 1983 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof 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 indentify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as filed or as it may be amended, may

be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-14969 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22956; 70-6876]

Northeast Utilities, et al.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper, Capital Contributions and Open Account Advances by Holding Company to Subsidiaries, and Exemption From Competitive Bidding as to Commercial Paper

May 27, 1983.

In the matter of Northeast Utilities, Western Massachusetts Electric Company and the Quinnehtuk Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089; The Connecticut Light and Power Company, Northeast Nuclear Energy Company, the Rocky River Realty Company, Selden Street, Berlin, Connecticut 06037 and Holyoke Water Power Company, One Canal Street, Holyoke, Massachusetts 01040.

Northeast Utilities ("NU"), a registered holding company, and its subsidiary companies, The Connecticut Light and Power Company ("CL&P"), Western Massachusetts Electric Company ("WMECO"), Holyoke Water Power Company ("HWP"), Northeast Nuclear Energy Company ("NNECO"), The Rocky River Realty Company ("Rocky River"), and The Quinnehtuk Company ("Quinnehtuk"), have filed a declaration with this commission pursuant to Sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50 (a)(5) thereunder.

The declaration relates to (1) proposed short-term borrowings by certain of the declarants from time to time before June 30, 1984, through (a) in the case of NU, CL&P, WMECO, and NNECO, the issuance of notes to banks and (b) in the case of NU, CL&P, WMECO, the issuance of notes to banks and WMECO,the issuance of commercial paper to a dealer in commerical paper and (2) proposed capital contributions and open account advances by NU to its subsidiary companies. The aggregate amount of all such notes at any time outstanding, whether issued to banks or to a dealer in commercial paper, will not exceed $100,000,000 in the case of NU, $250,000,000 in the case of CL&P, $60,000,000 in the case of WMECO, and $25,000,000 in the case of NNECO.

The bank notes will each be dated the date of issue, will have maximum maturity dates of nine months with right to renewal, will bear interest at the prime rate or at the prime rate plus a fraction thereof, or will bear interest at rates determined with reference to other financial indices, will be issued no later than June 30, 1984, and will be subject to prepayment at any time at the declarants' option with or without premium. The declarants, other than Quinnehtuk and Rocky River, have credit lines with a number of banks, subject in some cases to commitment fees and/or compensating balance requirements. The effective interest rates (based on a prime rate of 10½% and assuming full usage) range from 10.50% to 11.34%.

The commercial paper will be issued in the form of short-term promissory notes in denominations of not less than $50,000 and no more than $1,000,000, of varying maturities, with no maturity more than 270 days after the date of issue, and will not be repayable prior to maturity. The commercial paper will be sold directly to a dealer in commerical paper at the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and of the particular maturity. No commission of fee will be payable in connection with the issuance and sale of commercial paper. The purchasing dealer, as principal, will reoffer the commercial paper to not more than 200 institutional investors at a discount of not more than ⅛ of 1% per annum less than the prevailing discount rate.

NU expects to apply the new funds derived from the issuance and sale of the bank notes and the commercial paper during the period from July 1, 1983, to June 30, 1984, (1) to make proposed capital contributions of up to $160,000,000 to CL&P and up to $70,000,000 to WMECO; (2) to make proposed open account advances to Rocky River and to Quinnehtuk, both wholly-owned real estate subsidiaries of NU, and to HWP in amounts not to exceed in the aggregate $1,500,000, $500,000 and $8,500,000, respectively; and (3) to supply funds as needed to other subsidiary companies as heretofore or hereafter authorized by the Commission. All capital contributions to subsidiaries will be credited to their capital surplus accounts. The amounts of capital contributions stated above include the amount of proposed capital contributions described in File No. 70-6833.

The funds to be derived by CL&P and WMECO from the issuance and sale of the bank notes and commercial paper, and from the receipt of capital contributions and/or open account advances from NU, will be applied, together with other funds available to these companies, to provide working capital and to finance their respective construction expenditures (including Allowance of Funds Used During Construction but excluding nuclear fuel) in 1983 and 1984, which are estimated to be $1,059,223,000 and $215,147,000, respectively. NNECO will apply funds derived from the sale of bank notes and other funds available to it for operating and maintenance expenses for the Millstone plants and to meet its obligations with respect to a proposed financing for two nuclear plant control room simulators and the building which houses them.

The 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 24, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in 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 filed or as it may be 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. 83-14971 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13286; 812-5033]

SAFECO Life Insurance Co. et al.; Filing of Amendments to a Previously Noticed Application

May 27, 1983.

Notice is hereby given that SAFECO Life Insurance Company ("Company"), SAFECO Variable Account A ("Variable Account A"), a separate account registered under the Investment Company Act of 1940 ("Act") as management investment company, and SAFECO Securities, Inc. (collectively,

"Applicants"), SAFECO Plaza, Seattle, Washington 98185, filed amendments on December 8, 1982 and May 11, 1983 ("new amendments") to an application filed on December 2, 1981 and previously amended on May 7, 1982, July 20, 1982, and August 18, 1982 ("initial amendments"). The application and initial amendments requested an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants from provisions of Sections 26(a) and 27(c)(2) of the Act to the extent necessary to permit the transactions described in the application and initial amendments. A notice thereof was issued on September 3, 1982 (Investment Company Act Release No. 12638). The new amendments ask for additional and amended relief from the provisions of Sections 26(a)(2) and 27(c)(2) of the Act and for relief from the provisions of Section 17(f) of the Act all to the extent necessary to permit the transactions described in the application as amended. All interested persons are referred to the prior notice and the application and amendments on file with the Commission for a statement of the representations contained therein, some of which are summarized below, and to the Act for a statement of the relevant statutory provisions.

In the application and initial amendments Applicants, *inter alia*, requested an exemption from the provisions of Sections 26(a) and 27(c)(2) to the extent necessary to permit the deduction of an investment advisory fee of $25,000.00 on an annual basis. Applicants now state that while the investment adviser will be paid an annual fee of $25,000.00, the Company will assume the obligation for the fee rather than deducting it from the assets of Variable Account A. Additionally, in the application and initial amendments, Applicants represented that the custodian, Investors Fiduciary Trust Company, would hold all of the securities and cash of Variable Account A in accordance with Sections 26(a) and 27(c) of the Act. Applicants now request exemptions from the provisions of Sections 26(a) and 27(c)(2) of the Act to the extent necessary to permit Variable Account A to place and maintain its investments in time deposits which will be held, not in trust, by the issuing banks and savings and loan associations, rather than by the custodian. Applicants also request an exemption from the provisions of Sections 26(a)(2) and 27(c)(2) of the act to the extent necessary to permit the custodian to participant directly, or indirectly through a subcustodian, in the Depository Trust Company or the Federal Book-Entry System. Finally, Applicants request an exemption from the provisions of Section 17(f) of the Act to the extent necessary to permit the Variable Account to place and maintain its investments in time deposits in book entry form not in accordance with the provisions of Section 17(f) or the rules thereunder but rather for those instruments to be held by the issuing banks and savings and loan association (the "financial institutions").

In requesting the exemptions from the provisions of Sections 17(f), 26(a), and 27(c)(2) relating to time deposits, Applicants represent that they will comply with the following conditions: (1) Variable Account A will adopt a system that is reasonably designed to prevent unauthorized officer's instructions and which will provide, at a minimum, for the form, content, and means of giving, recording, and reviewing the instructions. The definition of "officer's instructions" will be the same as for Rule 17f-4(c)(1) under the act. (2) The instruments to be held in book entry form will be purchased only from banks eligible to be a trustee or custodian pursuant to Section 26(a)(1) of the act or from savings and loan associations with equivalent aggregate capital, surplus, and undivided profits. (3) The financial institution will send confirmations, receipts, or notices to either the custodian or Variable Account A and will simultaneously send a copy of that document to the other. (4) A representative of the investment adviser for Variable Account A will negotiate, by telephone, the purchase of a time deposit from a financial institution and will request that the financial institution send a confirmation or notice of the purchase through the Federal Funds Wire System to Variable Account A's custodian. The representative also will inform the custodian of the details of the transaction and that a request will be coming in, and these oral instructions will be confirmed in writing through an over-the-phone lines service or otherwise. The custodian will not transfer any funds until it receives the transaction request from the financial institution. When it does receive the request, and provide the request is in accord with the instructions received from the investment adviser, the custodian will then transfer funds via the Federal Wire System. Upon receipt of the funds, the financial institution will mail a confirmation to the custodian. (5) The transaction will be recorded by the financial institution in book entry form in the name of the custodian for Variable Account A (or a description to that effect). The financial institution upon maturity will pay the custodian for Variable Account A. (6) Variable Account A, by resolution of its Variable Account Committee, has approved the procedures discussed herein and the Variable Account Committee wil review and approve the procedures at least annually.

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.

Notice is further given that any interested person wishing to request a hearing on the application as amended may, not later than June 21, 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. Fitzsimons,

Secretary.

[FR Doc. 83-14973 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19819; File No. SR-AMEX-83-6 and Amdt. No. 1]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc., Relating to Expansion of Position and Exercise Limits for Specialists in Their Specialty 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 March 30, 1983 and May 5, 1983, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change and amendment thereto, respectively (hereinafter, 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" or "the Exchange") proposes to amend Exchange Rules 904 and 905 regarding the expansion of position and exercise limits with regard to option Specialists. *Italics* indicate material proposed to be added. Brackets [] indicate material proposed to be deleted.

Rule 904. Position Limits

No change

* * * Commentary

.01 through .04—no change.

.05 *The position limit for stock options for Specialists shall be 4,000 contracts in their specialty options. In addition,* the Exchange may establish higher position limits for [specialists' transactions than those applicable with respect to other accounts] *Specialists whenever necessary in the interests of maintaining a fair and orderly market.* Whenever a [s]*S*pecialist reasonably anticipates that he may exceed such position limits in the performance of his function of assisting in the maintenance of a fair and orderly market he must consult with and obtain the prior approval of a Senior Floor Official.

Rule 905. Exercise Limits

No change.

* * * Commentary

.01—No change.

.02 The exercise limit for stock options for Specialists shall be 4,000 contracts in their specialty options.

[.02] *.03*—No change.

[.03] *.04*—No change.

[.04] *.05*—No change.

II. A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to expand position and exercise limits for Specialists to 4,000 contracts for their specialty stock options in order to further enhance market depth and liquidity.

Recently, the AMEX and other options exchanges proposed an increase in position and exercise limits in the form of a two-tier system. (See SR–AMEX–83–5.) This new system provides a higher, 4,000 contract, limit for options on underlying stocks which meet certain criteria regarding number of outstanding shares and trading volume. All other options would be subject to a 2,500 contract limit. As noted in the Exchange's filing, one reason for the two-tier limit proposal is to insure that stocks which do not meet the share and volume criteria be protected against possible manipulation by prohibiting the accumulation and exercise of positions in excess of 2,500 contracts.

However, concerns regarding the possibility of manipulation with regard to Specialists are of much reduced significance. The activity of Specialists is surveilled scrupulously by the Exchange. Specialists are required to report all activity in each specialty option, as well as their activity in the underlying stock, on a daily basis. (See Exchange Rule 957.) This activity is reviewed daily to insure its compliance with Exchange and SEC rules and regulations. Thus, the concerns of potential manipulation by a Specialist of a stock which underlies a specialty option is significantly abated by the surveillance protections described above.

The Exchange believes that a potential effect of the proposed two-tier position and exercise limit system might be to divert volume away from lower tier options. It is essential, therefore, that Specialists have the ability to provide depth and liquidity to the marketplace in their specialty options. If such capability is not afforded Specialists, the lower tier options could become illiquid. By expanding position and exercise limits for Specialists in their specialty options, this possibility should be avoided.

It should also be noted that Specialists have unique, affirmative obligations to maintain fair and orderly markets in their specialty options. Unlike market-makers, who also have such responsibilities, Specialists are required to be present in the trading crowd at all times during the trading day, to give a two-sided market in every series of their specialty options throughout the day, and to maintain price continuity in each series throughout the day. These additional burdens and responsibilities necessitate providing some additional flexibility for Specialists to enable them to better meet those responsibilities. Permitting 4,000 contract position and exercise limits in their specialty options will greatly enhance Specialists' capabilities and will result in greater market depth and liquidity for the benefit of all options investors and traders.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 (the "1934 Act") and rules and regulations thereunder applicable to the Exchange in that it will increase market depth and liquidity, which is in the public interest, while continuing to protect investors from potential manipulative activity.

Therefore, the proposed rule change is consistent with Section 6(b)(5) of the 1934 Act, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.[1]

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 of (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

[1] The Commission is particularly interested in soliciting comment on whether providing higher position and exercise limits to Amex specialists in their specialty options imposes an unnecessary or inappropriate burden on competition on other persons establishing or exercising positions in the same option classes, such as Amex registered option traders, who would not automatically be entitled to the higher position and exercise limits. Comment also is requested on the competitive consequences of such across-the-board limit increases for specialists in contrast to limits for market makers in other option classes traded on other exchanges. Under current and proposed exchange rules, higher limits for market makers on the Chicago Board Options Exchange may be effected only pursuant to a case-by-case exemption procedure. *See, e.g.*, Securities Exchange Act Release Nos., 19243, November 16, 1982 and 19820, May 27, 1983.

Commission, 450 Fifth Street, NW, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, D.C. Copies of such filing will 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 27, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-14964 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19820; File No. SR-CBOE-83-11]

Self-Regulatory Organizations; Proposed Rule Change By Chicago Board Options Exchange, Inc. Relating to Position and Exercise Limits

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 16, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

The following procedures and critiera are filed as a proposed rule change pursuant to section 19(b) of the securities Exchange Act of 1934 (the Act).

Special Exemption Procedure for Market Makers in Options on Underlying Stocks With 2,500 Contract Position and Exercise Limits

(1) Market makers may request, in writing, an increase in position and exercise limits in options on underlying stocks which are subject to a 2,500 contract position limit.

(2) Upon receipt of a request, the Department of Surveillance will compile the following data:

(a) Total volume in the underlying security and all overlying options for each of the prior 20 to 40 trading days.

(b) Price of the underlying security for each of the prior 20 to 40 trading days.

(c) Open interest in options on the underlying security for each of the prior 20 to 40 trading days.

(d) A listing of all market makers with positions in excess of 1,000 contracts as of the most recent trade date.

(e) A listing of the requesting market maker's positions by series as of the most recent trade date.

(f) A summary listing of the requesting market maker's daily volume and transactions, differentiating volume executed personally from volume executed through orders, in each series for the prior 20 to 40 trading days.

(3) The data will be provided to a panel of three members, at least two of which currently serve on the Floor Procedure or Floor Official Committees. It will also be provided to a senior staff member of the Regulatory Division.

(4) Based upon a review of the data, the panel and senior regulatory staff member will make separate recommendations to the President or his designee as to whether the exemption should be granted.

(5) Based upon a review of the data and recommendations, the President or his designee will decide whether to grant the exemption.

(6) The requesting member will be advised of the decision in writing, generally no more than one week following receipt of the request.

(7) If an exemption is granted, it will be effective at the time the decision of the President or his designee is communicated. No retroactive exemptions will be granted. The size of the exemption will be 1500 contracts. The exemption will remain in effect as long as the President or his designee, based upon periodic reviews of the data described in #2 above and the recommendations of a panel and a senior regulatory staff member, decides that the exemption is still warranted. Any market maker whose exemption is terminated as a result of such a periodic review will be granted a reasonable period of time to reduce any excess positions to 2500 contracts or less.

Special Exemption Criteria for Market Makers in Options on Underlying Stocks with 2,500 Contract Position and Exercise Limits

(1) The requesting market maker should be maintaining positions which are within 1,000 contracts of the existing limits.

(2) The requesting market maker should be maintaining positions on both sides of the market in a significant number of open series where significant open interest exists.

(3) The requesting market maker should have a history of daily trading activity in a significant number of open series where trading activity occurs.

(4) The requesting market maker should personally execute at least 90% of total option transactions and contract volume.

(5) The historical level of trading activity in options and the underlying security should warrant an exemption.

(6) Historical option open interest should warrant an exemption.

(7) The requesting market maker should be granted two or more special exemptions only in options on underlying stocks traded in the same quadrant.

II. (A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to enable those Exchange market makers who regularly make markets in a class or classes of options, in which the position and exercise limit is 2,500 option contracts, to receive an ongoing position and exercise limit of 4,000 option contracts. This parallels the treatment presently being sought by the American and Philadelphia Stock Exchanges for specialists in classes of options that under the two-tier position and exercise limits would have the lower 2,500 option contract limit. The proposed procedures and criteria would supplement the Exchange's present exemption policy that was approved by the Commission (SR-CBOE-82-12) and that was conveyed to the membership in a memorandum dated September 22, 1982.

The proposed procedures and criteria are self-explanatory. Please note that respecting section 2, parts a), b) and c) of the procedures, one to two months of data will be reviewed. The Systems Division currently stores such daily data on tapes containing a calendar month of information. It is thought that two tapes containing not less than one month nor more than two months of data will be appropriate for this review. In addition,

respecting sections 3 and 4 of the procedures, two independent recommendations will be made to the President or his designee: one from a senior staff member of the Regulatory Division and one from a panel composed of three members. Thus, a system of checks and balances is established in the procedures. Finally, respecting section 7 of the procedures, the periodic reviews will occur on an irregular basis depending on market conditions and the workload of the Department of Surveillance. In no event will such reviews be more than four months apart.

(B) Self-Regulatory Organization's Statement on burden on Competition.

The Exchange does not believe the proposed rule change will impose any burden on competition.[1]

(C) Self-Regulatory Organization's Statement on comments on the Proposed Rule Change Received from Members, Participants or Others.

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 communciations 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 27, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-14962 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[1] The Commission is particularly interested in soliciting comment on whether providing a special exemption procedure for CBOE market makers imposes an unnecessary or inappropriate burden on competition on other persons establishing or exercising positions in the same option classes. Comment also is requested on the competitive consequences of such an exemptive process for CBOE market makers in contrast to the across-the-board limit increases proposed by Amex for its option specialists. *See* Securities Exchange Act Release No. 19819 (May 27, 1983).

[Release No. 34-19788; File No. SR-MSRB-83-4]

Self-Regulatory Organizations; Proposed Rule Changes By Municipal Securities Rulemaking Board Relating to Uniform Practice

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 17, 1983, the Municipal Securities Rulemaking Board 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 changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

(a) The Municipal Securities Rulemaking Board ("Board") is filing herewith amendments to rule G-12 on uniform practice. The text of the proposed rule changes is as follows:

Rule G-12. Uniform Practice [1]

(a) through (d) No change.

(e) Delivery of Securities. The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:

(i) through (xiii) No change.

(xiv) Delivery of Registered Securities

(A) Assignments. Delivery of a certificate in registered form must be accompanied by an assignment on the certificate or on a separate bond power for such certificate, containing a signature *or signatures* which correspond[s] in every particular with the name *or names* written upon the certificate, except that the following shall be interchangeable; "and" or "&"; "Company" or "Co."; "Incorporated" or "Inc."; and "Limited" or "Ltd.".

(B) through (D) No change.

(E) Form of Registration. Delivery of a certificate accompanied by the documentation required in this paragraph (xiv) shall constitute good delivery if the certificate is registered in the name of:

(1) an individual or individuals;

(2) a nominee;

(3) a member of a national securities exchange whose specimen signature is on file with the transfer agent or any other municipal securities broker or municipal securities dealer who has filed specimen signatures with the transfer agent and places a statement to this effect on the assignment; or

(4) an individual or individuals acting in a fiduciary capacity.

(F) Certificate in Legal Form. Good transfer of a security in legal form shall be determined only by the transfer agent for the security. Delivery of a certificate in legal form shall not constitute good delivery unless the certificate is identified as being in such form at the time of trade. A certificate shall be considered to be in legal form if documentation in addition to that specified in this paragraph (xiv) is required to complete a transfer of the securities.

[(E) Certificate in Name of a Party Other Than a Natural Person. A certificate registered in the name of a party other than a natural person, or in a name with official designation, shall constitute good delivery only if the statement "Proper papers for transfer filed by assignor" is placed on the assignment and signed by the transfer agent.

(F) Certificate in Name of Deceased Person, Trustee, Etc.

(1) A certificate shall not constitute good delivery if executed with a qualification, restriction or special designation or if delivered in the name of, or with an assignment or power of substitution executed by a person since deceased; a minor; a receiver in bankruptcy; an agent; an attorney; or, except as provided in subparagraph (2) below, a trustee or trustees (except for trustees acting in the capacity of a board

[1] Italics indicate new language [brackets] indicate deletions.

of directors of a corporation or association in which case the requirements of subparagraph (E) above shall apply), an executor, or an administrator.

(2) A certificate shall constitute good delivery with an assignment or a power of substitution executed by an individual executor or administrator; an individual trustee under an inter vivos or testamentary trust; a guardian (including committees, conservators and curators); or a custodian acting pursuant to the provisions of the Uniform Gifts to Minors Act.]

(G) and (H) No change.

(xv) and (xvi) No change.

(f) No change.

(g) Rejections and Reclamations (i) and (ii) No change.

(iii) Basis for Reclamation and Time Limits. A reclamation may be made by either the receiving party or the delivering party if, subsequent to delivery, information is discovered which, if known at the time of the delivery, would have caused the delivery not to constitute good delivery, provided such reclamation is made within the following time limits:

(A) and (B) No change.

(C) Reclamation by reason of the following shall be made within 18 months following the date of delivery:

(1) No change.

(2) Refusal to transfer or deregister by the transfer agent due to *presentation of documentation in connection with the transfer or deregistration which the transfer agent deems inadequate [a lack of documentation required by paragraph (e) (xiv) of this rule].*

(3) No change.

(D) No change.

The running of any of the time periods specified in this paragraph shall not be deemed to foreclose a party's right to pursue its claim via other means, including arbitration.

(iv) through (vi) No change.

(h) through (l) No change.

II. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes

A. Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Changes.

(a) The current provisions of subparagraphs (e)(xiv) (E) and (F) of rule G-12 set forth certain standards governing the acceptability of deliveries of securities with certain types of registration. During the course of its review of the provisions of its rules relating to registered securities, which review was conducted in connection with the impending effectiveness of the registration requirements of TEFRA, the Board concluded that the current provisions of these subparagraphs may impose burdens on the clearance of transactions as more registered municipal securities begin to be traded in the municipal market, and, accordingly, has adopted the proposed rule changes to remove such burdens.

The proposed rule changes would have the effect of making most securities with a "corporate name" or unusual form of registation or assignment execution unacceptable for delivery purposes, absent an agreement otherwise at the time of trade. The proposed rule changes amend subparagraph (e)(xiv) (E) to require that a security be registered in the name of one of the following four types of persons or entities to be acceptable for delivery purposes:

(1) an individual or individuals;

(2) a nominee;

(3) a municipal securities broker or municipal securitites dealer whose signature is on file with the transfer agent (if the broker or dealer is not a member of a national securities exchange, a statement attesting to the filing of the signature must be placed on the assignment); or

(4) an individual or individuals acting in a fiduciary capacity (*e.g.*, as an individual executor, trustee, administrator, custodian, etc.) who is specifically named on the certificate. The proposed rule changes amend subparagraph (e)(xiv) (F) to specify that certificates registered in the name of other types of persons or entities, on which documentation in addition to the completed securities assignment would be required in order to transfer the securities, would be considered under the amendment to be in "legal form" and unacceptable for delivery purposes unless the parties agree otherwise at the time of trade.

In addition, the proposed rule changes also amend the provisions of subparagraph (e)(xiv) (A) to reflect the fact that securities may be registered in more than one person's name. The proposed rule changes also revise the reclamation provisions of rule G-12(g)(iii) to provide that a delivery of registered securities may be reclaimed in the event that the transfer agent refuses to transfer the securities because it deems the documentation provided with the securities to be inadequate for transfer purposes. The Board believes that this provision of the proposed rule changes is necessary to deal with those relatively infrequent instances where an individual transfer agent may require documentation in connection with a transfer in addition to that which is normally necessary and is required under Board rules.

(b) The proposed rule changes have been adopted pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, which authorizes and directs the Board to adopt rules which are designed * * * to foster cooperation and coordination with persons engaged in * * * clearing, settling, processing information with respect to, and facilitating transactions in municipal securities. * * *

The Board believes that the standards set forth in the proposed rule changes will facilitate the clearance of transactions in registered municipal securities, since they ensure that the standards applicable to deliveries of registered securities are, to the extent possible, clearly and definitively set forth in the rule, and that registered securities used for the clearance of transactions will generally be in a form that is transferable with a minimum of difficulty.

B. Self-Regulatory Organization's Statement on Burden on Competition.

The Board believes that the proposed rule changes generally do not impose any burden on competition, inasmuch as they establish standards for the delivery of registered securities which apply equally to all municipal securities brokers and dealers.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Changes Received from Members, Participants, or Others.

On December 22, 1982 the Board released an exposure draft of a proposed amendment to subparagraphs (e)(xiv) (E) and (F) substantially the same as that contained in the proposed rule changes. The Board received seven letters of comment on the exposure draft; in addition, the Board received two letters from professional transfer agents describing current transfer practices with respect to issues of registered municipal securities.

The commentators generally supported adoption of the amendments set forth in the exposure draft.

III. Date of Effectiveness of the Proposed Rule Changes 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 changes, or

(B) institute proceedings to determine whether the proposed rule changes 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 changes 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 also will 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.

May 19, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-14965 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19821; File No. SR-NSCC-83-7]

Filing and Immediate Effectiveness of Proposed Rule Change by National Securities Clearing Corporation ("NSCC")

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 May 9, 1983, NSCC filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends Section II.B.1 of NSCC's Procedures, which relates to the comparison of New York and American Stock Exchange equity transactions. The proposal allows NSCC to accept from its participants that also are New York Stock Exchange ("NYSE") members additional trade data. That trade data, which includes time of execution, *contra* executing badge numbers and type of account, will not be used or required by NSCC in the actual trade comparison operation, but will be forwarded by NSCC to the NYSE for use in its Audit Trail Service.

In its filing, NSCC stated that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because the proposal fosters cooperation and coordination among self-regulatory organizations, namely NSCC and the NYSE. NSCC further stated that because the proposal authorizes NSCC merely to accept additional trade data for the purposes of resubmitting that data to the NYSE, the proposal will not affect NSCC's ability to safeguard securities and funds in its custody or control or for which it is responsible. Finally, NSCC represented that it will not implement the proposed rule change until the NYSE begins its Audit Trail Service.

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 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-83-7.

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. 83-14970 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

May 27, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Imperial Chemical Industries, American Depository Receipts—Ordinary Regular Stock, L1 Par Value (File No. 7-6681).

This security is registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 20, 1983 written data, views and arguments concerning the above-referenced application. 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 application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is 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. 83-14972 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 19825; File No. 4-208]

Intermarket Trading System and National Association of Securities Dealers, Inc.; Order Deferring Expansion of an Automated Interface

May 31, 1983.

In the matter of American Stock Exchange, Inc, Boston Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., Midwest Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc.

The Securities and Exchange Commission is extending the pilot phase of the interface between the Intermarket Trading System ("ITS") and the National Association of Securities Dealers' ("NASD") NASDAQ system from June 1, 1983 until July 15, 1983.[1] the purpose of this extension is to allow the Commission to finish its review of the comments received in response to its release republishing an order exposure rule that might govern the ITS–NASDAQ linkage.[2]

Accordingly, the Commission hereby issues an order, pursuant to its authority under the Securities Exchange Act of 1934[15 U.S.C. §§ 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975)] and particularly Sections 2, 3, 6, 10, 11, 11A, 15, 15A, 17 and 23 thereof [15 U.S.C. §§ 78b, 78c, 78f, 78j, 78k, 78k–1, 78*o*, 78*o*–1, 78q, 78w] as follows:

It is hereby ordered that the Commission's order, dated April 21, 1981 (Securities Exchange Act Release No. 17744, 46 FR 23856) as amended by the Commission (most recently on December 23, 1982 (Securities Exchange Act Release No. 19371)) requiring among other things, the American Stock Exchange, Inc.; Boston Stock Exchange, Inc.; Cincinnati Stock Exchange, Inc.; Midwest Stock Exchange, Inc.; New York Stock Exchange, Inc.; Pacific Stock Exchange, Inc.; Philadelphia Stock Exchange, Inc. and any other self-regulatory organization which hereafter becomes a participant in the ITS and the NASD to act jointly in planning, developing and operating an automated intermarket communications linkage ("Automated Interface") between the ITS and the NASDAQ electronic inter-dealer quotation system, as modified by the NASD to permit computer assisted execution, is amended to defer the date on which full operation of the Automated Interface, as described in the Section I, paragraph B of the April 1981 Order, must be implemented, from June 1, 1983, until July 15, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-14967 Filed 6-2-83; 8:45 am]

BILLING CODE 8010-01-M

[1] The ITS is governed by a plan ("ITS PLAN") filed with, and approved by, the Commission pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 and Rule 11Aa3-2 thereunder. The ITS Plan contains a number of provisions that govern the pilot phase of the ITS–NASDAQ linkage. *See, e.g.*, Section 10(d) of the ITS Plan. The Commission interprets the ITS Plan to provide that such provisions will continue to govern the linkage until the full implementation of the linkage becomes effective.

[2] Securities Exchange Act Release No. 19372 (December 21, 1982), 47 FR 58287.

SMALL BUSINESS ADMINISTRATION

[Application No. 03/03-0162]

GFC 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 (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (SBIC) (13 CFR 107.102 (1983)), under the name of GFC Capital Corporation, located at 1300 19th Street, NW., Suite 240, Washington, DC 20036 for a license to operate as an SBIC under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of the applicant are as follows:

George F. Chopivsky, Jr., 3624 Brandywine St., NW., Washington, DC 20008, President, Treasurer, Director, Sole shareholder.

Bernard G. Barczak, 5310 Night Roost Court, Columbia, MD 21045, Vice President.

J. Andrew Chopivsky, 4005 Davis Pl., N.W., Washington, DC 20007, Secretary, Director.

Paul F. Balser, 1365 York Avenue, Apt. 12A, New York, NY 10021, Director.

Chopivsky Corporation, 1300 19th St., NW., Suite 240, Washington, D.C 20036, Management Advisor.

Chopivsky Corporation is wholly-owned by George Chopivsky, Jr. He is also its President and Treasurer. His brother, J. Andrew, is Vice President and Secretary, and Mr. Barczak is Manager of the company.

There is one class of stock authorized, 2,500 shares of common stock. Initially, 1,000 shares will be issued with a resultant paid-in capital and paid-in surplus of $525,000. Applicant proposes to conduct its operations principally in the Washington, DC Metropolitan Area.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Washington, DC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 31, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-14979 Filed 6-2-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular; Public Debt Series—No. 15-83]

Notes of Series U-1985; Interest Rate

May 27, 1983

The Secretary announced on May 26, 1983, that the interest rate on the notes designated Series U–1985, described in Department Circular;—Public Debt Series—No. 15–83 dated May 19, 1983, will be 9⅞ percent. Interest on the notes will be payable at the rate of 9⅞ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-14907 Filed 5-31-83; 4:18 pm]

BILLING CODE 4810-40-M

[Dept. Circular Public Debt Series—No. 15-83]

Treasury Notes of May 31, 1985, Series U-1985

May 27, 1983.

Department of the Treasury Circular, Public Debt Series—No. 15–83, dated May 19, 1983, descriptive of Treasury Notes of Series U–1985, is hereby amended effective May 26, 1983. The notes were auctioned Thursday, May 26.

1983, and will accrue interest from Tuesday, May 31, 1983.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 15–83, are hereby amended and replaced with the following paragraphs. the other terms and conditions remain unchanged.

3. Sale procedures

3. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Thursday, May 26, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, May 25, 1983, and received no later than Tuesday, May 31, 1983.

5. Payment and Delivery

5. 1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, May 31, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, May 27, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. when payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-14908 Filed 5-31-83; 4:16 pm]

BILLING CODE 4810-40-M

[Amendment to Department Circular; Public Debt Series—No. 16–83]

Treasury Notes of August 15, 1988 Series J–1988

May 27, 1983.

Department of the Treasury Circular, Public Debt Series—No. 16–83, dated May 19, 1983, descriptive of Treasury Notes of Series J–1988, is hereby amended, effective May 26, 1983. The notes will be auctioned Wednesday, June 1, 1983, and will accrue interest from Friday, June 3, 1983.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 16–83, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

2. Description of Securities

2. 1. The securities will be dated June 3, 1983, and will bear interest from that date, payable on a semiannual basis on February 15, 1984, and each subsequent 6 months on August 15 and February 15 until the principal becomes payable. They will mature August 15, 1988, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

3. Sale Procedures

3. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving Time, Wednesday, June 1, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 31, 1983, and received no later than Friday, June 3, 1983.

5. Payment and Delivery

5. 1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Friday, June 3, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, June 2, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

The foregoing amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-14909 Filed 5-31-83; 4:16 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 108
Friday, June 3, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 23748, Thursday, May 26, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., June 1, 1983.

CHANGES IN THE MEETING: The meeting to discuss the FY 1984 Operating Plan scheduled for June 1, 1983 has been postponed until June 13, 1983.

[S-792-83 Filed 6-1-83; 2:05 pm]

BILLING CODE 6355-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, June 7, 1983, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room 200, Second floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s
2. Report on Commission Operations (Optional)
3. Freedom of Information Act Appeal No. 83-03-FOIA-50-CH, concerning a request for documents in an ADEA file.
4. Proposed Contract for services needed in connection with a court case.

Closed:

1. Litigation Authorization; General Counsel Recommendations.

Note.—any matter not discussed or concluded may be carried over to a later meeting.

(In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

Issued: May 31, 1983.

[S-790-83 Filed 6-1-83; 11:30 am]

BILLING CODE 6570-06-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:25 p.m. on Friday, May 27, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Commercial Bank of California, Los Angeles (West Hollywood), California, which was closed by the Superintendent of Banks for the State of California on May 27, 1983; (2) accept the bid for the transaction submitted by First Credit Bank, Blythe, California, an insured State nonmember bank; (3) approve the application of first Credit Bank, Blythe, California, for consent to purchase certain assets of and to assume the liability to pay deposits made in The Commercial Bank of California, Los Angeles (West Hollywood), California, and to establish the two offices of The Commercial Bank of California as branches of First Credit Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and asumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the 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 pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 1, 1983.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-793-83 Filed 6-1-83; 3:46 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Change 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 10 a.m. on Tuesday, May 31, 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 Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the Corporation's assistance agreement involving an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), and (c)(8) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6) and (c)(8)).

Dated: June 1, 1983.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-794-83 Filed 6-1-83; 3:46 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 9:30 a.m. on Tuesday, May 31, 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 Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Key Bank of Central New York, Syracuse, New York, an insured State nonmember bank, for consent to pruchase certain assets of and assume the liability to pay certain deposits made in seven offices of Bankers Trust Company of Albany, N.A., Albany, New York, and to establish those seven offices as branches of Key Bank of Central New York.

Application of Savings Bank of Puget Sound, Seattle, Washington, an insured stock savings bank, for consent to acquire certain assets of and assume the liability to pay doposits made in the Aurora and Federal Way Branches of Prudential Mutual Savings Bank, Seattle, Washington, and to establish those two offices as branches of Savings Bank of Puget Sound.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,686-L (amended): American City Bank, Los Angeles, California; Newport Harbour National Bank, Newport Beach, California; Western National Bank, Santa Ana, California; Bank of San Marino, San Marino, California.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: May 31, 1983.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

S-795-83 Filed 6-1-83; 3:46 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:50 p.m. on Friday, May 27, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in City and County Bank of Anderson County, Lake City, Tennessee, which was closed by the Commissioner of Banking for the State of Tennessee on Friday, May 27, 1983; (2) accept the bid for the transaction submitted by Third National Bank in Anderson County, Lake City, Tennessee, a newly-chartered national bank subsidiary of Third National Corporation, Nashville, Tennessee; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

The meeting was recessed at 3:52 p.m., and at 4:15 p.m. that same day the meeting was reconvened, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in City and County Bank of Roane County, Kingston, Tennessee, which was closed by the Commissioner of Banking for the State of Tennessee on Friday, May 27, 1983; (2) accepted the bid for the transaction submitted by Bank of Oak Ridge, Oak Ridge, Tennessee, an insured State nonmember bank; (3) approved the application of Bank of Oak Ridge, Oak Ridge, Tennessee, for consent to purchase the assets of and to assume the liability to pay deposits made in City and County Bank of Roane County, Kingston, Tennessee, and for consent to establish the four offices of City and County Bank of Roane County as branches of Bank of Oak Ridge; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

The Board of Directors also: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in City and County Bank of Knox County, Knoxville, Tennessee, which was closed by the Commissioner of Banking for the State of Tennessee on Friday, May 27, 1983; (2) accepted the bid for the transaction submitted by Bank of Knoxville, Knoxville, Tennessee, an insured State nonmember bank; (3) approved the application of Bank of Knoxville, Knoxville, Tennessee, for consent to purchase the assets of and to assume the liability to pay deposits made in City and County Bank of Knox County, Knoxville, Tennessee, and for consent to establish the eleven offices of City and County Bank of Knox County as branches of Bank of Knoxville; and (4) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

The meeting was recessed at 4:17 p.m. and at 4:31 p.m. that same day the meeting was reconvened, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in United Southern Bank of Nashville, Nashville, Tennessee, which was closed by the Commissioner of Banking for the State of Tennessee on Friday, May 27, 1983; (2) accepted the bid for the transaction submitted by Union Planters National Bank of Memphis, Memphis, Tennessee, a subsidiary of Union Planters Corporation, Memphis, Tennessee; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

The meeting was recessed at 4:33 p.m., and at 4:37 p.m. that same day the meeting was reconvened, at which time the Board of Directors: (1) Received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in United American Bank in Hamilton County, Chattanooga, Tennessee, which was closed by the Commissioner of Banking for the State of Tennessee on Friday, May 27, 1983; (2) accepted the bid for the transaction submitted by Union Planters National Bank of Memphis, Memphis, Tennessee, a subsidiary of Union Planters Corporation, Memphis, Tennessee; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that

Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the 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 pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Dated: May 31, 1983.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-796-83 Filed 6-1-83; 8:46 pm]

BILLING CODE 6714-01-M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., June 8, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to public. The rest of the meeting will be closed to public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreements Nos. 14–48, 5700–31, 10107–15 and 10108–10: Modifications, respectively, of the Trans-Pacific Freight Conference (Hong Kong), New York Freight Bureau, and Agreements Nos. 10107 and 10108 to authorize payment of compensation to container freight station and container yard operations in Hong Kong and Taiwan.

2. Agreement No. 10268–2: Modification of the U.S. North Atlantic-Italy Pool Agreement to permit deviation from agreed pool shares and for other purpsoes.

3. Agreement No. 7680–46: Modification of the American West African Freight Conference Agreement to provide for intermodal service.

Portions closed to the public:

1. Agreements Nos. 10457 and 10458: Korean Marine Transport Co./NYK/Showa Space Charter Agreements.

2. Agreement No. 10332–3: Korean Marine Transport/NYK Space Charter and Agreement No. 10371–2: Korean Marine Transport Co./NYK/Showa Space Charter—Proposed three-year extensions of the agreements.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-789-83 Filed 6-1-83; 10:42 am]

BILLING CODE 6730-01-M

8

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, June 8, 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) 462–3204.

Dated: May 31, 1983.

James McAfee,

Associate Secretary of the Board.

[S-787-83 Filed 5-31-83; 4:15 am]

BILLING CODE 6210-01-M

9

INTERNATIONAL TRADE COMMISSION

[USITC SE–83–28]

TIME AND DATE: 2:30 p.m., Tuesday, June 14, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints: a. Flow injection analysis and components thereof (see UIID–G–14).
5. Investigations 701–TA–179, –180, –181 (Final) (Stainless Steel Products from Brazil)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-797-83 Filed 6-1-83; 4:03 pm]

BILLING CODE 7020-02-M

10

NUCLEAR REGULATORY COMMISSION

DATE: Week of June 6, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS:

Open and closed.

MATTERS TO BE DISCUSSED:

Monday, June 6:

2:00 p.m.:
Discussion of Pending Investigations (Closed—Exemption 5)

Thursday, June 9:

2:00 p.m.:
Discussion and Vote on Indian Point (Public Meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

May 27, 1983.

Walter Magee,

Office of the Secretary.

[S-788-83 Filed 6-1-83; 9:10 am]

BILLING CODE 7590-01-M

11

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 22677, May 19, 1983.

STATUS: Closed meeting.

PLACE: 450 5th Street NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, May 16, 1983.

CHANGES IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Wednesday, May 25, 1983, at 10 a.m.

Amend institution of injunctive action and settlement of administrative proceeding of an enforcement nature.
Access to investigative files by Federal, State, or Self-regulatory authorities.

Chairman Shad and Commissioners Evans, Longstreth and Treadway determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272–2091.

May 31, 1983.

[S-791-83 Filed 6-1-83; 11:34 am]

BILLING CODE 8010-01-M

federal register

Friday
June 3, 1983

Part II

Department of Health and Human Services

Public Health Service

Health Professions and Nursing Student Loan Programs

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Health Professions Student Loan Program

AGENCY: Public Health Service (PHS), HHS.

ACTION: Final regulations.

SUMMARY: This rule amends existing regulations governing the Health Professions Student Loan (HPSL) program. These revisions strengthen the regulations regarding recordkeeping and collection procedures and establish performance standards against which a health professions school's delinquency rate will be measured.

EFFECTIVE DATE: These regulations are effective June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Alice M. Swift, Acting Chief, Program Development Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857, telephone number 301 443–4540.

SUPPLEMENTARY INFORMATION: Section 740 of the Public Health Service Act ("the Act") (42 U.S.C. 294m) authorizes the Secretary of Health and Human Services ("the Secretary") to enter into an agreement for the establishment and operation of a student loan fund with any public or other nonprofit school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine which is located in a State and is accredited as provided in section 721(b)(1) of the Act.

In response to concerns expressed about the manner in which schools and the Federal Government administer the HPSL program, the Department published in the **Federal Register** of August 31, 1982 (47 FR 38365), a Notice of Proposed Rulemaking (NPRM). This proposed rule was designed to strengthen the regulations regarding recordkeeping and collection procedures and establish performance standards against which a health professions school's delinquency rate would be measured. Interested persons were invited to submit comments not later than October 15, 1982. Following the close of the comment period, the regulations were to be revised as warranted by public comments received. The Department received 297 comments from students, school officials, professional and student organizations, private citizens and public officials. The comments and the Department's response to the comments are discussed below. For clarity, the comments and responses are arranged according to the section numbers and titles of the Notice of Proposed Rulemaking to which they pertain.

Section 57.205 Health Professions Student Loan Funds

Three respondents objected to charging to the fund the cost associated with membership in credit bureaus, noting that borrowers were so highly mobile and widely dispersed that the effectiveness of credit bureau membership was limited and not worth the cost in diminished funds available to fund student loans. The Department recognizes the schools' concerns about the dispersion and mobility of its borrowers and the possible impact of this dispersion on the usefulness of credit bureaus in collecting delinquent loans. However, the Department believes that reports to credit bureaus will have sufficient impact on borrowers to be cost effective.

Another respondent suggested that this section be revised to allow for charging in-house collection costs to the fund. The Department has not adopted this suggestion since the existing regulations permit schools to charge collection costs that exceed the usual expenses incurred in the collection of health professions student loans, as approved by the Secretary.

Section 57.206 Eligibility and Selection of Health Professions Student Loan Applicants

Twelve of 22 respondents supported the proposal to require all applicants who had previously attended an institution of higher education to submit a financial aid transcript.

The majority of those opposed were concerned that the information required on the financial aid transcript would not be useful in determining the creditworthiness of the borrower. The Department has determined that while the financial aid transcript will not insure the creditworthiness of a borrower, it may provide the school with information on those borrowers who have become delinquent in repaying educational loans.

Three respondents expressed concern about the cost and additional administrative burden associated with this requirement. Since most schools already require the submission of the financial aid transcript, the Department finds that the additional cost and administrative burden necessary to collect the information is too small to warrant changing this provision.

Two respondents suggested that the proposed requirement for the collection of information on prior grants be deleted as irrelevant and unnecessary. The Department has not accepted this suggestion since any information on refunds owed on grants would be useful in the administration of this program.

Two respondents suggested that the Department allow some flexibility in the disbursement of loan funds if the transcript is not readily available since applicants are dependent upon authorizing officials from other schools to provide the necessary information. In view of the widespread usage of the financial aid transcript, the Department does not anticipate the problem to be great enough to warrant changing this provision.

Another respondent suggested that schools be permitted to charge a transcript fee. Since the regulations do not prohibit such a charge, no change in the regulations is necessary.

One respondent suggested that schools be allowed to accept a written statement from the student in place of the transcript. Since the value of this information diminishes without the certification of an authorized official at the institution, the Department has not accepted this suggestion.

Another respondent suggested that the Department encourage voluntary collection of this data rather than requiring it. The Department has not accepted this suggestion because of the necessity for uniformity among schools in the collection of this data.

One respondent suggested that the Department work with the schools to establish guidelines for implementing this provision. The Department has determined that because of the current widespread use of this transcript, problems in implementing this provision will not be sufficient to necessitate additional guidelines.

Section 57.208 Health Professions Student Loan Promissory Note

Twenty-two respondents commented on the proposal to require that promissory notes contain a clause which will allow the acceleration of delinquent loans at the school's option. Twenty-one respondents supported this provision.

Two respondents expressed concern that this provision could not be used retroactively. The Department notes that this provision may not be given retroactive effect.

One respondent was concerned that some State laws precluded the inclusion of an acceleration clause in the

promissory note. The Department has made no change since the Federal regulation would have the effect of superseding any such State laws, as applied to HPSL program loans.

One commenter noted the possibility of increased bankruptcies as a result of exercising this provision. Another suggested that borrowers be given adequate opportunity to bring their accounts up-to-date prior to having their loans accelerated. The Department expects the schools to exercise prudent fiscal management and professional judgment in determining when acceleration is appropriate. Although the promissory note will contain this clause, it will be exercised at the option of the school.

Section 57.210 Repayment and Collection of Health Professions Student Loans

Thirty-nine of 64 commenters opposed proposed § 57.210(a)(3), which requires schools to establish monthly repayment schedules for borrowers. Twenty-seven respondents expressed concern that this provision would substantially increase billing costs and administrative burdens, with no evidence that monthly billings would improve collections. Thirteen suggested a quarterly billing period, and six suggested that schools retain the flexibility to use whichever repayment schedule would be most effective for the school and the borrower. One respondent noted that monthly repayment schedules would have little impact on fund balances since loan awards were made only twice yearly anyway. Another respondent noted that monthly repayments would not solve the problem of those in repayment status now. Three other respondents expressed concern that it would not be legally possible to convert those who have already signed agreements for other than monthly repayment schedules.

The Department recognizes the concerns expressed by the respondents and although the Department still encourages the use of monthly repayment schedules, the regulations have been revised to require that borrowers establish no less often than quarterly repayment schedules, with monthly repayment schedules required for those borrowers delinquent more than 60 days.

Twenty-seven of 29 respondents supported the provision, proposed § 57.210(a)(4), which permits schools to grant forbearance when extraordinary circumstances such as unemployment, poor health or other personal problems affect the borrower's ability to repay according to the repayment schedule.

Three respondents commented that this proposal would require additional staff and administrative efforts. The Department believes that the merit of the proposal warrants the additional work that may be required, and notes that it has been included as a tool to assist in reducing delinquency rates and is to be implemented in a way that is least burdensome to the school. The Department further notes that the provision is included as an option to be exercised at the discretion of the schools.

Two respondents expressed concern about the status of borrowers who have been granted forbearance in calculating the school's delinquency rates. Two respondents suggested that such borrowers not be considered delinquent. The Department expects that in granting forbearance, the school and the borrower will reach mutual agreement with regard to the borrower's repayment arrangement and that so long as the borrower does not violate the agreement such borrower would not be considered delinquent.

One respondent suggested that the Department establish very specific circumstances for granting forbearance in order to facilitate administration. The Department believes that the regulations should not be more specific to allow for discretion on the part of school officials.

One respondent suggested that the Department address the length of forbearance, while another suggested that the Department allow for an extension of the 10-year repayment period. The Department cannot extend the repayment period since section 741(c) of the Act establishes the maximum length of the repayment period as 10 years. Any forbearance period granted by the school must provide that the loan be repaid within the 10-year repayment period.

Thirteen of 17 respondents opposed § 57.210(b)(1), which strengthens the due diligence requirements and requires schools which fail to exercise due diligence in the collection of a loan to reimburse the HPSL fund for the uncollected amount.

Six respondents suggested that the Department include a more detailed definition of due diligence in the regulations. The Department did not accept this suggestion, since the purpose of this provision is not to outline in detail all steps of the due diligence process, but rather to require certain aspects of the due diligence provisions of the *Student Financial Aid Guidelines*.

Five respondents felt that it was unfair to apply the new due diligence requirements and the reimbursement penalty to old loans, one requested clarification of which loans were covered by the penalty, and one suggested that the new due diligence requirements be established prospectively. Five respondents did not think schools should have to pay for past mistakes, and two others expressed general concern about the reimbursement penalty. The Department points out that the new due diligence requirements will be effective as of the date of publication of the regulations and will have to be exercised for all loans, since it is reasonable for a school to use these new procedures regardless of when a loan was awarded. The reimbursement penalty is not a new procedure and will continue to apply to all loans.

Eight respondents suggested that guidelines for write-offs be provided. The Department accepts these comments and will be issuing guidelines discussing write-off in greater detail than in the current *Student Financial Aid Guidelines*.

One respondent suggested that litigation was preferable to write-off in order to replenish the loan fund. The Department points out that litigation must always be pursued in lieu of write-off when appropriate. Write-off may only be requested after all collection efforts have failed.

Two respondents noted that the 1969 guidelines prohibited the write-off of Federal Capital Contribution (FCC) loans. The Department notes that this provision of the guidelines was revised in 1980 to reflect that the Department has the authority to approve the write-off of FCC loans.

Two respondents indicated that Write-off was forbidden by State law. Since write-off approval merely indicates that the school is not required to reimburse the Federal Government for its proportionate share of the uncollectible loan, this should not be in conflict with any State laws.

One respondent commented that requiring uniform due diligence procedures is a wasted effort, one suggested that the department establish less stringent requirements for schools with good collection records, and two suggested that schools be allowed maximum flexibility in exercising due diligence. The Department cannot accept these suggestions, since the due diligence provision outlines minimal procedures that are essential in the proper management of any loan account

One respondent suggested that the Department add a loan assignment provision to the HPSL program. Since loan assignment is currently prohibited

by section 741(h) of the Act, the Department cannot accept this suggestion. However, the administration has submitted a statutory amendment to Congress to allow for referal of certain HPSLs to the Federal Government. This amendment was introduced in S. 963 on March 24, 1983.

One respondent suggested that the due diligence timetable be revised to accommodate the credit bureau requirement. The due diligence timetable is not in the regulations but in the guidelines. Nevertheless, since the timetable encourages the use of credit bureaus with those borrowers who are more than 120 days past due, no change is needed.

A majority of the respondents supported § 57.210(b)(1)(i), which requires the use of collection agents as a part of the due diligence procedure. However, several expressed concerns such as the problem of reduced amounts recovered on accounts since collection agencies receive a percentage of collections, the relative efficiency of in-house collection agents versus commercial agencies, and the failure to identify at which point institutions are required to enlist the services of a collection agent.

The Department notes that use of a collection agent would only be required when the school's efforts to collect have failed. Thus, the school could possibly recover a percentage of the unpaid loan rather than nothing. Additionally, schools may charge collection costs to the borrower where such charges are provided for in the promissory note.

The Department notes that the term "collection agent" could include a collection office within a school that is performing collection efforts beyond the routine activities that are part of the due diligence process. Schools may meet the requirement to use collection agents by contracting with an external collection agency, or by turning accounts over to an internal collection office which performs the same functions as an external collection agency. This section of the regulations has been revised to clarify that schools can use in-house collection agents to satisfy this requirement.

In response to the concern with the failure to identify the point at which institutions are required to enlist the services of a collection agent, the Department notes that the *Student Financial Aid Guidelines* explain that the services of a collection agent are to be enlisted after the 120-day delinquency letter receives no response.

One respondent opposed this provision because there are some situations in which the use of a collection agent is fruitless. The Department has not made changes in the requirement in response to this concern since the school loses nothing if the efforts of the collection agent to collect funds from the borrower are fruitless.

One respondent expressed concern that some State laws will not permit the use of collection agents. The Department notes that the Federal regulations will supersede State law in this regard.

Another respondent expressed concern that a collection agent may prove so offensive as to retard rather than hasten repayment. The Department expects the schools to exercise their professional judgment in selecting a collection agency that will handle the accounts in an appropriate manner.

Fourteen of 27 commenters opposed § 57.210(b)(1)(ii), which requires litigation, when appropriate. Four respondents expressed concern that the provision was unclear and inconsistent, since "mandatory" action cannot be performed "when appropriate." Four others opposed the provision because of the costs of litigation, and one opposed it because of the time involved. The Department drafted this provision to allow schools to make the determination to litigate only when they find it to be cost-effective, based on the size of the loan; the location of the borrower, the anticipated time involved, and any other pertinent factors. Therefore, the Department is retaining the provision, as proposed.

One respondent requested clarification of the point in the due diligence process at which litigation will be required. The Department notes that the *Student Financial Aid Guidelines* provide greater detail on when litigation should be used in the due diligence process.

One respondent felt that to require litigation was too stringent, and seven suggested that schools be given more flexibility in determining when to use litigation. The Department cannot accept this suggestion, since there is a need for uniformity in the due diligence procedures. Also, litigation is only required when other collection efforts have failed and when it is appropriate.

One respondent suggested that it would be more efficient to assign loans to the Federal Government for central handling of all cases requiring litigation. The Department cannot accept this suggestion since assignment is prohibited by Section 741(h) of the Act.

Twenty-five of 48 respondents opposed § 57.210(b)(1)(iii), which requires each school to become a member of a credit bureau and notify the credit bureau of all delinquent accounts.

Five respondents expressed skepticism regarding the effectiveness of credit bureaus in improving debt collection. In view of the serious impact that a poor credit rating can have on an individual, the Department believes that credit bureaus are an important tool for improving debt management.

Eighteen respondents objected to the point in time at which borrowers were to be reported, and several suggested that schools be given greater flexibility in determining which accounts to report. The Department notes that the use of credit bureaus will be a required step of the due diligence process for all borrowers who do not respond satisfactorily to the 120-day delinquency letter. The Department has modified the provision accordingly.

Two respondents suggested that schools be required to warn borrowers prior to reporting them to a credit bureau. The Department agrees that the borrower should be notifed in the 120-day delinquency letter, and has included this in a policy memorandum to participating schools.

Seven respondents objected to the administrative burden that this proposal would impose due to the extra work involved in filing monthly reports with the credit bureaus. Since schools will only be required to report borrowers more than 120 days past due, the Department expects that the administrative burden will be minimal.

Three respondents were concerned about the legality of reporting student loan accounts to a credit bureau because of the protection granted to students under the Family Educational Rights and Privacy Act (FERPA) and because of some State laws which prohibit such. The Department notes that the use of credit bureaus is not a violation of FERPA. Since Federal regulations take precedence over State laws, the inclusion of this requirement in the regulations will allow schools to use credit bureaus for HPSL borrowers, regardless of the State law.

Two respondents suggested that the promissory note be revised to specify the schools' rights to use credit bureaus. The Department will include the credit bureau provision in the revised promissory note.

Three respondents suggested that credit bureau membership be optional. Another suggested that this requirement not be imposed on schools with acceptable delinquency rates. The Department cannot accept these suggestions since there is a need for uniformity in the due diligence procedures followed by the schools.

Section 57.213a (New) to Follow § 57.213 Loan Cancellation Reimbursement

Eight of 13 respondents opposed the provision for reimbursing schools for their proportionate share of loans and interest cancelled for practice in a shortage area, death, or disability in the event insufficient funds are available to pay all schools.

Two respondents were concerned that to either reimburse based on the same ratio to total funds available or reimburse at the time of the distribution of the assets of the school's fund would limit the amount of money available in the Fund to loan to new students. Another respondent suggested that under the Prompt Payment Act, Pub. L. 97–177, enacted on May 21, 1982, any amount owed to an institution that is 30 days overdue must be repaid with interest penalty.

In response to these comments, the Department notes that Section 741(i) of the Act only provides for the reimbursement of cancelled loans and does not indicate when such reimbursement should occur. This regulation is intended to assure that each school will receive an equitable share of funds in the event insufficient funds are available in any year to pay all schools their full share. The Prompt Payment Act applies to amounts owed to the Federal Government for property or services acquired from business concerns, and is irrelevant to this provision.

Section 57.215 Records, Reports, Inspection, and Audit

Fifty of 51 commenters opposed the provision which requires the submission of a quarterly report on the status of the program. The majority of the respondents expressed concern that the addition of a quarterly report requirement to the Annual Operating Report (AOR) requirement would unnecessarily burden the schools. Many believed that the AOR was sufficient or suggested that the quarterly report be required only of those schools that do not achieve the required performance standard.

The Department feels that the opposition to the quarterly report was based primarily on a comparison of this report with the AOR. In fact, the quarterly report is much simpler than the AOR and should not be an administrative burden. The quarterly report is a vital part of monitoring compliance with the performance standards for the program, so the Department cannot accept the commenters' suggestions. However, the Department has clarified this provision to indicate that all required reports, which would include the quarterly report as well as the AOR, must be submitted within 45 days of the close of the reporting period.

Seven of 11 respondents opposed the proposal that repayment records be retained for 5 years after loans have been repaid. The opposition was based on the respondents' judgment that retention of these records for such a long period of time would be expensive in terms of space and equipment. This expense would place an unnecessary burden on the schools. Suggestions included reducing the period retained to a maximum of 3 years after the loan was repaid, keeping repayment records until the audit was completed, and keeping only selected items necessary for audit. The Department has not accepted these suggestions since it considers the retention of records for this period to be essential for monitoring purposes.

In regard to the suggestions that these records be stored on microfilm or microfiche in lieu of paper files, the regulation does not specify in what form the records must be stored; therefore, no change is required to accommodate this suggestion.

Section 57.216a (New) To Follow § 57.216 Performance Standards

The majority of all respondents, 130 of 152, objected to the setting of a standard of performance which would require all participating schools to achieve a delinquency rate of not more than 5 percent. Fifty-three commenters opposed the use of the non-compliance penalty, § 57.218, as described in the preamble to the NPRM. Additionally, 85 commenters opposed the implementation of the 5 percent performance standard by March 31, 1983.

Seventy-three commenters believed that the selection of the 5 percent standard based on a comparison of the HPSL program with the commercial banking community was inappropriate. Many respondents felt that the 5 percent was unreasonable, unfair, and would lead to the elimination of the program since most schools would not be able to meet the standard. Several respondents asked that the Department take into consideration the differences in earning power between the various disciplines supported by the program as well as the differences in the economic conditions from State-to-State that affect the borrower's ability to repay.

Several respondents indicated that borrowers who fail to complete the program were particularly difficult to collect from since in many cases their income was insufficient to cover this debt. They asked for assistance from the Department in collecting these loans or that special provisions for these cases be made in computing the school's delinquency rate.

Nine respondents noted that because of the short time period that they had been in the program, a minimal number of delinquencies would place them above the 5 percent standard.

In response to these commenters, the Department believes that it set a standard which reflects the general ability of a health professional to repay. The Department used the experience of the commercial banking communities for a history of repayment of loans from professionals. With the exception of the borrower who failed to complete studies, the HPSL borrower would be comparable to a professional who borrows from a commercial banking institution. Additionally, in setting the 5 percent performance standard, the Department considered the average dollar delinquency rate, based on June 1982 AOR data, of 8.51 percent. Taking into account the considerable amount of progress made by schools in reducing the delinquency rates since June of 1981, when the average dollar delinquency rate was 11.75 percent, the Department does not believe that the 5 percent performance standard is unrealistic, and therefore no change has been made to the regulations in this regard. However, the Department has changed the effective date by which schools are expected to meet the 5 percent performance standard to June 30, 1983, and has developed phase-in procedures for those schools that are unable to meet the standard by that date.

The Department does recognize that borrowers who fail to complete studies may be a problem in calculation of the rate. However, the strengthened due diligence procedures, including use of write-off and forbearance, should alleviate this problem.

Many of the respondents objected to use of the non-compliance provision § 57.218, for the failure to meet the 5 percent performance standard as discussed in the preamble. The respondents believed that this proposal, which would terminate a school's participation in the program because of a problem caused by the negligence of former borrowers, the failures of previous financial aid administrators, and the lack of emphasis on loan collections by the Federal Government, is too harsh, punishes current innocent students, and denies opportunities for a health professions education to low income, minority, disadvantaged, and

exceptionally financially needy students. The Department has taken into consideration many of the concerns and suggestions made by these respondents and has revised the regulations to provide for a phase-in of the performance standard, as described in § 57.216a.

Five respondents questioned the authority of the Department to terminate the participation of schools which fail to meet the standards. The Department points out that the current non-compliance provision, § 57.218 of the regulations, permits the Secretary "to take such other actions, including the termination of any agreement, as he or she finds necessary to enforce the Act and regulations."

Two respondents noted that there was no appeals process in the regulations and that the Department must use formal suspension or termination procedures that allow schools to rectify problems before suspension. The Department would point out that the HPSL legislation does not contain specific limitation, suspension, and termination provisions. However, the non-compliance provision of the regulations, § 57.218, does provide that the Secretary must give reasonable notice before taking remedial action.

Many commenters indicated that the proposed effective date of March 31, 1983 would provide insufficient time to implement the new regulations and is unrealistic and unreasonable. Additionally, it was pointed our that the March 31, 1983, date does not conform to current reporting periods or billing cycles.

The Department has taken into consideration these comments and has adopted the suggestion that the effective date be June 30, 1983 with a phased-in time period for enforcing the performance standard. Section 57.216a, as revised, provides that:

(a) Those schools which do not meet the 5 percent performance standard by June 30, 1983 may continue participating in the program, but must reduce their delinquency rates by 50 percent (or those below 10 percent, but above 5 percent, must reach 5 percent) by December 31, 1983;

(b) Those schools which fail to achieve the 50 percent reduction or 5 percent delinquency rate by December 31, 1983, must:

(1) Place funds and all subsequent collections into an interest-bearing account;

(2) Make no new loans;

(3) Reduce by June 30, 1984 their delinquency rates by 50 percent (or reach the 5 percent standard) below the level which should have been achieved by December 31, 1983, or be terminated from the program, and return all funds in the loan account to the Department. Those schools which fail to meet the 50 percent reduction or 5 percent standard by June 30, 1984, must continue to pursue collections. Any such school may reapply for participation in the program when the 5 percent delinquency standard has been reached.

Schools which go above the performance standard subsequent to June 30, 1984 will follow the same 6-month and 12-month performance check-point cycle. The Quarterly Debt Management and Annual Operating Reports will form the basis of these performance check-points.

One hundred and twenty-eight respondents opposed the requirement that, for purposes of calculating the delinquency rate, all accounts overdue by more than 30 days be considered delinquent. Several commenters expressed concern that the 30-day definition of delinquency does not allow adequate time for the processing of deferment forms and for other uncontrollable delays. The Department has responded to these concerns by changing this provision to require that all accounts overdue by more than 60 days be considered delinquent for purposes of calculating the delinquency rate.

The majority of commenters expressed concerns about the formulas proposed to compute delinquency rates. Many felt that excluding retired loans from the formulas unfairly inflates the delinquency rates. The Department has not changed this provision, because including retired loans in the formula would obscure current collection efforts. Additionally, analysis of current data indicates that due to their small number, retired loans do not impact significantly on the delinquency rate of most schools.

Concern was raised about including the total amount of principal outstanding in calculating the dollar delinquency rate. The Department has taken this concern into consideration by changing the 30-day delinquency definition to 60 days. The Department believes that any account more than 60 days overdue must be considered as high risk, and therefore will continue to use the principal outstanding in calculating the dollar delinquency rate.

The Secretary is proposing in the proposed rule section of this issue of the **Federal Register** an additional change in the formula used to calculate the delinquency rate.

Twenty respondents commented on the Department's determination that these regulations did not require a regulatory impact analysis under the Regulatory Flexibility Act of 1980. Fourteen respondents believed that the NPRM would have a significant economic impact on the schools, in spite of the Department's certification to the contrary. Three respondents were concerned about the lack of resources available to cover the additional administrative costs associated with provisions of the NPRM. The Department believes that the resources required to implement these regulations are minimal in comparison to the overall budgets of the schools. Furthermore, because these regulations set realistic performance standards and provide through the phase-in procedures and other provisions flexibility for the schools which have the greatest difficulty, most schools should be able to comply with these regulations within the time periods specified. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant impact on a substantial number of schools.

Four respondents suggested that the Department do a regulatory impact analysis. The Department has determined that a regulatory impact analysis is not warranted, since the cost of its implementation will not exceed the $100 million threshold level as established in section (b) of Executive Order 12291.

Six respondents commented on the proposals of the NPRM as they relate to the OMB recordkeeping requirements and Paperwork Reduction Act of 1980. Three respondents felt that the Department's certification that reporting requirements would have a minor import on schools was a gross misrepresentation. Several respondents provided their own estimates of the additional burden that would be imposed by the new reporting requirements, ranging from a low of 21 hours for schools with computerized collections to a high of 10 times the estimate quoted in the NPRM. The Department believes that these comments reflect a misconception of the complexity of the quarterly report. Since the quarterly report is much simpler than the annual operating report, the Department believes that it is correct in its original determination.

Additional comments

Many of the respondents suggested that the HPSL regulations be revised to be consistent with all Federal student assistance programs, and specifically with the National Direct Student Loan program administered by the Department of Education. The

Department has not adopted these suggestions because both the authorizing statutes and the problems of the two programs differ considerably.

As indicated in the NPRM, the Department certifies that these regulations will not have a significant economic impact on a substantial number of small entities and therefore do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980. The new recordkeeping requirements resulting from these regulations will impose a total response burden of 6600 hours, or an average of 21 hours per school. This response burden is minor and will not have a significant economic impact on either small or large schools.

The Department has also determined that this rule is not a "major rule" under Executive Order 12291; therefore, a regulatory impact analysis is not required. As is discussed above, the reporting requirements will have minor impact on schools. Additionally, the impact on students is relatively small. As of June 30, 1982, 8.7 percent of all borrowers in repayment status were delinquent, representing approximately $11.6 million. This Final Rule requires schools to achieve delinquency rates of not more than 5 percent by June 30, 1983, with performance check-points for those schools that are above 5 percent as of that date. The Department does not have a specific estimate of the cost of debt collection activities, but believes these are also small, therefore the proposed rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291.

The existing reporting and recordkeeping requirements have been cleared by OMB and given approval number 0915–0044. The new reporting and recordkeeping requirements contained in §§ 57.206 and 57.215 of these regulations require OMB approval under the Paperwork Reduction Act of 1980, and have been cleared by OMB and given approval numbers 0915–0047 and 0915–0046, respectively.

List of Subjects in 42 CFR Part 57

Dental health, Educational facilities, Educational study programs, Education of disadvantaged, Emergency medical services, Grant programs-education, Student aid, Grant programs-health, Health professions, Loan programs-health, Health facilities, Medical and dental schools, Scholarships and fellowships.

(Catalog of Federal Domestic Assistance Number 13.342; Health Professions Student Loan Program)

Dated: May 26, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: May 26, 1983.

Margaret M. Heckler,

Secretary.

42 CFR Part 57 is amended as follows:

PART 57—HEALTH PROFESSIONS STUDENT LOAN PROGRAM

1. Paragraphs (a)(3) and (b)(2)(ii) of § 57.205 are revised to read as follows:

§ 57.205 Health professions student loan funds.

(a) * * *

(3) Costs of litigation; costs associated with membership in credit bureaus; and, to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of health professions student loans.

(b) * * *

(2) * * *

(ii) Costs of litigation; costs associated with membership in credit bureaus; and, to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of health professions student loans.

2. Section 57.206 is amended by adding a new paragraph (a)(3), to read as follows:

§ 57.206 Eligibility and selection of health professions student loan applicants.

(a) * * *

(3) An applicant who has previously attended an institution of higher education must submit a financial aid transcript which includes at least the following data:

(i) Applicant's name and social security number;

(ii) Amounts and sources of loans and grants previously received by the applicant for study at an institution of higher education;

(iii) Whether the applicant is in default on any of these loans, or owes a refund on any grants;

(iv) Certification from each institution previously attended by the applicant that the applicant has received no financial aid, if applicable; and

(v) From each institution previously attended, the signature of an official authorized by the institution to sign such transcripts on behalf of the institution.

* * * * *

3. Paragraph (a) of § 57.208 is amended by redesignating paragraph (a)(2) to (a)(3) and adding a new paragraph (a)(2) to read as follows:

§ 57.208 Health professions student loan promissory note.

(a) * * *

(2) Each promissory note must contain an acceleration clause provided by the Secretary, which will permit the acceleration of delinquent loans at the school's option.

* * * * *

4. In § 57.210 paragraphs (a)(3) and (b)(1) are revised and new paragraph (a)(4) is added to read as follows:

§ 57.210 Repayment and collection of health professions student loans.

(a) * * *

(3) Subject to the provisions of paragraph (b)(3) of this section, a borrower must establish a repayment schedule with the school providing for payments not less often than quarterly. Any borrower whose repayment is delinquent more than 60 days must establish a monthly repayment schedule with the school. However, a borrower may at his or her option and without penalty, prepay all or part of the principal and accrued interest at any time.

(4) A school may grant forbearance whenever extraordinary circumstances such as unemployment, poor health or other personal problems temporarily affect the borrower's ability to make scheduled loan repayments.

(b)(1) Each school at which a fund is established must exercise due diligence in the collection of all health professions student loans due the fund. In any instance where the Secretary determines that a school has failed to exercise due diligence in the collection of a loan, the school will be required to reimburse the Fund the full amount of principal and interest that remains uncollected because of that failure. In the exercise of due diligence, in general, a school must use the collection practices which are generally accepted among institutions of higher education and which are at least as extensive and effective as those used in the collection of other student loan accounts due the school. In addition, the school must at least:

(i) Use collection agents, which may include the use of an internal collection agent;

(ii) Institute legal proceedings against borrowers after all other attempts at collection have failed, provided that such litigation is appropriate; and

(iii) Become a member of a credit bureau and notify the credit bureau of accounts overdue by more than 120 days, when appropriate.

* * * * *

5. A new § 57.213a is added to read as follows:

§ 57.213a Loan cancellation reimbursement.

In the event that insufficient funds are available to the Secretary in any fiscal year to enable him to pay to all schools their proportionate shares of all loans and interest cancelled under this subpart for practice in a shortage area, death, or disability:

(a) Each school will be paid an amount bearing the same ratio to the total of the funds available for that purpose as the principal of loans cancelled by that school in that fiscal year bears to the total principal of loans cancelled by all schools in that year; and

(b) Any additional amounts to which a school is entitled will be paid by the Secretary at the time of distribution of the assets of the school's Fund under section 743 of the Act.

6. Section 57.215 is revised to read as follows:

§ 57.215 Records, reports, inspection, and audit.

(a) Each Federal capital contribution and Federal capital loan is subject to the condition that the school must maintain those records and file with the Secretary those reports relating to the operation of its health professions student loan fund that the Secretary may find necessary to carry out the purposes of the Act and these regulations. All required reports must be submitted to the Secretary within 45 days of the close of the reporting period. The school also must comply with the requirements of 45 CFR Part 74 and section 705 of the Act concerning recordkeeping, audit and inspection.

(b) The following student records must be retained by the school for 5 years after an individual student ceases to be a full-time student:

(1) Approved student applications for health professions student loans;

(2) Documentation of the financial need of applicants; and

(3) Copy of financial aid transcript(s).

(c) The following repayment records for each individual borrower must be retained for at least 5 years from the date of retirement of a loan:

(1) The amount and date of each loan;

(2) The amount and date of each payment or cancellation;

(3) Records of periods of deferment;

(4) Date, nature and result of each contact with the borrower or proper endorser in the collection of an overdue loan;

(5) Copies of all correspondence to or from the borrower and endorser;

(6) Copies of all correspondence with collection agents related to the individual borrower;

(7) Copies of all correspondence with a credit bureau related to an individual borrower; and

(8) Copies of all correspondence relating to uncollectible loans which have been written off by the Federal Government or repaid by the school.

(d) The school must also retain other records as the Secretary may prescribe. In all cases where questions have arisen as a result of a Federal audit, the records must be retained until resolution of all questions.

7. A new § 57.216a is added to read as follows:

§ 57.216a Performance standard.

By June 30, 1983, and on each June 30 thereafter, except as provided in paragraph (c) of this section, each school must have either a borrower or dollar delinquency rate (as calculated below) of not more than 5 percent. All accounts overdue by more than 60 days must be considered delinquent.

(a) *Borrower delinquency rate.* The borrower delinquency rate for each school must be calculated by dividing the number of the school's delinquent borrowers by the total number of the school's borrowers whose loans are in repayment status.

(b) *Dollar delinquency rate.* The dollar delinquency rate for each school must be calculated by dividing the sum of the total amount of principal outstanding on all loans delinquent by the total principal amount loaned for all loans in repayment status.

(c) Any school that has a delinquency rate higher than 5 percent on June 30 of any year will be required to: (1) Reduce its delinquency rate by 50 percent (or a school with a delinquency rate below 10 percent must reduce its rate to 5 percent) by the close of the following six-month period; and (2) by the end of each succeeding 6-month period, reduce its delinquency rate to 50 percent of the required rate for the previous six-month period, until it reaches 5 percent.

(d) Any school which fails to comply with the requirements of paragraph (c) of this section will receive no new HPSL funds and will be required to: (1) Place the revolving fund monies and all subsequent collections into an insured interest-bearing account; (2) make no new loans; and (3) by the end of the succeeding six-month period, reduce the delinquency rate to 50 percent of the rate it failed to achieve under paragraph (c) of this section, or 5 percent. A school that meets the requirements of this paragraph will be reinstated in the program, but must continue to comply with the requirements of paragraph (c) (2) of this section if its delinquency rate is still higher than 5 percent.

(e) Any school which fails to comply with the requirements of paragraph (d) of this section will be terminated from the program and must return all Federal funds in the loan account to the Department. Any school which has been terminated must continue to pursue collections, and may reapply for participation in the program only when it has attained a delinquency rate of 5 percent or less.

(Sec. 215 of the PHS Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 740–744 of the PHS Act, 77 Stat. 170–173, 90 Stat. 2266–2268, 91 Stat. 390–391, 95 Stat. 920 (42 U.S.C. 294m–q)

[FR Doc. 83-14601 Filed 6-2-83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Health Professions Student Loan Program

AGENCY: Public Service (PHS), HHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would amend existing regulations governing the Health Professions Student Loan (HPSL) program. The proposed amendment to § 57.216a is based upon the Department's conclusion, arrived at during its consideration of the final amendments published today, that use of the dollar delinquency rate will produce the best management of the HPSL program by the schools. This amendment would modify the procedures for determining whether or not a school is in compliance with the 5 percent performance standard.

DATE: As discussed below, comments are invited. To be considered, comments must be received by July 5, 1983.

ADDRESS: Respondents should address written comments to the Director, Bureau of Health Professions (BHPr), Room 8-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the Office of Program Support, BHPr, Room 7-74, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mrs. Alice M. Swift, 301 433-4540.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, the Secretary published final rules amending the regulations for the HPSL program. Among those amendments is a new § 57.216a, which establishes a standard of delinquency which health professions schools must maintain in order to continue their participation in the program. The standard requires that schools maintain a delinquency rate of not more than 5 percent, based upon *either* the number of delinquent borrowers *or* the amount of unpaid principal on delinquent loans. The Secretary proposes in this Notice to eliminate the optional borrower delinquency standard, and to require that the 5 percent standard be based only upon the unpaid principal on delinquent loans.

The proposed amendment to § 57.216a is based upon the Department's conclusion, arrived at during its consideration of the final amendments published today, that use of the dollar deliquency rate will produce the best management of the HPSL program by the schools. The dollar standard would, as a practical matter, encourage the schools to concentrate their collection efforts on those borrowers with large delinquent loans, rather than dissipating those efforts among many borrowers with relatively small delinquencies—thus producing the maximum return of financial resources to the schools' loan funds so that more new loans may be made to deserving students. The dollar standard is also consistent with the method used by other Federal agencies with comparable programs, such as the Department of Education.

The Department certifies that these regulations will not have a significant economic impact on a substantial number of small entities and therefore do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980. The Department has also determined that this rule is not a major rule under Executive Order 12291 and therefore a regulatory impact analysis is not required.

The Department has determined that this amendment to the regulations does not affect the existing reporting and recordkeeping requirements of the program approved by OMB (numbers 0915-0044, 0915-0046, and 0915-0047) under the Paperwork Reduction Act of 1980.

List of Subjects in 42 CFR Part 57

Dental health, Education of disadvantaged, Educational facilities, Educational study programs, Emergency medical services, Grant programs—education, Grant programs—health, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Scholarships and fellowships, Student aid.

PART 57—[AMENDED]

Accordingly, Subpart C of 42 CFR Part 57 is amended as set forth below:

Section 57.216a is revised to read as follows:

§ 57.216a Performance standard.

By June 30, 1983, and on each June 30 thereafter, except as provided in paragraph (b) of the section, each school must have a deliquency rate (as calculated in paragraph (a) of the section) of not more than 5 percent. All accounts overdue by more than 60 days must be considered delinquent.

(a) The delinquency rate for each school must be calculated by dividing the sum of the total amount of principal outstanding on all loans delinquent by the total principal amount loaned for all loans in repayment status.

(b) Any school that has a delinquency rate higher than 5 percent on June 30 of any year will be required to: (1) Reduce its delinquency rate by 50 percent (or a school with a delinquency rate below 10 percent must reduce its rate to 5 percent) by the close of the following six-month period; and (2) by the end of each succeeding 6-month period, reduce its delinquency rate to 50 percent of the required rate for the previous six-month period, until it reaches 5 percent.

(c) Any school which fails to comply with the requirements of paragraph (b) of this section will receive no new HPSL funds and will be required to: (1) Place the revolving fund monies and all subsequent collections into an insured interest-bearing account; (2) make no new loans; and (3) by the end of the succeeding six-month period, reduce the delinquency rate to 50 percent of the rate it failed to achieve under paragraph (b) of this section, or 5 percent. A school that meets the requirements of this paragraph will be reinstated in the program, but must continue to comply with the requirements of paragraph (b)(2) of this section if its delinquency rate is still higher than 5 percent

(d) Any school which fails to comply with the requirements of paragraph (c) of this section will be terminated from the program and must return all Federal funds in the loan account to the Department. Any school which has been terminated must continue to pursue collections, and may reapply for participation in the program only when it has attained a delinquency rate of 5 percent or less.

(Catalog of Federal Domestic Assistance Number 13.342; Health Professions Student Loan Program)

(Sec. 215 of the PHS Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 740-744 of the PHS Act, 77 Stat. 170-173, 90 Stat. 2266-2268, 91 Stat. 390-391, 95 Stat. 920 (42 U.S.C. 294m-q)

Dated: May 26, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: May 26, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-14660 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-16-M

42 CFR Part 57

Nursing Student Loan Program

AGENCY: Public Health Sevice (PHS), HHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would amend existing regulations governing the Nursing Student Loan (NSL) program set forth in Subpart D of 42 CFR Part 57. This proposed rule: (1) Reflects technical amendments made to sections 835–841 of the Public Health Service Act (the Act) since the existing regulations were published in the **Federal Register** on May 9, 1974; (2) simplifies the existing regulations so that they are written in clear, concise language; and (3) would strengthen the regulations regarding recordkeeping and collection procedures and establish performance standards against which a nursing school's delinquency rate would be measured.

DATES: As discussed below, comments are invited. To be considered, comments must be received by July 18, 1983.

ADDRESS: Written comments should be addressed to the Director, Bureau of Health Professions (BHPr), 5600 Fishers lane, Parklawn Building, Room 8–05, Rockville, Maryland 20857. All comments received will be available for public inspection and copying at the Office of Program Support, BHPr, Room 7–74, 5600 Fishers Lane, Parklawn Building, Rockville, Maryland, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mrs. Alice M. Swift, 301 443–4540.

SUPPLEMENTARY INFORMATION: This proposed rule incorporates technical amendments made to sections 835–841 of the Act since the existing regulations were published in the **Federal Register** on May 9, 1974. Even though these technical amendments resulting from nondiscretionary statutory changes have not been published as a final rule, they are applicable to the administration of the NSL program as of the effective dates of their implementing statutes. The amendments are as follows:

(1) The Nurse Training Act of 1975, Pub. L. 94–63, enacted on July 29, 1975, repealed the Federal Capital Loan (FCL) Fund except to honor existing commitments and added training to be a nurse anesthetist as an eligible deferment period;

(2) The Nurse Training Amendments of 1979, Pub. L. 96–76, enacted on September 29, 1979, repealed the cancellation benefits on all loans made on or after September 29, 1979; and

(3) The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, enacted on August 13, 1981: repealed the prohibition against the receipt of concurrent National Direct Student Loans and Nursing Student Loans; increased the interest rate on a nursing student loan from 3 to 6 percent per year; and required that not less than $1,000,000 of each annual appropriation for Fiscal Years 1982, 1983, and 1984 for nursing student loan capital contributions be used for making loans to individuals who, on the date they receive the loan, have not been employed on a full-time basis or been enrolled in any educational institution on a full-time basis for at least 7 years, except that no individual may receive a loan of this type that exceeds $500 for any academic year.

This proposed rule also simplifies the existing regulations so that they are written in clear, concise language. The index has been revised to reflect these changes. This proposed rule also contains minor technical and editorial changes.

In addition, this proposed rule would strengthen the existing regulations regarding recordkeeping requirements and collection procedures and establish performance standards against which a nursing school's delinquency rate would be measured.

In a recent report of findings to Congress, the General Accounting Office (GAO) identified a number of deficiencies in the manner in which schools and the Federal Government administer the NSL program. The major areas of concern were the lack of compliance by schools with "due diligence" requirements in loan collections, excess cash balances in the schools' revolving loan funds, and deficient recordkeeping. The GAO findings were supported by a Department of Health and Human Services (HHS) analysis of a number of assessments conducted at participating schools during the past year. On December 8, 1981, the Senate Committee on Governmental Affairs held hearings on the high delinquency rates in the NSL and Health Professions Student Loan (HPSL) programs. The GAO findings were cited and the Committee expressed grave concern.

In March of 1982, the Department responded to concerns raised by the HHS analysis, the GAO findings, and the Senate Committee by issuing to all participating schools Policy Memorandum Number Two designed to assist institutions in correcting these deficiences. A HHS Action Plan outlined several changes that the HHS proposed to implement and indicated that those reflecting new compliance requirements would appear in the **Federal Register** for public comment. Subsequently, Policy Memoranda Numbers Three and Four containing clarification and updated information were sent to all participating schools.

The amendments to the existing regulations which incorporate technical amendments made to sections 835–841 of the Act by Pub. L. 94–63, Pub. L. 96–76, and Pub. L. 97–35, technical and editorial changes, and the proposed new compliance requirements are summarized below according to the sections and titles of the regulations. The proposed new compliance requirements are contained §§ 57.305, 57.306, 57.308, 57.310, 57.313a, and 57.315, and are substantially the same as those contained in the HPSL final regulations published in the **Federal Register** on June 3, 1983. The proposed new compliance requirements contained in § 57.316a differ from the HPSL final regulations of June 3, 1983, but are the same as those contained in the HPSL proposed rule published on June 3, 1983. The Secretary welcomes public comments on the proposed revisions reflecting new compliance requirements.

Section 57.301 Applicability

Pub. L. 94–63, enacted on July 29, 1974, repealed the Federal Capital Loan Fund except to honor existing commitments. This section is revised accordingly.

Section 57.302 Definitions

The Secretary is adding to this section the definition of a "State" in order to reflect the definition set forth in section 2(f) of the Act.

Section 57.304 Payment of Federal Capital Contributions

Pub. L. 97–35, enacted August 13, 1981, set forth the requirement that not less than $1,000,000 of each annual appropriation for Fiscal Years 1982, 1983, and 1984 for nursing student loan capital contributions be used for making loans to individuals who, on the date they receive the loan, have not been employed on a full-time basis or been enrolled in any educational institution on a full-time basis for at least 7 years. No individual may receive any loan of this type that exceeds $500 for any academic year. This section is revised to include this "set aside" provision.

Section 57.305 Nursing Student Loan Funds

The Secretary proposes to require schools to join credit bureaus. (See

§ 57.310(b)(1)(iii).) The proposed revision of § 57.305 would permit schools to charge the costs associated with membership in credit bureaus to the Fund.

Section 57.306 Eligibility and Selection of Nursing Student Loan Applicants

Paragraph (b)(2) of this section is revised to include the requirement that schools must use one of the national need analysis systems or any other procedure approved by the Secretary of Education set forth in 34 CFR 674.13. This revision is consistent with the provisions requiring the use of a national need analysis system for determining student need for the HPSL program and for the Department of Education's National Direct Student Loan program.

The Secretary also proposes to require NSL applicants who have previously attended institutions of higher education to submit a financial aid transcript. Such a transcript would: (1) Provide the school with information in order to assure that maximum allowable loan limits are not exceeded; (2) assist the school in planning how best to use NSL funds; (3) assist the school in determining the level of funding needed by the students; (4) aid borrowers in planning how to manage their indebtedness; and (5) provide the school with information regarding the creditworthiness of the students.

Section 57.308 Nursing Student Loan Promissory Note

Pub. L. 97–35, enacted on August 13, 1981, amended section 836(b)(5) of the Act to increase the interest rate on nursing student loans from 3 to 6 percent per year. This section is revised accordingly.

The Secretary also proposes to require that promissory notes contain a clause which will allow the acceleration of delinquent loans at the school's option. The revised promissory note form provided by the Secretary will include the acceleration provision.

Section 57.310 Repayment and Collection of Nursing Student Loans

Pub. L. 94–63, enacted on July 29, 1975, amended section 836(b)(2) of the Act to add periods of training to be a nurse anesthetist as eligible deferment periods. This section is revised accordingly.

The Secretary also proposes to amend § 57.310(a)(3) to require that the installments of a borrower's repayment schedule be paid no less often than quarterly, and to require that a borrower who is more than 60 days past due be placed on a monthly repayment schedule. The regulations now allow a borrower to choose a repayment schedule from those in use by the school. The Department believes that this revision would: (1) Assist the borrower in managing his or her debt by providing for smaller payments; (2) provide the schools with more frequent contact, which should minimize the likelihood of losing track of a borrower's location; and (3) make available a more consistent source of funds for lending to other students. In addition, placing borrowers who are more than 60 days past due on a monthly repayment schedule will help the school to keep closer track of this group of borrowers, who have demonstrated a need for greater attention by their failure to submit payment in a timely manner.

The Secretary also proposes to permit schools to grant forbearance whenever extraordinary circumstances such as unemployment, poor health, or other personal problems affect the borrower's ability to repay according to the repayment schedule. (See § 57.310(a)(3).) When a borrower demonstrates evidence of extraordinary circumstances which temporarily affect his or her ability to make payments, granting forbearance should prevent the borrower from entering delinquent status.

Section 57.310(b) requires that schools exercise "due diligence" in the collection of student loans. The existing regulations do not specify what collection efforts are necessary to satisfy the due diligence requirement, although recommended procedures are described in detail in the *Student Financial Aid Guidelines* distributed to all participating schools. The Secretary proposes to strengthen the due diligence requirements by amending § 57.310(b) to: (1) Require the use of collection agents by the schools; (2) mandate litigation when it is appropriate; and (3) require membership in credit bureaus and notification of such bureaus of all accounts more than 120 days past due, when appropriate. These proposed changes are expected to assist the schools in collecting on delinquent loans. The revised paragraph would also make clear that a school which fails to exercise due diligence in the collection of a loan is required to reimburse the Fund for any amounts uncollected because of that failure.

Section 57.312a Loan Cancellation for Full-Time Employment as a Registered Nurse

Pub. L. 96–76, enacted on September 29, 1979, repealed the cancellation benefits for all loans made on or after September 29, 1979. This section is revised accordingly.

Section 57.313a Loan Cancellation Reimbursement

Section 836 of the Act provides that where all or any part of a loan or interest is canceled for full-time employment as a nurse, or for death or disability, the Secretary shall pay the school its proportionate share of the amount canceled. The Secretary proposes to include a new section in the regulations which will address the impact of fund availability on loan cancellation reimbursements, and will assure that each school will receive an equitable share of funds in the event that insufficient funds are available in any year to pay all schools their full share.

Section 57.315 Records, Reports, Inspection, and Audit

The Secretary is revising this section so that schools will be in compliance with the audit requirements for Department of Health and Human Services grantees which are set forth in 45 CFR Part 74. These regulations require that each recipient for funds must have itself audited by non-Federal independent auditors every 2 years.

In order for both the Secretary and the schools to monitor the program more carefully, the Secretary also proposes to clarify that all required reports, which would include a new Quarterly Debt Management Report as well as the Annual Operating Report, must be submitted within 45 days of the close of the reporting period. Any school which fails to submit the required reports within 45 days of the close of the reporting period will be considered to be in non-compliance. Schools determined to be in non-compliance will be prohibited from disbursing funds and receiving new awards, and will need specific approval from the Secretary to resume use of funds. Under no circumstances may a school in non-compliance for failure to submit a required report retain funds longer than 6 months.

In addition, the Secretary proposes to require that schools retain repayment records of borrowers for a period of 5 years after loans have been repaid. The Secretary further proposes to reduce recordkeeping requirements by eliminating the requirement that records of applicants who are denied loans be retained for 5 years after a student ceases to be a full-time or half-time student.

Section 57.316 Nondiscrimination

The Secretary is adding to this section the fact that schools must comply with The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) and its implementing regulations, 45 CFR Part 90.

Section 57.316a Performance Standard

The Secretary proposes to establish a standard of performance which would require all participating schools to achieve a delinquency rate of not more than 5 percent by December 31, 1983, with a phase-in period for enforcing the performance standard, as follows:

(a) Those schools which do not meet the 5 percent performance standard by December 31, 1983 may continue participating in the program, but must reduce their delinquency rates by 50 percent (or those below 10 percent must reach 5 percent) by June 30, 1984;

(b) Those schools which fail to achieve the 50 percent reduction or 5 percent delinquency rate by June 30, 1984 must:

(1) Place funds and all subsequent collections into an interest-bearing account;

(2) Make no new loans;

(3) Reduce their delinquency rates by December 31, 1984 to 50 percent below the level which should have been achieved by June 30, 1984, (or reach the 5 percent standard), or be terminated from the program and return all loan funds to the Department. Those schools which fail to meet the 50 percent reduction or 5 percent standard by December 31, 1984, must continue to pursue collections, and when the 5 percent delinquency standard has been reached, may reapply for participation in the program.

Schools which go above the performance standard subsequent to December 31, 1984 will follow the same 6-month and 12-month performance check-point cycle. The Secretary will use the Quarterly Debt Management Reports and Annual Operating Reports to determine whether schools are in compliance with the performance standard and performance check-points.

The 5 percent standard represents a change from the proposed 10 percent standard which had been mentioned in policy memoranda. This change was made for consistency with the HPSL program final regulations, because it was determined that although NSL recipients have a lower average income than HPSL recipients, they also have smaller total amounts of loan indebtedness. Thus, their ability to repay in a timely manner should be comparable to that of HPSL recipients.

The use of a dollar delinquency rate also represents a change from the use of either a borrower or dollar delinquency rate as mentioned in policy memoranda. The Secretary believes that the use of the dollar delinquency rate will produce the best management of the NSL program by the schools. The dollar standard would, as a practical matter, encourage the schools to concentrate collection efforts on those borrowers with large delinquent loans, rather than dissipating those efforts among many borrowers with relatively small delinquencies—thus producing the maximum return of financial resources to the schools' loan funds so that more new loans may be made to deserving students. The dollar standard is also consistent with the method used by other Federal agencies with comparable programs, such as the Department of Education.

The determination that a 5 percent performance standard was reasonable for nursing schools to achieve was also based on: (1) The expected rate of delinquency among borrowers who are professionals at the time of repayment; (2) an analysis of data from the June 1981 Annual Operating Reports (AORs); and (3) a review of the types of problems that schools are having in the management of the program, and the ease with which many of them can be corrected.

The 5 percent standard allows for a higher level of delinquency than normally occurs among borrowers who are professionals at the time of repayment. According to the staff of the research division of the Federal Reserve Board, the delinquency rate for all borrowers for the commercial banking community at the end of Fiscal Year 1981 was 3.2 percent on secured and unsecured personal loans, 1.8 percent on secured auto loans, and 2.5 percent on unsecured credit card loans. Additional studies have indicated that professional borrowers generally have a lower delinquency rate on loans than the population at large. The more liberal 5 percent standard was selected to take into account the schools' somewhat limited expertise in loan collections as compared to the commercial banking community.

Using an approach that accounts overdue by more than 90 days should be considered delinquent and by including retired loans, a formula was developed for calculating borrowers and dollar delinquency rates as of June 30, 1981, which was applied to data contained on the AORs submitted for the same ending date. For those schools that had a delinquency rate greater than the proposed 5 percent standard, a significant portion of the delinquency appeared to be the result of inadequate management by the schools, rather than unwillingness to repay on the part of the borrowers. For example, many schools had not paid sufficient attention to maintaining accurate records of those individuals who were in deferment activities or were eligible for cancellation, and thus these individuals were being counted as delinquent when in fact they had a legitimate reason for not making payments. With improved management systems, these deficiencies should be easily correctable.

Another contributor to the high rate of delinquency is the number of uncollectible loans which schools are carrying on their books and not attempting to remove through a write-off precedure. Schools are required to take one of two actions regarding accounts considered to be uncollectible: (1) Show evidence of due diligence in attempting collection, in which case permission may be granted for write-off; or (2) reimburse the loan fund for the amount of the loan. By taking one of these actions, loans classified as uncollectible may be removed from the books, resulting in further reduction in the delinquency rate.

The Secretary proposes to establish a uniform formula for computing the delinquency rate. For purposes of this formula, the Secretary would define a delinquent account as one more than 60 days overdue. To consider accounts that are overdue more than 60 days as delinquent is consistent with the final regulations for the HPSL program. In order for a school to maintain a low delinquency rate, it must begin to pursue borrowers as soon they become late in their payments. Such a strategy should result in few delinquencies in excess of 60 days. The Secretary also proposes to exclude retired loans from the delinquency rate formula, since including them obscures current collection efforts.

Regulatory Flexibility Act

The Department certifies that these regulations will not have a significant economic impact on a substantial number of small entities and therefore do not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980. The new recordkeeping requirements resulting from these regulations will impose a total response burden of 16,500 hours, or an average of 10 hours annually per nursing school respondent. This response burden is minor and will not have a significant economic impact on either small or large schools.

Executive Order 12291

The Department has also determined that this rule is not a "major rule" under Executive Order 12291; therefore, a regulatory impact analysis is not required. As is discussed above, the reporting requirements will have minor impact on schools. Additionally, the impact on students is relatively small. As of June 30, 1981, 26 percent of all borrowers were delinquent, representing approximately $19.1 million. This NPRM would require schools to achieve delinquency rates of not more than 5 percent by December 31, 1983 or meet a series of performance check-points. The Department does not have a specific estimate of the cost of debt collection activities, but believes these are also small, and, therefore, the proposed rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291.

Paperwork Reduction Act

The existing reporting and recordkeeping requirements contained in § 57.303 and § 57.308 have been cleared by OMB and given approval number 0915–0044. The new reporting and recordkeeping requirements contained in § 57.306 and § 57.315 of these regulations have also been cleared by OMB and given approval numbers 0915–0048 and 0915–0046, respectively.

List of Subjects in 42 CFR Part 57

Dental health, Education of disadvantaged, Educational facilities, Educational study program, Emergency medical services, Grant programs—health, Health facilities, Health professions, Loan programs—health, Medical and dental schools, Scholarships and fellowships, Student aid.

(Catalog of Federal Domestic Assistance Number 13.364; Nursing Student Loan Program)

Dated: May 26, 1983.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: May 26, 1983.

Margaret M. Heckler,

Secretary.

42 CFR Part 57 is proposed to be amended by using Subpart D as follows:

PART 57—GRANTS FOR RESEARCH PROPECTS

* * * * *

Subpart D—Nursing Student Loans

Sec.

57.301 Applicability.
57.302 Definitions.
57.303 Application by school.
57.304 Payment of Federal capital contributions.
57.305 Nursing student loan funds.
57.306 Eligibility and selection of nursing student loan applicants.
57.307 Maximum amount of nursing student loan.
57.308 Nursing student loan promissory note.
57.309 Payment of nursing student loans.
57.310 Repayment and collection of nursing student loans.
57.311 Cancellation of nursing student loans for disability or death.
57.312 Repayment of loans for service in a shortage area.
57.313 Loan cancellation for full-time employment as a registered nurse.
57.313a Loan cancellation reimbursement.
57.314 Repayment of loans made after November 17, 1971, for failure to complete a program of study.
57.315 Records, reports, inspection, and audit.
57.316 Nondiscrimination.
57.316a Performance standard.
57.317 Additional conditions.
57.318 Noncompliance.

Authority: Sec. 215, 58 Stat. 170, as amended (42 U.S.C. 216); sections 835–841, 78 Stat. 913–916, as amended (42 U.S.C. 297a–h).

Subpart D—Nursing Student Loans

§ 57.301 Applicability.

The regulations in this subpart apply to the Federal capital contributions made by the Secretary to public or other nonprofit schools of nursing for the establishment of nursing student loan funds and to loans made to students from these funds.

§ 57.302 Definitions.

As used in this subpart:

"Academic year" means the traditional, approximately 9-month September to June annual session. For the purpose of computing academic year equivalents for students who, during a 12-month period, attend for a longer period than the traditional academic year, the academic year will be considered to be of 9 months' duration.

"Act" means the Public Health Service Act, as amended.

"Date upon which a student ceases to be a full-time or half-time student" means the first day of the month which is nearest to the date upon which an individual ceases to be a full-time or half-time student as defined in this section.

"Federal capital loan" means a loan made by the Secretary to a school under section 827(a) of the Act, as in effect prior to July 29, 1975, the proceeds of which are to be returned to the Secretary.

"Full-time student" means a student who is enrolled in a school and pursuing a course of study which constitutes a full-time academic workload, as determined by the school, leading to a diploma in nursing, an associate degree in nursing or an equivalent degree, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing.

"Good standing" means the eligibility of a student to continue in attendance at the school where he or she is enrolled as a student in accordance with the school's standards and practices.

"Half-time student" means a student who is enrolled in a school and pursuing a course of study which constitutes at least one-half of a full-time academic workload but less than a full-time academic workload, as determined by the school, leading to a diploma in nursing, an associate degree in nursing or an equivalent degree, a baccalaureate degree in nursing or an equivalent degree, or a graduate degree in nursing.

"Institutional capital contribution" means the money provided by a school, in an amount not less than one-ninth of the Federal capital contribution, and deposited in a nursing student loan fund.

"National of the United States" means: (1) A citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

"Nursing student loan" means the amount of money advanced to a student by a school from a nursing student loan fund under a properly executed promissory note.

"Registered nurse" means an individual who has been licensed by a State Board of Nursing to practice professional nursing in accordance with State licensing laws requiring as a minimum one of the degrees or diplomas specified in this section.

"School" means a public or other nonprofit school of nursing as defined in section 853 of the Act.

"Secretary" means the Secretary of Health and Human Services, and any other officer or employee to whom the authority involved has been delegated.

"State" means, in addition to the several States, only the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.303 Application by school.

(a) Each school seeking a Federal capital contribution must submit an application at the time and in the form and manner that the Secretary may

require.[1] The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the statute, the regulations of this subpart, and the terms and conditions of the award.

(b) Each application will be reviewed to determine eligibility and the reasonableness of the amount of Federal support requested. The Secretary may require the applicant to submit additional data for this purpose.

(c) An application will not be approved unless an agreement between the Secretary and the applicant school for a Federal capital contribution under section 835 of the Act is reached.

§ 57.304 Payment of Federal capital contributions.

(a) *Annual payment.* The Secretary will make payments at a time determined by him or her, to each school with which he or she has entered into an agreement under the Act.

(1) The Secretary will first make payments in the manner described in paragraph (a)(2) of this section of not less than $1,000,000 of the amount of Federal funds determined by the Secretary at the time of payment to be available for making loans under this subpart to schools submitting an application to be used only for the purposes of making loans to individuals qualified to receive loans under this subpart who, on the date they receive the loan, have not been employed on a full-time basis or been enrolled in any educational institution on a full-time basis for at least 7 years. An individual may not receive a loan under this subparagraph that exceeds $500 for any academic year.

(2) If the total of the amounts requested for any fiscal year by all schools for Federal capital contributions minus the amount received under paragraph (a)(1) of this section exceeds the amount of Federal funds determined by the Secretary at the time of payment to be available for this purpose, the payment to each school will be reduced to whichever is smaller: (i) The amount requested in the application, or (ii) an amount which bears the same ratio to the total amount of Federal funds determined by the Secretary at the time of payment to be available for that fiscal year for the Nursing Student Loan program as the number of full-time students estimated by the Secretary to be enrolled in that school bears to the estimated total number of full-time students in all participating schools during that year.

(3) Amounts remaining after these payments are made will be distributed in accordance with this paragraph among schools whose applications requested more than the amount paid to them, but with whatever adjustments that may be necessary to prevent the total paid to any school from exceeding the total requested by it.

(b) *Method of payment.* The payment of Federal capital contributions to a school will be paid in a manner that avoids unnecessary accumulations of money in any nursing student loan fund.

§ 57.305 Nursing student loan funds.

(a) *Funds established with Federal capital contributions.* Any fund established by a school with Federal capital contributions will be deposited and carried in a special account of the school. At all times the funds must contain monies representing the institutional capital contribution.

(1) Except for funds transferred under paragraph (a)(2) of this section, this fund is to be used by the school only for: (i) Nursing student loans to full-time and half-time students; (ii) capital distribution as provided in section 839 of the Act or as agreed to by the school and the Secretary; (iii) costs of litigation; costs associated with memberships in credit bureaus; and, to the extent specifically approved with by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of nursing student loans.

(2) An amount not to exceed 20 percent of the amount paid to a school from the appropriation for any fiscal year for Federal capital contributions may be transferred by the school to be used for scholarship awards under section 845 of the Act. However, if the Secretary finds in a particular case that a school has demonstrated an unusual need for scholarship funds, he or she may approve the transfer of any amount in excess of 20 percent to be used for scholarship awards. In the case of any transfer under this subparagraph, the proportionate amount of the institutional capital contribution (i.e., one-ninth of the amount so transferred) may be withdrawn by the school from the fund.

(b) *Funds established with Federal capital loans.* (1) Each Federal capital loan is subject to the terms of the promissory note executed by an authorized official on behalf of the borrowing school.

(2) The Federal capital loans must be carried in a special account of the school, to be used by the school only for: (i) Repayments of principal and interest on Federal capital loans; and (ii) costs of litigation, costs associated with membership in credit bureaus, and, to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of nursing student loans.

§ 57.306 Eligibility and selection of nursing student loan applicants.

(a) *Determination of eligibility.* (1) Applicants are eligible for consideration for a nursing student loan if they are:

(i) Citizens, nationals, or permanent residents of the United States, permanent residents of the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or American Somoa, or lawful permanent residents of the United States, the Commonwealth of Puerto Rico, the Virgin Islands or Guam;

(ii) Enrolled, or accepted for enrollment in the school as full-time or half-time students;

(iii) In need of the amount of the loan to pursue the course of study at the school; and

(iv) Capable, in the opinion of the school, of maintaining good standing in the course of study.

(2) An applicant who has previously attended an institution of higher education must submit a financial aid transcript which includes at least the following data:

(i) Applicant's name and social security number;

(ii) Amounts and sources of loans and grants previously received by the applicant for study at an institution of higher education;

(iii) Whether the applicant is in default on any of these loans, or owes a refund on any grants;

(iv) Certification from each institution previously attended by the applicant that the applicant has received no financial aid, if applicable; and

(v) From each institution previously attended, the signature of an official authorized by the institution to sign such transcripts on behalf of the institution.

(b) *Selection of nursing student loan applicants and determination of need.* The school will select qualified applicants, make reasonable determinations of need, and determine the amount of student loans.

(1) In selecting nursing student loan applicants the school will give preference to licensed practical nurses.

(2) In determining whether a student is in need of a nursing student loan to pursue a full-time or half-time course of study at the school, the school will take into consideration:

(i) The financial resources available to the student by using one of the national need analysis systems or any other

[1] Applications and instructions are available from the Division of Student Assistance, Bureau of Health Professions, 5600 Fishers Lane, Parklawn Building, Room 9A-25, Rockville, Maryland 20857.

procedure approved by the Secretary of Education and published under 34 CFR 674.13 in combination with other information which the school has regarding the student's financial status; and

(ii) The costs reasonably necessary for the student's attendance at the school, including any special needs and obligations which directly affect the student's financial ability to attend the school on a full-time or half-time basis. The school must document the criteria used for determining these costs.

§ 57.307 Maximum amount of nursing student loan.

The total of the nursing student loans made from the fund to any student for an academic year may not exceed $2,500. The maximum amount loaned during a 12-month period to any student enrolled in a school which provides a course of study longer than the 9-month academic year may be proportionately increased. The total of all nursing student loans to any student may not exceed $10,000.

§ 57.308 Nursing student loan promissory note.

(a) *Promissory note form.* Each nursing student loan must be evidenced by a promissory note approved by the Secretary.

(1) Each promissory note must state that the loan will bear interest on the unpaid balance computed only for periods during which repayment of the loan is required, at the rate of 6 percent per year.

(2) Each promissory note must contain an acceleration clause provided by the Secretary, which will permit the acceleration of delinquent loans at the school's option.

(3) A copy of each executed note must be supplied by the school to the student borrower.

(b) *Security.* A school may require security or endorsement only if the borrower is a minor and if, under the applicable State law, the note signed by him or her would not create a binding obligation.

§ 57.309 Payment of nursing student loans

(a) Nursing student loans from any fund may be paid to or on behalf of student borrowers in installments considered appropriate by the school except that a school may not pay to or on behalf of any borrower more during any given installment period (e.g., semester, term, or quarter) than the school determines the student needs for that period.

(b) No payment may be made from a fund to or on behalf of any student borrower if at the time of the payment the borrower is not a full-time or half-time student.

§ 57.310 Repayment and collection of nursing student loans

(a) Each nursing student loan, including accrued interest, will be repayable in equal or graduated periodic installments in amounts calculated on the basis of a 10-year repayment period. Repayment of a loan must begin 9 months after the student ceases to be a full-time or half-time student, except that if a borrower reenters the same or another school as a full-time or half-time student within the 9-month period, the date upon which interest will accrue and the repayment period will begin will be determined by the date on which the student last ceases to be a full-time or half-time student at that school.

(1) The following periods will be excluded from the 10-year repayment period: (i) All periods for up to a total of 3 years of active duty performed by the borrower as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration Corps or the U.S. Public Health Service Corps; (ii) all periods for up to a total of 3 years of service as a volunteer under the Peace Corps act; and (iii) all periods of up to a total of 5 years during which the borrower is pursuing a full-time course of study at a school leading to a baccalaureate degree in nursing or an equivalent degree, or to a graduate degree in nursing, or is otherwise pursuing advanced professional training in nursing (or training to be a nurse anesthetist). For purposes of this paragraph, "otherwise pursuing advanced professional training in nursing" shall include only full-time training, beyound the first diploma or degree in nursing received by the particular borrower, of at least one academic year which will advance the borrower's knowledge of and strengthen his or her skills in the provision of nursing services. [2]

(2) Subject to the provisions of paragraph (b)(3) of this section, a borrower must establish a repayment schedule with the school providing for payments not less often than quarterly. Any borrower whose repayment is delinquent more than 60 days must establish a monthly repayment schedule with the school. However, a borrower may at his or her option and without penalty, prepay all or part of the principal and accrued interest at any time.

(3) A school may grant forbearance whenever extraordinary circumstances such as unemployment, poor health or other personal problems temporarily affect the borrower's ability to make scheduled loan repayments.

(b) *Collection of nursing student loans.* (1) Each school at which a fund is established must exercise due diligence in the collection of all nursing student loans due the fund. In any instance where the Secretary determines that a school has failed to exercise due diligence in the collection of a loan, the school will be required to reimburse the Fund the full amount of principal and interest that remains uncollected because of that failure. In the exercise of due diligence, the school must use the collection practices which are generally accepted among institutions of higher education and which are at least as entensive and effective as those used in the collection of other student loan accounts due the school. In addition, the school must at least:

(i) Use collection agents, which may include the use of an internal collection agent;

(ii) Institute legal proceedings against borrowers after all attempts at collection have failed, provided that such litigation is appropriate; and

(iii) Become a member of a credit bureau and notify the credit bureau of accounts overdue by more than 120 days, when appropriate.

(2) With respect to any nursing student loan made after June 30, 1969, the school may fix a charge for failure of the borrower to pay all or part of an installment when it is due, and in the case of a borrower who is entitled to a deferment under section 836(b)(2) of the Act, or cancellation or repayment under section 836(b)(3) of the Act, for any failure to file timely and satisfactory evidence of the entitlement. The amount of the charge may not exceed $1 for the first month or part of a month by which the installement or evidence is late and $2 for each succeeding month or part of a month. The school may elect to add to amount of this charge to the principal amount of the loan as of the day after the day on which the installment or evidence was due, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(3) With respect to any nursing student loan made after June 30, 1969,

[2] Individuals who received nursing student loans prior to July 1, 1969, remain subject to the repayment provisions of 42 CFR 57.314(a)(3)(1976) as adopted on February 4, 1974. These provisions can be found at 39 FR 16473 (May 9, 1974), and a copy can be obtained by writing the Division of Student Assistance, Bureau of Health Professions, 5600 Fishers Lane, Parklawn Building, Room 9A-33, Rockville, Maryland 20857.

the school may require the borrower to make payments of at least $15 per month on all outstanding nursing student loans during the repayment period.

§ 57.311 Cancellation of nursing students loans for disability or death.

(a) *Permanent and total disability.* The Secretary will cancel a borrower's indebtedness in accordance with section 836(b)(4) of the Act if the borrower is found to be permanently and totally disabled on recommendation of the school and as supported by whatever medical certification the Secretary may require. A borrower is totally and permanently disabled if he or she is unable to engage in any substantial gainful activity because of a medically determinable impairment, which the Secretary expects to continue for a long time or to result in death.

(b) *Death.* The Secretary will cancel a borrower's indebtedness in accordance with section 836(b)(4) of the Act upon the death of the borrower. The school to which the borrower was indebted must secure a certification of death or whatever official proof is conclusive under State law.

§ 57.312 Repayment of loans for service in a shortage area.

(a) *Service in a shortage area.* A person who: (1) Has obtained a degree as specified in section 836(h)(1)(A) of the Act; (2) has obtained one or more nursing student loans or any other loans necessary for costs (including tuition, books, fees, equipment, living and other expenses which the Secretary determines were necessary) of attending a school of nursing; and (3) enters into an agreement with the secretary to serve as a full-time registered nurse for at least 2 consecutive years in a shortage area determined by the Secretary is entitled to have a portion of these loans repaid by the Secretary in accordance with paragraph (b) of this section. Prior to entering an agreement for repayment of loans, other than nursing student loans, the Secretary will require an individual to provide evidence satisfactory to the Secretary of the existence and reasonableness of the education loans, including a copy of the written loan agreement establishing the loan, and a notarized statement that the copy is a true copy of the loan agreement.

(b) *Repayment.* Loan repayment will be made by the Secretary to persons who meet the conditions set forth in paragraph (a) of this section. Payment will be as follows:

(1) Upon completion by the borrower of the first year of service as specified in the agreement, the secretary will pay 30 percent of the prinicipal of, the interest on, each loan which was unpaid as of the date the borrower began his or her service.

(2) Upon completion by the borrower of the second year of service the Secretary will pay another 30 percent of the principal of, and the interest on, each loan which was unpaid as of the date the borrower began his or her service.

(3) Upon completion by the borrower of a third year of service, the Secretary will pay another 25 percent of the principal of, and interest on, each loan which was unpaid as of the date the borrower began his or her service.

(4) No more than 85 percent of the principal of any loan will be paid under this section.

§ 57.313 Loan cancellation for full-time employment as a registered nurse.

(a) *For loans made after November 18, 1971, and before September 29, 1979.* A person who: (1) Received one or more nursing student loans after November 18, 1971, and before September 29, 1979; (2) is in compliance with the requirements of Title VIII of the Act and these regulations; and (3) engages in full-time employment as a registered nurse (including teaching in any of the fields of nurse training or service as an administrator, supervisor, or consultant in any of the fields of nursing) in any public or nonprofit private agency, institution, or organization (including neighborhood health centers) is entitled to have a portion of these nursing student loans canceled as follows: Fifteen percent of the total amount of the loans plus accrued interest on the loan which is unpaid on the first day of his or her service, for each of the first, second, and third year of service, and 20 percent of the total amount of the loan plus accrued interest on the loan for each complete fourth and fifth year of service thereafter, up to 85 percent of the total of the loans, plus accrued interest.

(b) *Continuation of provisions for cancellation of loans made prior to November 18, 1971:* A person who received one or more nursing student loans prior to November 18, 1971, may still receive cancellation of these loans for service under section 836(i) of the Act. The regulations set forth in 42 CFR 57.316 (a) and (b)(6) (1976), as adopted on February 4, 1974, remain applicable to cancellation on this basis. The provisions can be found at 39 FR 16473 (May 9, 1974) and a copy can be obtained by writing to the Division of Student Assistance, Bureau of Health Professions, Room 9A-33, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

(c) The determination of whether a person is entitled to have any portion of his or her nursing student loan canceled for full-time employment as a registered nurse will be made by the institution to whose fund his or her loan is payable, upon receipt and evaluation of an application for cancellation from that person.

§ 57.313a Loan cancellation reimbursement.

In the event that insufficient funds are available to the Secretary in any fiscal year to enable him or her to pay to all schools their proportionate shares of all loans and interest canceled under this subpart for full-time employment as a nurse, death, or disability:

(a) Each school will be paid an amount bearing the same ratio to the total of the funds available for that purpose as the principal of loans canceled by that school in that fiscal year bears to the total principal of loans canceled by all schools in that year; and

(b) Any additional amounts to which a school is entitled will be paid by the Secretary at the time distribution of the assets of the school's fund under section 839 of the Act.

§ 57.314 Repayment of loans made after November 17, 1971, for failure to complete a program of study.

In the event that the Secretary undertakes to repay educational loans under section 836(j) of the Act, he or she will use the following criteria to make a determination as to each applicant's eligibility:

(a) An applicant will be considered to have failed to complete the course of study in nursing for which an eligible education loan was made upon certification by a school of nursing that the individual ceased to be enrolled in the school subsequent to November 17, 1971;

(b) An applicant will be considered to be in exceptionally needy circumstances if, upon comparison of the income and other financial resources of the applicant with his or her expenses and financial obligations, the Secretary determines that repayment of the loan would constitute a serious economic burden on the applicant. In making this determination, the Secretary will take into consideration the applicant's net financial assets, his or her potential earning capacity, and the relationship of the income available to the applicant to the low-income levels published annually by the Secretary under paragraph (c) of this section;

(c) An applicant will be considered to be from a low-income family if the applicant comes from a family with an annual income below a level based on low-income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in this program, and the family has no substantial net financial assets. Income levels as adjusted will be published annually by the Secreatey in the Federal Register.

(d) An applicant will be considered to be from a disadvantaged family if the individual comes from a family in which the annual income minus unusual expenses which contribute to the economic burdens borne by the family does not exceed the low-income levels published by the Secretary under paragraph (c) of this section and the family has no substantial net financial assets;

(e) An applicant will be considered as not having resumed his or her nursing studies within two years following the date the individual ceased to be a student upon a certification so stating from the applicant; and

(f) An applicant will be considered as not reasonably expected to resume his or her nursing studies within two years following the date upon which he or she terminated these studies, based upon consideration of the reasons for the applicant's failure to complete these studies, taking into account such factors as academic, medical, or financial difficulties.

The Secretary will only repay education loans made after November 17, 1971.

§ 57.315 Records, reports, inspection, and audit.

(a) *Records and reports.* (1) Each Federal capital contribution and Federal capital loan is subject to the condition that the school must maintain those records and file with the Secretary those reports relating to the operation of its nursing student loan fund that the Secretary may find necessary to carry out the purposes of the Act and these regulations. All required reports must be submitted to the Secretary within 45 days of the close of the reporting period. Any school which fails to submit any required report within 45 days of the close of the reporting period must place the revolving fund and all subsequent collections into an interest-bearing account and make no new loans until the Secretary determines that the school is in compliance with the requirement. Any school that remains in non-compliance under this provision for more than 6 months may be terminated from participation in the program and may be required to return all funds to the Department.

(2) The following student records must be retained by the school for 5 years after an individual student ceases to be a full-time or half-time student:

(i) Approved student applications for nursing student loans;

(ii) Documentation of the financial need of applicants; and

(iii) Copy of financial aid transcripts.

(3) The following repayment records for each individual borrower must be retained for at least 5 years from the date of retirement of a loan:

(i) The amount and date of each loan;

(ii) The amount and date of each payment or cancellation;

(iii) Records of periods of deferment;

(iv) Date, nature, and result of each contact with the borrower or proper endorser in the collection of an overdue loan;

(v) Copies of all correspondence to or from the borrower and endorser;

(vi) Copies of all correspondence with a collection agency related to the individual borrower;

(vii) Copies of all correspondence with a credit bureau related to an individual borower; and

(viii) Copies of all correspondence relating to uncollectible loans which have been written off by the Federal Government or repaid by the school.

(4) The school must also retain other records as the Secretary may prescribe. In all cases where questions have arisen as a result of a Federal audit, the records must be retained until resolution of all questions.

(b) *Inspection and audit.* (1) Any application for a Federal capital contribution will constitute the consent of the applicant school to inspection and fiscal audit, by the Secretary and the Comptroller General of the United States or any of their duly authorized representatives, of the fiscal and other records of the applicant school which relate to the Federal capital contribution or Federal capital loan.

(2) The school must comply with the audit requirements of the Department of Health and Human Services Administration of Grants regulations which are set forth in 45 CFR Part 74.

§ 57.316 Nondiscrimination.

Participating schools are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations apply:

(a) Section 855 of the Act (42 U.S.C. 298b–2) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in Federally assisted programs on the grounds of race, color, or national origin).

(c) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in Federally assisted education programs).

(d) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in Federally assisted programs on the basis of handicap).

(e) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) and its implementing regulations, 45 CFR Part 90.

§ 57.316a Performance standard.

By December 31, 1983, and on each June 30, thereafter, except as provided in paragraph (b) of this section, each school must have a delinquency rate (as calculated in paragraph (a) of this section) of not more than 5 percent. All accounts overdue by more than 60 days must be considered delinquent.

(a) The delinquency rate of each school must be calculated by dividing the sum of the total amount of principal outstanding on all loans delinquent by the total principal amount loaned for all loans in repayment status.

(b) Any school that has a delinquency rate higher than 5 percent on December 31, 1983 or on June 30 of any year thereafter will be required to: (1) Reduce its delinquency rate by 50 percent (or a school with a delinquency rate below 10 percent must reduce its rate to 5 percent) by the close of the following six-month period; and (2) by the end of each succeeding six-month period, reduce its delinquency rate to 50 percent of the required rate for the previous six-month period, until it reaches 5 percent.

(c) Any school which fails to comply with the requirements of paragraph (b) of this section will receive no new NSL funds and will be required to: (1) Place the revolving fund monies and all subsequent collections into an insured interest-bearing account; (2) make no new loans; and (3) by the end of the succeeding six-month period, reduce the delinquency rate to 50 percent of the rate it failed to achieve under paragraph (b) of this section, or 5 percent. A school that meets the requirements of this paragraph will be reinstated in the program, but must continue to comply

with the requirements of paragraph (b)(2) of this section if its delinquency rate is still higher than 5 percent.

(d) Any school which fails to comply with the requirements of paragraph (c) of this section will be terminated from the program and must return all Federal funds in the loan account to the Department. Any school which has been terminated must continue to pursue collections, and may reapply for participation in the program only when it has attained a delinquency rate of 5 percent or less.

§ 57.317 Additional conditions.

The Secretary may with respect to any agreement entered into with any school under § 57.305, impose additional conditions prior to or at the time of any award when in his or her judgment the conditions are necessary to assure or protect advancement of the purposes of the agreement, the interest of the public health or the conservation of funds awarded.

§ 57.318 Noncompliance.

Whenever the Secretary finds that a participating school has failed to comply with the applicable provisions of the Act or the regulations of this subpart he or she may, on reasonable notice to the school, withhold further payments of Federal capital contributions and take other action, including the termination of any agreement, as he or she finds necessary to enforce the Act and regulations. In such case no further expenditures shall be made from the nursing student loan fund or funds involved until the Secretary determines that there is no longer any failure of compliance.

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federal register

Friday
June 3, 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.

Arizona:	
AZ83-5103	Mar. 4, 1983.
AZ83-5107	Mar. 18, 1983.
California:	
CA82-5112	July 16, 1982.
CA82-5118	Aug. 20, 1982.
CA82-5120	Aug. 27, 1982
CA82-5122	Sept. 3, 1982.
District of Columbia: DC82-3031	Nov. 12, 1983.
Florida: FL83-1032	Apr. 29, 1983.
Illinois: IL82-2049	Oct. 15, 1982.
Indiana:	
IN83-2026	Mar. 25, 1983.
IN83-2029	Apr. 8, 1983.
IN83-2030	May 6, 1983.
IN83-2031	Apr. 22, 1983.
IN83-2032	May 13, 1983.
IN83-2033	Apr. 29, 1983.
Kentucky: KY82-1065	Oct. 15, 1982.
Louisiana:	
LA82-4021	May 7, 1982.
LA82-4053	Nov. 5, 1982.
LA83-4001	Jan. 7, 1983.
LA83-4019	Feb. 4, 1983.
Mississippi: MS83-1015	Apr. 1, 1983.
New Mexico: NM83-4032	Apr. 15, 1983.
New York: NY83-3018	May 20, 1983.
Ohio:	
OH83-2006	Feb. 11, 1983.
OH83-2039	May 13, 1983.
Pennsylvania: PA81-3043	July 17, 1981.
Texas:	
TX82-4025	Jun. 18, 1982.
TX83-4004	Jan. 7, 1983.
TX83-4006	Jan. 7, 1983.
TX83-4026	Apr. 8, 1983.
Virginia: VA81-3015	Mar. 6, 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.

Connecticut: CT82-3001(CT83-3021)	Feb. 5, 1982.
Illinois: IL82-2051(IL83-2043)	Aug. 7, 1982.
Maryland: MD81-3074(MD83-3010)	Oct. 9, 1981.
Missouri & Kansas: MO82-4013(MO83-4043).	Apr. 9, 1982.
Texas: TX82-4054(TX83-4042)	Nov. 5, 1982.
Washington: WA82-5117(WA83-5110)	Aug. 13, 1982.

Signed at Washington, D.C., this 28th day of May 1983.

Dorothy P. Come,

Assistant Administrator Wage and Hour Division.

BILLING CODE 4510-27-M

DECISION NO. AZ83-5103 - Mod. #2
(48 FR 9424 - March 4, 1983)
Maricopa County, Arizona

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Electricians on projects having an electrical contract value of less than $20 million	$16.00	$2.14+ 3%
Electricians on projects having an electrical contract value of $20 million or more	17.95	2.14+ 3%

DECISION NO. AZ83-5107 - Mod. #2
(48 FR 11605 - March 18, 1983)
Statewide, Arizona

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 4:		
Electricians on projects having an electrical contract value of less than $20 million	16.00	2.14+ 3%
Electricians on projects having an electrical contract value of $20 million or more	17.95	2.14+ 3%

DECISION NO. CA82-5118 - Mod. #10
(47 FR 36513 - August 20, 1982)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Stonemasons:		
Area 4	$18.00	$4.20
Area 5	17.59	4.60
Electricians:		
Area 1:		
Electricians	22.15	3.78+ 3%
Cable Splicers	22.60	3.78+ 3%
Area 4:		
Electricians	22.88	3.55+ 3%
Cable Splicers	23.93	3.55+ 3%
Area 5:		
Electricians	21.79	4.13+ 3%
Cable Splicers	22.29	4.13+ 3%
Area 6:		
Electricians	21.00	4.90+ 3%
Cable Splicers	21.50	4.90+ 3%
Area 8:		
Electricians	22.20	3.18+ 3%
Cable Splicers	23.70	3.18+ 3%
Area 10:		
Electricians	25.70	3.18+ 3%
Cable Splicers	27.20	3.18+ 3%
Line Construction:		
Area 9:		
Groundmen	20.15	3.18+ 3%
Linemen; Equipment Operators	25.70	3.18+ 3%
Cable Splicers	27.20	3.18+ 3%
Tile Setters:		
Area 4	18.00	4.21

DECISION NO. CA82-5112 - Mod. #14
(47 FR 31154 - July 16, 1982)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers: Stonemasons:		
Area 7	$17.57	$3.89
Drywall Installers/Lathers	20.12	6.255
Electricians:		
Area 12:		
Electricians	23.34	3%+5.05
Cable Splicers	26.26	3%+5.05
Area 13:		
Electricians	23.60	3%+6.15
Cable Splicers	26.55	3%+6.15
Area 15:		
Electricians	24.00	3%+5.42
Line Construction:		
Area 9:		
Groundmen	$17.67	$6.20+ 3%
Line Equipment Operator	21.20	6.20+ 3%
Linemen	23.56	6.20+ 3%
Area 11:		
Groundmen	20.40	5.42+ 3%
Line Equipment Operator	21.60	5.42+ 3%
Linemen	24.00	5.42+ 3%

DECISION NO. CA82-5120 - Mod. #10
(47 FR 38022 - August 27, 1982)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers: Stonemasons:		
Area 7	$17.57	$3.89
Electricians:		
Area 10:		
Electricians	23.34	3%+5.05
Cable Splicers	26.26	3%+5.05
Area 11:		
Electricians	$23.60	$6.15+ 3%
Cable Splicers	26.55	6.15+ 3%
Area 13:		
Electricians	24.00	5.42+ 3%
Area 4:		
Electricians	18.25	1.20+ 3%

MODIFICATION P. 3

DECISION NO. CA82-5122 - Mod. #3 (47 FR 39075 - September 3, 1982) San Diego County, California	Basic Hourly Rates	Fringe Benefits
Change:		
Cement Masons:		
Cement Masons	$14.66	$6.47
Color Work; Composition, Mastic or Epoxy; Finishing Machine; Curb Machine	14.96	6.47
Electricians:		
Electricians:		
Technicians	22.15	3%+3.78
Cable Splicers	22.60	3%+3.78
Utility Technicians	16.50	3%+ .44
Glaziers	17.87	3.15
Line Construction:		
Groundmen	16.37	4%+3.65
Linemen	21.26	4%+3.65
Cable Splicers	21.56	4%+3.65
Painters:		
Brush, Paint Burner Brush (swing stage), Spray	19.37	4.67
Paperhangers, Spray (swing stage)	18.62	4.67
Sandblaster; Iron, steel and bridge painter (groundwork); Iron, steel and bridge painters, Spray (groundwork); Riggers, climbing steel; Brush, climbing steel and bridge; Spray, climbing steel and bridge	18.87	4.67
Sandblaster (swing stage); Iron, steel and bridge painters (swing stage); Iron, steel and bridge painter, Spray (swing stage)	19.12	4.67
Steeplejack	19.37	4.67
Taper	20.02	4.67
	19.37	4.67
Parking Lot Work and/or Highway Markers:		
Traffic delineating device applicator	$13.41	$1.60+b
Wheel stop installer; Striper; and Sandblaster	12.92	1.60+b
Slurry Seal Operation:		
Traffic surface protective coating applicator	13.41	1.60+b
Mixer Operator	12.92	1.60+b
Squeegee Man:		
Applicator Operator: and Shuttleman	11.45	1.60+b
Top Man	9.62	1.60+b
Plasterers	17.61	4.27
Plasterers' Tenders	16.34	5.29
Soft Floor Layers	18.45	3.94

DECISION NO. DC82-3031- Mod. #4 (47 FR 51304-November 12, 1982) District of Columbia, Maryland-Montgomery & Prince Georges Counties; & DC Training School; Virginia-Independent City of Alexandria, Arlington, & Fairfax Counties.	Basic Hourly Rates	Fringe Benefits
ADD:		
ASBESTOS WORKER HELPER		$1.11

DECISION NO. VA81-3015- Mod. #11 (46 FR 15666-March 6,1981) Radford Army Ammunition Plant, Virginia	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS AND PIPEFITTERS	$13.65	2.77

MODIFICATION P. 4

DECISION NO. FL83-1032 — MOD. # 1 (April 29, 1983 — 48 FR 19562) BUILDING CONSTRUCTION BROWARD COUNTY, FLORIDA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Ironworkers	$ 14.65	2.505
Lathers	13.30	1.53
Millwrights	15.12	2.40
Refrigeration & A/C Mechanics:		
Units of over 10 tons	18.49	2.58
Units under 10 tons	13.81	2.58

DECISION NO. IL82-2049 - MOD. #1 (47 FR 46221 - October 15, 1982) Peoria & Tazewell Counties, Illinois	Basic Hourly Rates	Fringe Benefits
Unit:		
Sheet Metal Workers	$16.75	$2.344c
Add:		
Sheet Metal Workers:		
Commercial Building	16.75	2.344c
Residential	10.89	1.264c

DECISION NO. KY82-1065 Mod. # 2 (47 FR 46229 - October 15, 1982) Boyd County, Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$18.35	2.53
BOILERMAKERS	16.35	4.815
CARPENTERS	14.91	2.95
GLAZIERS	15.84	1.11
LABORERS:		
Group 1	12.57	1.70
Group 2	12.72	1.70
Group 3	12.74	1.70
Group 4	12.77	1.70
Group 5	12.82	1.70
Group 6	13.07	1.70
Group 7	13.27	1.70
Group 8	13.77	1.70
PILEDRIVERMEN	15.30	2.95
DUMP TRUCKS (up to 5 cu. yd.)	14.90	305.5: per mo.

DECISION NO. LA82-4021 - MOD. #10 (47 FR 19877 - 5/7/82) Bossier & Caddo Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Elevator constructors:		
Mechanics	$14.21	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	

DECISION NO. LA82-4053 - MOD. #12 (47 FR 50421 - 11/5/82) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Zone 3:Electricians	17.70	2.00+ 3-5/10
Cable splicers	18.20	"
Elevator constructors:		
Zone 2 - Mechanics	14.21	2.69+a
Helpers	70%JR	2.69+a
Helpers(Prob)	50%JR	
Line construction:		
Zone 3:		
Linemen, equipment op	17.70	2.00+ 3-1/10
Cable splicers	18.20	"
Groundmen	15.70	"

DECISION NO. LA83-4001 - MOD. #5 (48 FR 928 - 1/7/83) Jefferson,Orleans,Bossier, Caddo,Calcasieu,Beauregard,Cameron,Jefferson Davis,Allen,Plaquemines, St. Bernard & St.Charles Pars., Louisiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Electricians:		
Zones 3, 4 & 5:		
Electricians	17.70	2.00+ 3-5/10
Cable splicers	18.20	"
Line construction:		
Zones 3, 4 & 5:		
Group 1	17.70	2.00+ 3-5/10
Group 2	18.20	"
Group 3	15.70	"

DECISION NO. LA83-4019 - Mod. #3 (48 FR 5448 - 2/4/83) Calcasieu Par., Louisiana	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Other electricians:		
Electricians	$17.70	$2.00+ 3-5/10%
Cable Splicers	18.20	2.00+ 3-5/10%

DECISION NO. MS83-1015 -- Mod. # 2 (April 1, 1983 in 48 FR 14312) WINOS COUNTY, MISSISSIPPI BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$ 16.20	3.315

DECISION #8083-4032-Mod. #3 48FR16413 - April 15, 1983 Statewide, New Mexico	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
Residential & General Building Construction FRINGE BENEFITS for Groups V, VI, VII and VIII to read $1.80		
CEMENT MASONS (RESIDENTIAL):		
Sandoval, Bernalillo and Valencia Counties	$8.67	2.22
CEMENT MASONS (COMPOSITION AND MACHINE OPERATORS):		
AREA I	11.99	2.22
AREA II		
Zone I	11.99	2.22
Zone II	13.49	2.22
Zone III	13.74	2.22

DECISION NO. NY83-3018 - MOD. #1 (48 FR 22870 - May 20, 1983) DUTCHESS, ORANGE, SULLIVAN, ORANGE COUNTIES, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
POWER EQUIPMENT OPERATORS:		
DUTCHESS (Remainder of County		
HEAVY & HIGHWAY		
GROUP I	15.29	3.50+m
GROUP II	14.79	3.50+m
GROUP III	13.36	3.50+m
GROUP IV	12.10	3.50+m
GROUP V	16.20	3.50+m
ADD:		
To Classification Descriptions:		
POWER EQUIPMENT OPERATORS:		
DUTCHESS (Remainder of County):		
HEAVY & HIGHWAY:		
GROUP V - Master Mechanic		

Decision No. IN83-2031 Mod # 2 (48 FR 17503 - April 22, 1983) Statewide except Lake, Laporte, Porter & St. Joseph Counties, Indiana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CEMENT MASONS:		
Area 5	$14.70	
Area 9	15.93	1.55
Area 11	13.50	
Area 13	14.51	2.23
Area 14	14.33	2.60
IRONWORKERS:		
Area 5	16.90	3.60 + 1%
Area 6	17.05	3.60 + 1%
Area 7	15.69	3.32
Area 8	17.01	2.95
PAINTERS:		
Area 1:		
Brush & Roller	14.00	2.17
Spray & Sandblasting	15.00	2.17
Area 6:		
Brush & Roller	14.65	1.70
Structural Steel	14.90	1.70
Spray	17.92	1.70
Sandblasting	15.65	1.70
Area 8:		
Brush & Roller	15.30	1.40
Spray & Sandblasting	16.30	1.40
Area 11:		
Brush, Roller & Steel	15.80	
Spray	16.80	
Area 12:		
Brush	16.00	
Spray	17.50	
Area 13:		
New Construction		
Brush	11.07b	1.18
Spray	11.52b	1.18
Repaint		
Brush	10.32b	
Spray	10.77b	
POWER EQUIPMENT OPERATORS: (Underground & Utility)		
Area 3:		
Group 2	15.55	2.20

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Area 2:		
Linemen, Heavy Equipment Operators, Tool Handling Splicer	18.76	.65+8%
Truck Driver	17.63	.65+8%
Groundman	17.30	.65+8%
Area 4:		
Lineman, Groundman Equipment Operator, Crawler Type Equip. larger than D-4	17.25	.65+8½%
Groundman Truck Driver w/Winch	14.21	.65+8½%
Groundman Truck Driver w/o Winch	13.38	.65+6½%
Groundman	12.78	.65+6½%
CLASSIFICATION DEFINITIONS:		
POWER EQUIPMENT OPERATORS:		
AREAS 1, 2 & 3:		
Group 4 - DELETE: Bituminous Paver, ADD: Bituminous Distributor		
FOOTNOTES:		
b - All work outside a 35 mile radius of Jefferson County, Kentucky Courthouse + Add $ .35 per hour to Basic Hourly Rate for all Classifications		

Decision No. IN83-2032 Mod # 1 (48 FR 21776 - May 13, 1983)	Basic Hourly Rates	Fringe Benefits
Lake, LaPorte, Porter & St. Joseph Counties Indiana		
CHANGE:		
GLAZIERS:		
Area 2	$13.97	16%
PLUMBERS:		
Area 3	16.03	2.45
PIPEFITTERS:		
Area 2	16.03	2.45
LINE CONSTRUCTION:		
Area 1 & Area 2:		
Lineman, Groundman Equipment Operator, Crawler Type Equip. larger than D-4	18.74	.65+8½%
Groundman Truck Driver w/ Winch	15.73	.65+8½%
Groundman Truck Driver w/o Winch	14.93	.65+8½%
Groundman	14.33	.65+8½%
Area 3:		
Lineman, Equipment Operator, Crawler Type Equipment larger than D-4	17.25	.65+8½%
Groundman Truck Driver w/ Winch	14.21	.65+8½%
Groundman Truck Driver w/o Winch	13.38	.65+8½%
Groundman	12.78	.65+8½%

Decision No. IN83-2030 Mod # 1 (48 FR 20606 - May 6, 1983)	Basic Hourly Rates	Fringe Benefits
Elkhart, Jasper, Kosciusko, LaGrange, Marshall, Newton, Pulaski & Starke Counties, Indiana		
CHANGE:		
CEMENT MASONS:		
Area 4	17.37	2.93

Decision No. IN83-2030 Mod # 1 (Cont'd)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELEVATOR CONSTRUCTORS:		
Area 1	16.95	2.69 + a&b
Area 2	18.305	2.395+ a&b
ELEVATOR CONSTRUCTORS' HELPERS:		
Area 1	70%JR	2.69 + a&b
Area 2	70%JR	2.395+ a&b
IRONWORKERS:		
Area 3	15.69	3.32
PAINTERS:		
Area 1:		
Brush, Roller, Taper & Paperhanging	14.00	2.17
Spray & Sandblasting	15.00	2.17
PLASTERERS:		
Area 4	15.26	2.93
PLUMBERS & STEAMFITTERS:		
Area 2	16.18	2.45
LABORERS:		
Area 4:		
Group 1	11.73	1.89
Group 2	11.93	1.89
Group 3	12.03	1.89
Group 4	12.73	1.89
POWER EQUIPMENT OPERATORS		
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

Decision No. IN83-2026 Mod # 3 (48 FR 12642 - March 25, 1983)	Basic Hourly Rates	Fringe Benefits
Clay, Daviess, Gibson, Greene, Knox, Martin, Parke, Pike, Posey, Putnam, Sullivan, Vanderburgh, Vermillion & Vigo Counties, Indiana		
CHANGE:		
ASBESTOS WORKERS:		
Area 1	$18.00	2.45
Area 2	17.87	2.00
BRICKLAYERS; Caulkers: Pointers; Cleaners & Stonemasons:		
Area 1	16.68	2.58
Area 2	16.53	1.55
CEMENT MASONS:		
Area 2	13.77	2.08
Area 3	15.93	2.55
ELECTRICIANS:		
Area 1	18.55	1.86 + 3%
Area 2	18.355	.85 + 9½%
Area 3	17.50	16.5%
MARBLE SETTERS; TILE SETTERS & TERRAZZO WORKERS:		
Area 2	16.13	2.55
PAINTERS:		
Area 1:		
Brush, Roller, Drywall, & Paperhangers	15.30	1.40
Spray & Sandblasting	16.30	1.40
PLASTERERS:		
Area 1	13.77	2.08
Area 2	16.53	1.55
PLUMBERS & STEAMFITTERS:		
Area 1	18.40	2.35
CARPENTERS:		
Area 3:		
Carpenters & Soft Floor Layers	15.75	2.34
Piledrivermen	16.50	2.34

Decision No. IN83-2033 Mod # 2 (48 FR 19564 - April 29, 1983)	Basic Hourly Rates	Fringe Benefits
Brown, Clark, Crawford, Dearborn, Decatur, Fayette, Floyd, Franklin, Harrison, Henry, Jackson, Jefferson, Jennings, Lawrence, Ohio, Orange, Randolph, Ripley, Rush, Scott, Switzerland, Union, Washington & Wayne Cos. Indiana		
CHANGE:		
ASBESTOS WORKERS:		
Area 2	18.76	2.48
Area 3	18.74	3.64
BOILERMAKERS		
Area 1	18.05	3.115
BRICKLAYERS; Caulkers: Pointers; Cleaners & Stonemasons:		
Area 1	14.85	2.56
Area 2	16.68	2.58
CEMENT MASONS:		
Area 2	13.14	3.02
Area 5	14.70	
ELECTRICIANS:		
Area 2	18.355	.85+9½%
Area 4	17.50	16.5%
GLAZIERS:		
Area 2	16.36	1.51
IRONWORKERS:		
Area 1	17.05	2.60 + 1%
Area 3; Reinforcing	17.08	3.12
Area 4	17.01	2.95
MARBLE & TILE SETTERS: & TERRAZZO WORKERS:		
Area 1:		
Tile Setters	14.60	2.56

Decision No. IN83-2033 Mod # 2 (Cont'd)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PAINTERS:		
Area 2:		
Brush & Roller	$15.30	1.40
Spray & Sandblasting	16.30	1.40
Area 3:		
Brush, Steel & Roller	15.80	
Spray	16.80	
Area 4:		
Brush	16.00	
Spray	17.50	
PLASTERERS:		
Area 1	16.38	
Area 2	15.60	.77
Area 4	13.83	2.16
Area 6	14.70	
POWER EQUIPMENT OPERATORS:		
Area 2:		
Group 1	15.68	2.20
Group 2	14.39	2.20
Group 3	13.55	2.20

Decision No. IN83-2029 Mod # 2	Basic Hourly Rates	Fringe Benefits
(48 FR 15417 - April 8, 1983)		
Adams, Allen, Bartholomew, Benton, Blackford, Boone, Cass, Clinton, DeKalb, Delaware, Fountain, Fulton, Grant, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Monroe, Montgomery, Morgan, Noble, Shelby, Steuben, Tippecanoe, Tipton, Wabash, Warren, Wells, White & Whitley Cos. Indiana		
CHANGE:		
ASBESTOS WORKERS:		
Area 2	$18.00	2.45

Decision No. IN83-2029 Mod # 2 (Cont'd)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS; Caulkers; Pointers; Cleaners & Stonemasons:		
Area 1	$15.36	1.90
Area 4	14.85	1.56
CARPENTERS; Millwrights; Piledrivermen & Soft Floor Layers:		
Area 5:		
Carpenters & Soft Floor Layers	15.36	2.17
Millwrights & Piledrivermen	15.71	2.17
Are 7:		
Carpenters & Soft Floor Layers	15.75	2.34
Millwrights	16.00	2.34
Piledrivermen	16.50	2.34
CEMENT MASONS:		
Area 2	14.70	
Area 3	14.33	2.60
Area 7	14.51	2.23
Area 8	13.50	
ELECTRICIANS:		
Area 1	17.70	1.83 + 3%
Area 2	17.50	16.5%
LINE CONSTRUCTIONS:		
Linemen, Groundman, Equipment Operators	17.25	.65+8½%
Groundman Truck Driver w/ Winch	14.21	.65+8½%
Groundman Truck Driver w/o Winch	13.38	.65+8½%
Groundman	12.78	.65+8½%
ELEVATOR CONSTRUCTORS:		
Area 1:		
Elevator Constructor	16.95	2.79+ a&b
Helper	70%78	2.79+ a&b
GLAZIERS:		
Area 2	13.97	16%

Decision No. IN83-2029 Mod # 2 (Cont'd)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
IRONWORKERS:		
Area 2	$17.05	3.60 + 1%
Area 3	15.69	3.32
Area 5	16.90	3.60 + 1%
MARBLE SETTERS; TILE SETTERS & TERRAZZO WORKERS:		
Area 1	15.36	1.90
PAINTERS:		
Area 1:		
Brush, Roller, Taping & Paperhanging	14.00	2.17
Spray & Sandblasting	15.00	2.17
Area 3:		
Brush, Roller, Drywall & Paperhanging	14.65	1.70
Spray	17.92	1.70
Structural Steel	14.90	1.70
Sandblasting	15.65	1.70
Area 4:		
Brush, Roller, Drywall Tapers, Finishers & Paperhangers	15.30	1.40
Spray & Sandblasting	16.30	1.40
Area 6:		
Brush, Roller, Drywall Taping &	15.80	
Spray & Sandblasting	16.80	
PLASTERERS:		
Area 2	14.70	
Area 3	14.35	1.55
Area 7	13.83	2.16

Decision No. IN83-2029 Mod # 2 (Cont'd)	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLUMBERS & STEAMFITTERS:		
Area 3	$17.95	2.16
Area 4	18.40	2.35
Area 6	16.18	2.45
SHEET METAL WORKERS:		
Area 2	17.61	2.62
LABORERS:		
Area 1:		
Group 1	10.70	1.94
Group 2	10.90	1.94
Group 3	11.00	1.94
Group 4	11.70	1.94

DECISION NO. OH83-2039 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Change:		
Line Construction:		
Ashland, Crawford, Huron (New Haven, Richmond, Ripley & Greenwich Twps.), Knox (Liberty, Clinton, Union, Howard, Monroe, Middlebury, Morris, Wayne, Berlin, Brown, & Jefferson Twps.), Marion, Morrow, Richland, & Wyandot (Sycamore, Crane, Eden, Pitt, Antrim & Tymochtee Twps.) Cos.:		
Equipment Operators; Linemen	$18.22	$2.47
Line Truck Driver	10.93	2.21
Groundmen	11.84	2.24
Carroll (S ½, inclu. 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	16.48	4.63
Line Equipment Ops.	15.35	4.51
Groundmen; Truck Drivers	11.73	4.12
Clinton, Darke, Greene, Miami, Montgomery, Preble, & Warren (Wayne, Clear Creek, & Franklin Twps.) Cos.:		
Cable Splicers; Linemen	18.98	2.56
Operators: Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.56
Line Truck with Winch or Pole & Steel Handling	14.24	2.40
Non-Specialized Truck & Misc. Equipment; Groundmen - Truck Driver	11.34	2.30

DECISION NO. TX82-4025 - MOD. #9
(47 FR 26550 - 6/18/82)
Brazos County, Texas

CHANGE:

Electricians	$16.09	1.17+ 12%
Elevator constructors:		
Mechanics	16.755	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	

DECISION NO. TX83-4004 - MOD. #7
(48 FR 936 - 1/7/83)
Galveston & Harris Cos., Texas

CHANGE:

Electricians - Harris Co	17.88	1.53+ 12%
Elevator constructors:		
Mechanics	16.755	2.69+a
Helpers	70%JR	2.69+a
Helpers (prob.)	50%JR	
Roofers:		
Composition	13.86	2.09
Slate & tile	14.61	2.09
Kettlemen	12.90	2.09

DECISION NO. TX83-4006 - MOD. #5
(48 FR 933 - 1/7/83)
Travis County, Texas

CHANGE:

Carpenters - Carpenters	14.36	1.98
Millwrights	14.61	1.98

DECISION NO. TX83-4026 - MOD. #2
(48 FR 15425 - 4/8/83)
Jefferson & Orange Cos., Texas

CHANGE:

Elevator constructors:		
Mechanics	16.755	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
Roofers:		
Composition	13.86	2.09
Slate & tile	14.61	2.09
Composition	12.90	2.09

DECISION NO. OH83-2006 - MOD. #5
(48 FR 6459 - February 11, 1983)
Statewide, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers & Stonemasons:		
Area 7	$17.225	$1.99
Area 28	18.47	2.67
Area 29	16.35	2.05
Electricians:		
Area 3	18.22	2.39
Area 11	17.59	4.75
Area 12	17.14	2.95
Area 13:		
Within 11 mile radius of 3rd and Main Streets, Dayton, Ohio	18.98	2.56
Beyond 11 mile radius	19.21	2.57
Area 18:		
Electricians	20.00	3.66
Cable Splicers	23.00	3.76
Ironworkers:		
Area 1:		
Reinforcing	16.58	3.62
Area 5	15.66	5.44
Area 8	17.51	3.31
Area 9	16.88	3.17
Painters:		
Area 9:		
Brush	17.06	2.10
Area 19:		
Brush; & Roller	16.25	2.42
Structural Steel	17.00	2.42
Spray	17.10	2.42
Plumbers; Steamfitters & Pipefitters:		
Area 10	19.24	1.81
Area 13	18.13	2.72
Area 16	19.09	2.75
Line Construction:		
Area 3:		
Equipment Ops.; Linemen	18.22	2.47
Line Truck Drivers	10.93	2.21
Groundmen	11.84	2.24
Area 9:		
Cable Splicers	16.48	4.63
Linemen	17.59	4.75
Line Equipment Operators	15.35	4.51
Groundmen; Truck Drivers	11.73	4.12
Area 12:		
Cable Splicers; Linemen	18.98	2.56
Operators: Hole Digging Equipment, Cranes, Hydraulic Lift or Bucket	18.98	2.56
Line Construction (Cont'd):		
Area 12 (Cont'd):		
Line Truck with Winch or Pole & Steel Handling	$14.24	$2.40
Non-specialized Truck & Misc. Equipment; Groundmen - Truck Driver	11.34	2.30

DECISION NO. OH83-2039 - MOD. #1
(48 FR 21795 - May 13, 1983)
Adams, Allen,...Wood & Wyandot Cos., Ohio

Change:		
Electricians:		
Marion, Morrow, Richland, & Wyandot (Sycamore, Crane, Eden, Pitt, & Antrim Twps.) Cos.	18.22	2.39
Carroll (S ½, 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.	17.59	4.75
Champaign, Clark, & Madison (Pike, Paint, Somerford, Union, & Stokes Twps.) Cos.	17.14	2.95
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 St., Dayton	18.98	2.56
Electrical Communications Installers beyond 11 mi. radius of 3rd & Main St., Dayton	19.21	2.57
Defiance, Fulton, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.:		
Electricians	20.00	3.66
Cable Splicers	23.00	3.76

DECISION NO. PA81-3043 - MOD. #11 (46 FR 37212 - July 17, 1981)	Basic Hourly Rates	Fringe Benefits
ARMSTRONG, ALLEGHENY, BEAVER, BUTLER, FAYETTE, INDIANA, WASHINGTON, WESTMORELAND COUNTIES, PENNSYLVANIA		
CHANGE:		
BRICKLAYERS:		
Zone 1	15.02	3.65
Zone 2	16.15	4.66
Zone 5	16.135	3.87
BOILERMAKERS	16.67	.79+5%
CEMENT MASONS		
Zone 1	16.20	3.72
IRONWORKERS, STRUCTURAL, ORNAMENTAL & REINFORCING	16.32	4.95
LABORERS:		
Zone 1		
Class 1	13.55	20%
Class 2	13.68	20%
Class 3	13.81	20%
Class 4	14.08	20%
Class 5	14.28	20%
Zone 2		
Class 1	13.51	20%
Class 2	13.64	20%
Class 3	13.76	20%
Class 4	14.04	20%
Class 5	14.24	20%
Zone 3		
Class 1	13.42	20%
Class 2	13.56	20%
Class 3	13.69	20%
Class 4	13.96	20%
Class 5	14.14	20%
LINE CONSTRUCTION		
Zone 2		
Linemen, dynamite man, heavy equipment operators	15.64	.65+ 3 3/8%
Winch truck operators	10.94	.65+ 3 3/8%
Groundman	10.46	.65+ 3 3/8%
MILLWRIGHTS	14.80	39½%
PAINTERS:		
Zone 1		
Commercial		
Brush	16.06	2.45
Paperhangers	16.06	2.45
Spray	16.56	2.45
Industrial		
Brush	16.71	2.45
Spray	17.21	2.45
Zone 5		
Commercial		
Brush	13.00	4.30+ 2%
Industrial		
Brush	14.65	4.30+ 2%
Zone 6		
Commercial		
Brush	13.09	3.27
Spray	15.09	3.27
PILEDRIVERMEN	16.14	28½%
POWER EQUIPMENT OPERATORS:		
Class I	16.825	3.44
Class I-A	17.075	3.44
Class I-B	13.325	3.44
Class I-C	17.575	3.44
Class II	16.625	3.44
Class III	14.54	3.44
Class III-A	15.04	3.44
Class IV	13.53	3.44
Class V	13.22	3.44
Class V-A	13.32	3.44
Class V-B	13.47	3.44
Class V-C	14.22	3.44
PLASTERERS		
Zone 1	14.44	3.17
Zone 2	16.77	
PLUMBERS		
Zone 1	17.45	3.93
Zone 4	16.48	3.48
ROOFERS	16.89	2.65
SHEET METAL WORKERS	15.59	3.96
SOFT FLOOR LAYERS		
Zone 1	14.46	28½%
TERRAZZO WORKERS		
Zone 1	15.55	3.51
TILE SETTERS		
Zone 1	15.00	3.86
STONEMASONS		
Zone 1	14.98	5.19

DECISION NO. PA81-3043 - (CONT'D)

OMIT:

AREA COVERED BY PLUMBERS ZONES

ZONE 3 - Allegheny, Armstrong, Counties: Twp. of Charleroi in Washington County

ZONE 4 - Fayette, Indiana, Westmoreland and remainder of Washington County

ADD:

AREA COVERED BY PLUMBERS ZONES

ZONE 3 - Allegheny, Armstrong Counties: Washington County (that part West of a straight line drawn from Library to Kirby), Pennsylvania

ZONE 4 - Fayette, Indiana, Westmoreland Counties; Washington County (that part east of a straight line drawn from Library to Kirby) Pennsylvania

SUPERSEDEAS DECISION

STATE: CONNECTICUT
DECISION NO. CT83-3021
COUNTIES: STATEWIDE
DATE: DATE OF PUBLICATION

Supersedes Decision No. CT82-3001 dated February 5, 1982 published in 47 FR 5211 and Decision No. 81-3032 dated May 15, 1981 in 46 FR 27040.

DESCRIPTION OF WORK: Building (excluding single family homes and apartments up to and including 4 stories); Residential (in Fairfield and Litchfield Counties only); Heavy (excluding tunnel construction); and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS		
Area 1	18.04	2.84
Area 2	16.45	3.31
Area 3	14.88	3.13
BOILERMAKERS	18.25	1.465+10%
BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS; TILE SETTERS:		
BUILDING CONSTRUCTION:		
Area 1	15.00	2.98
Area 2	15.88	1.58
Area 3	15.55	1.85
Area 4	16.15	2.10+a
HEAVY & HIGHWAY:		
Area 1	12.50	2.20
Area 2	13.62	1.08
Area 3&4	12.60	2.10
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; RESILIENT FLOOR LAYERS:		
BUILDING CONSTRUCTION:		
Area 1	14.15	1.65
Area 2	13.90	1.65
Area 3	13.80	1.55+b+c
Area 4	13.85	1.60
Area 5	13.10	2.40
Area 6	13.80	1.58
HEAVY & HIGHWAY CONSTRUCTION		
Areas 1&2	13.70	1.65+d
Area 3	13.70	1.55+c+d
Area 4	13.70	1.60+d
Area 5	12.95	2.40+d
Area 6	13.70	1.58+d
RESIDENTIAL		
Area 1	11.80	1.35
ELECTRICIANS		
Area 1	17.45	.02+26%+e
Area 2	15.48	2.48+9.25%
Area 3	17.20	3.05+3.75%
Area 4	17.65	2.07+3.25%
Area 5	14.95	3.31+3%
Area 6	16.80	4.65+3.5%
ELEVATOR CONSTRUCTORS:		
Elevator Constructors	16.89	2.69+f+g
Helpers	11.82	2.69+f+g
Probationary Helpers	8.445	
GLAZIERS		
Area 1	16.75	5.35
Area 2	15.18	2.29+h
Area 3	13.16	3.84+h
Area 4	13.98	2.33+i
IRONWORKERS	17.50	3.93+j
LABORERS (BUILDING):		
Group 1	12.20	2.25
Group 2	12.45	2.25
Group 3	12.95	2.25
Group 4	13.70	2.25
Group 5	12.20	2.25
LABORERS (HEAVY & HIGHWAY):		
Group 1	12.20	2.25
Group 2	12.45	2.25
Group 3	12.70	2.25
Group 4	12.95	2.25
LINE CONSTRUCTION:		
Area 1:		
Lineman	14.43	.03+19.5%+e
Compressor operator	12.00	.02+19.5%+e
Lamp Changer	11.21	.02+19.5%+e
Area 2-Line Construction:		
Linemen, cable splicers, dynamiteman	16.67	1.80+3.75%
Heavy equipment operator	15.17	1.80+3.75%

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (CONT'D		
Area 2 (Cont'd)		
Equipment operator, tractor, tractor trailer driver, field mechanic	14.31	1.80+3.75%
Material man	14.07	1.80+3.75%
Groundman truck driver	12.86	1.80+3.75%
Groundman	11.37	1.80+3.75%
Area 2 - Traffic Control, Illumination & Maintenance:		
Linemen, technicians & cable splicers	15.96	1.80+3.75%
Equipment operator	13.57	1.80+3.75%
Driver groundman	11.97	1.80+3.75%
Groundman	11.17	1.80+3.75%
PAINTERS:		
Bridge (Statewide):		
Structural steel	20.20	
Sandblasting or power tools	21.20	
Spray	23.70	
Area 1:		
Brush, structral steel, paperhangers, tapers	13.75	2.25
Spray	20.625	2.25
Area 2:		
Brush	13.55	1.37
Roller, paperhangers, tapers, epoxy	14.05	1.37
Spray	15.55	1.37
Area 3:		
Painters	13.55	1.47
Tapers	14.05	1.47
Sprayers	15.55	1.47
Area 4:		
Brush	15.00	1.51+k
Rollers, paperhangers, swing stage	15.50	1.51+k
Structural steel	16.00	1.51+k
Epoxy, polyester	17.00	1.51+k
Spray	19.00	1.51+k
Area 5:		
Brush, roller, tapers	15.60	1.60+l
Vinyl & wall coverings	17.00	1.60+l
Steel	17.40	1.60+l
Epoxy	18.50	1.60+l
Spray	23.40	1.60+l
Residential	13.85	1.60+l
Area 6:		
Brush	12.15	1.65
Paperhangers, tapers, catalized-epoxy	12.65	1.65
Spray	18.225	1.65
Area 7:		
Brush, tapers	15.60	2.48
Paperhangers, riggers, swing stage, boatswain chair	16.10	2.48
Riding steel, steam cleaning, sandblasting, tanks, towers, and similar hazardous work	16.18	2.48
Spray	18.60	2.48
Area 8:		
Brush, sandblasting	12.75	1.42
Tapers	13.10	1.42
Paperhangers	13.25	1.42
Spray	15.40	1.42
Structural steel	13.00	1.42
Area 9:		
Brush	13.95	1.91
Rollers	14.46	1.91
Paperhangers, tapers, sign	14.91	1.91
Structural steel, swing stage	14.76	1.91
Spraying oil paint	17.11	1.91
Spraying epoxy	19.64	1.91

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	Basic Hourly Rates	Fringe Benefits
PLUMBERS:		
Area 1	16.21	2.69
PLUMBERS & STEAMFITTERS:		
Area 1	16.99	2.47
Area 2	17.60	2.25+ 5%
Area 3	17.30	2.25+ 5%
Area 4	17.82	2.22+ 5%+m
Area 5	17.80	2.92
Area 6	16.65	2.88+n
Area 7	17.47	2.20+o
Area 8	17.40	3.07+p
Area 9	19.17	3.40+q
POWER EQUIPMENT OPERATORS (Building Construction):		
Group I	17.01	2.95+r
Group II	16.85	2.95+r
Crane with boom excluding jib over 150' - $.25 extra		
Crane with boom excluding jib over 200' - $.50 extra		
Group III	16.69	2.95+r
Group IV	16.31	2.95+r
Group V	15.97	2.95+r
Group VI	15.87	2.95+r
Group VII	15.81	2.95+r
Group VIII	15.64	2.95+r
Group IX	15.49	2.95+r
Group X	15.23	2.95+r
Group XI	14.28	2.95+r
Group XII	13.96	2.95+r
Group XIII	13.24	2.95+r
(Heavy & Highway)		
Class 1	18.06	3.10+r
Class 2	17.81	3.10+r
Crane with 150 foot boom (excluding jib)- $.25 extra		
Crane with 200 foot boom (excluding jib - $.50 extra		
Class 3	17.33	3.10+r
Class 4	17.03	3.10+r
Class 5	16.78	3.10+r
Class 6	16.51	3.10+r
Class 7	16.17	3.10+r
Class 8	16.06	3.10+r
Class 9	15.52	3.10+r
Class 10	15.42	3.10+r
Class 11	14.98	3.10+r
Class 12	14.81	3.10+r
Class 13	14.27	3.10+r
Class 14	9.81	3.10+r
ROOFERS:		
Area 1	14.90	1.80
Area 2		
Composition	13.15	2.475
Slate, tile	13.65	2.475
SHEET METAL WORKERS:		
Area 1	16.73	4.40
Area 2	16.69	3.25+3%
SPRINKLER FITTERS	18.00	2.83
STEAMFITTERS:		
Area 1	17.03	3.91
TILE, MARBLE & TERRAZZO FINISHERS	12.90	2.10
TRUCK DRIVERS		
Class 1	11.78	3.02+r
Class 2	11.88	3.02+r
Class 3	11.98	3.02+r
Class 4	11.93	3.02+r
Class 5	12.03	3.02+r
Class 6	12.08	3.02+r

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Welders - Receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

FOOTNOTES:

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

a. Paid Holidays: ½ day on Christmas Eve and ½ day on New Year's Eve.

b. Paid Holidays: B, C, D and Good Friday, provided the employee was employed during the 14 consecutive day period immediately prior to the holiday.

c. $100 per year.

d. Paid Holidays: B, C, and D.

e. Employer contributes $8.50 per worker per day to Security Benefit Fund.

f. Paid Holidays: A through F, plus Friday after Thanksgiving.

g. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

h. Paid Holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.

i. Paid Holiday: Labor Day, provided employee works any part of week prior to and any part of week after Labor Day.

j. The last 4 hours on Christmas Eve is a paid half-day, if employee has worked 5 consecutive days prior to Christmas Eve.

k. Paid Holidays: A through F and Good Friday, provided employee works the day before and the day after the holiday.

l. Paid Holidays: A through F and Good Friday, provided employee works 15 working days within the 4 calendar weeks prior to the holiday.

m. Paid Holiday: Labor Day, provided employee was employed 10 working days prior to and the day after the holiday.

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FOOTNOTES: (CONT'D)

n. Paid Holidays: B and D, plus half-day paid holidays on the Friday after Thanksgiving, the last working day before Christmas, and Good Friday.

o. Paid Holiday: D

p. Paid Holidays: C, D, E, and half-day paid holiday the Friday after Thanksgiving.

q. Paid Holdays: D and half-day paid holidays on Friday after Thanksgiving and Friday before Labor Day.

r. A through F and Good Friday.

AREA DESCRIPTIONS

ASBESTOS WORKERS:

Area 1: FAIRFIELD; LITCHFIELD (Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwington, Kent, Litchfield, Morris, New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury, Thomaston); HARTFORD (Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, East Hartford, West Windsor, Farmington, Glastonbury, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, Southington, South Windsor, West Hartford, Wethersfield, Windsor); NEW HAVEN; MIDDLESEX; NEW LONDON (Bozrah, Colchester, East Lyme, Franklin, Groton, Lebanon, Lyme, Montville, New London, Norwich, Old Lyme, Salena, Sprague, Waterford; TOLLAND (Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Tolland, Vernon, Willington); WINDHAM (Ashford, Chaplin, Eastford, Hampton, Scotland, Windham).

Area 2: LITCHFIELD (Cannan, Colbrook, Norfolk, North Canaan, Salisbury); HARTFORD (East Granby, Enfield, Granby, Hartland, Suffield, Windsor Locks); TOLLAND (Somers, Stafford, Union); WINDHAM (Woodstock).

Area 3: NEW LONDON (Griswold, Ledyard, Lisbon, North Stonington, Preston, Stonington, Voluntown); WINDHAM (Brooklyn, Canterbury, Killingly, Plainfield, Pomfret, Putnam, Sterling, Thompson).

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BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS; TILE SETTERS:

Area 1: FAIRFIELD (Greenwich).

Area 2: FAIRFIELD (Darien, Stamford).

Area 3: FAIRFIELD (New Canaan, Norwalk, Ridgefield, Weston, Westport, Wilton).

Area 4: Remainder of State.

CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; RESILIENT FLOOR LAYERS:

Area 1: FAIRFIELD (Bethel, Brookfield, Danbury, Darien, Greenwich, New Canaan, New Fairfield, Newton, Norwalk, Redding, Ridgefield, Sherman, Stamford, Wilton).

Area 2: LITCHFIELD (Barkhamstead, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norwalk, North Canaan, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, Woodbury).

Area 3: FAIRFIELD (Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, Westport); NEW HAVEN (Milford, Oxford, Derby, Seymour, Ansonia, Orange-that part south of Route 1 and west of the Oyster River).

Area 4: LITCHFIELD (Harwington, Plymouth, Thomaston, Watertown); HARTFORD (New Britain, Newington, Berlin, Southington, Plainville, Burlington, Canton, Bristol); NEW HAVEN (Meriden, Wallingford, New Haven, East Haven, Branford, Guilford, Madison, North Branford, North Haven, Hamden, West Haven, Orange - east of Orange Center Road and north of Route 1 plus north of Route 1 and east of the Oyster River, Cheshire, Waterbury, Wolcott, Middlebury, Southbury, Naugatuck, Prospect, Bethany, Beacon Falls, Woodbridge); MIDDLESEX.

Area 5: HARTFORD (Hartford, West Hartford, Avon, Farmington, Simsbury, Bloomfield, Windsor, East Granby, Granby, Windsor, Locks, Suffield, Enfield, East Windsor, South Windsor, East Hartford, Manchester, Glastonbury, Rocky Hill, Wethersfield, Hartland); TOLLAND (Stafford, Somers, Tolland, Ellington, Bolton, Vernon).

Area 6: TOLLAND (Mansfield, Union, Willington, Coventry, Hebron, Columbia, Andover); WINDHAM; NEW LONDON.

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ELECTRICIANS:

Area 1: FAIRFIELD (Darien, Greenwich, New Canaan, Stamford).

Area 2: FAIRFIELD (Norwalk, Wilton, Weston, Westport).

Area 3: FAIRFIELD (Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newton, Redding, Ridgefield, Shelton, Sherman, Stratford, Trumbull); LITCHFIELD (except Plymouth); NEW HAVEN (Milford, Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, Wolcott); HARTFORD (Hartland).

Area 4: LITCHFIELD (Plymouth); HARTFORD (Berlin, Bristol, New Britain, Newington, Plainville, Southington); NEW HAVEN (Remainder of County); MIDDLESEX (Chester, Clinton, Deep River, Durham, East Haddam, East Hampton, Essex, Haddam, Old Saybrook, Killingworth, Westbrook); NEW LONDON (East Lyme, Groton, Ledyard-Ledyard Submarine Base Only, Lyme, New London, Old Lyme, Waterford, Fishers Island Sound).

Area 5: HARTFORD (Suffield, Enfield - portion of Thompsonville west of George Washington Road and north of Hazard Avenue).

Area 6: HARTFORD (Remainder of County); MIDDLESEX (Cromwell, Middlefield, Middletown, Portland); TOLLAND; WINDHAM; NEW LONDON (Bozrah, Colchester, Franklin, Lisbon, Montville, North Stonington, Norwich, Griswold, Lebanon, Ledyard - except Ledyard Submarine Base, Preston, Salem, Sprague, Stonington, Voluntown).

GLAZIERS:

Area 1: FAIRFIELD (Greenwich).

Area 2: FAIRFIELD (Remainder of County; NEW HAVEN (except Waterbury, Meridan, Wallingford); LITCHFIELD (Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Watertown, Woodbury); MIDDLESEX (Clinton, Essex, Killingworth, Old Saybrook, Westbrook; NEW LONDON (Old Lyme).

Area 3: LITCHFIELD (Remainder of County); HARTFORD; MIDDLESEX (Remainder of County); NEW LONDON (Bozrah, Colchester, East Lyme, Franklin, Lebanon, Lyme, Montville, New London, Norwich, Salem, Sprague, Waterford); TOLLAND; WINDHAM (Ashford, Chaplin, Hampton, East Port, Scotland, Windham).

Area 4: NEW LONDON (Remainder of County); WINDHAM (Remainder of County).

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LINE CONSTRUCTION:

Area 1: FAIRFIELD (Darien, Greenwich, New Canaan, Stamford, Norwalk portion west of Five Mile River).

Area 2: Remainder of State.

PAINTERS:

Area 1: FAIRFIELD (Greenwich).

Area 2: FAIRFIELD (Darien, Stamford, New Canaan, Norwalk, Weston, Westport, Wilton).

Area 3: FAIRFIELD (Bridgeport, Easton, Fairfield - including Southport, Stratford, Trumbull); NEW HAVEN (Milford up to Gulf Street).

Area 4: FAIRFIELD (Monroe, Shelton); NEW HAVEN (Ansonia, Beacon Falls, Derby, Oxford, Seymour).

Area 5: FAIRFIELD (Bethel, Brookfield, Danbury, Newton, New Fairfield, Redding, Ridgefield, Sherman); LITCHFIELD (New Milford).

Area 6: NEW HAVEN (Middlebury, Naugatuck, Prospect, Southbury, Waterbury, Wolcott); LITCHFIELD (Roxbury, Thomaston, Washington, Watertown, Woodbury).

Area 7: LITCHFIELD (Barkhamstead, Canaan, Colebrook, Cornwall, Goshen, Harwington, Kent, Litchfield, New Hartford, Norfolk, North Canaan, Salisbury, Sharon, Torrington, Warren, Winchester); HARTFORD; NEW HAVEN (Cheshire, Guilford, Madison, Meriden, Wallingford); MIDDLESEX; TOLLAND; WINDHAM (Ashford, Windham).

Area 8: NEW HAVEN (Bethany, Branford, East Haven, Hamden, Milford - south to Gulf Street, New Haven, Orange, West Haven, Woodbridge, Woodmont).

Area 9: NEW LONDON; WINDHAM (Remainder of County).

PLUMBERS:

Area 1: HARTFORD (Avon, Bloomfield, Burlington, Canton, East Granby, East Hartford, East Windsor, Enfield, Farmington, Glastonbury, Granby, Harttord, Hartland, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, West Hartford, Wethersfield, Windsor, Windsor Locks; MIDDLESEX (Cromwell, East Haddam, East Hampton, Haddam, Middlefield, Middletown, Portland); TOLLAND (Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Tolland, Union, Vernon, Willington); WINDHAM (Windham).

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PLUMBERS & STEAMFITTERS:

Area 1: FAIRFIELD (Greenwich).

Area 2: FAIRFIELD (Stamford, Darien, New Canaan).

Area 3: FAIRFIELD (Norwalk, Westport, Weston, Wilton).

Area 4: FAIRFIELD (Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull); NEW HAVEN (Milford).

Area 5: FAIRFIELD (Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield, Sherman); LITCHFIELD (Bridgewater, New Milford).

Area 6: LITCHFIELD (Remainder of County); NEW HAVEN (Ansonia, Beacon Falls, Bethany, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, Wolcott); HARTFORD (Hartland).

Area 7: HARTFORD (Berlin, Bristol, New Britain, Plainville, Southington and parts of Newington, Farmington and West Hartford--Newington south of Cedar Street, west of Berlin Turnpike, north along New Haven Railroad to South Main Street to Route 6, west on Route 6 to Bristol town line); NEW HAVEN (Cheshire, Meridan, Wallingford); MIDDLESEX (Durham).

Area 8: NEW HAVEN (Branford, Derby, East Haven, Guilford, Hamden, Madison, New Haven, North Branford, North Haven, Orange, West Haven, Woodbridge) MIDDLESEX (Chester, Clinton, Deep River, Killington, Westbrook).

Area 9: NEW LONDON; MIDDLESEX (Essex, Old Saybrook, Saybrook); WINDHAM (Except Windham Twsp.).

ROOFERS:

Area 1: FAIRFIELD; LITCHFIELD (Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Woodbury); NEW HAVEN (Ansonia, Beacon Falls, Bethany, Branford, Derby, East Haven, Guilford, Hamden, Madison, Middlebury, Milford, Naugatuck, New Haven, North Branford, North Haven, Orange, Oxford, Seymour, West Haven, Woodbridge).

Area 2: NEW HAVEN (Cheshire, Meriden, Prospect, Wallingford, Wolcott); LITCHFIELD (Remainder of County); HARTFORD; MIDDLESEX; NEW LONDON; TOLLAND; WINDEAM.

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POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):

Group I: Derrick, hoisting engineer 2 drums and over, hoisting structural steel, pile driver & setting stone.

Group II: Dragline, forklift - over 4' lift, front end loader - 7 cy. or over, gradall, hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation), Koehring scooper loader and/or hoe, master mechanic, shovel, & tower crane.

Group III: Maintenance engineer.

Group IV: Central mix operator, Coleman loader and screening plant or similar equipment, combination hoe and loader over ¾ yd, conveyors - regardless of motive power, front end loader 3 cy. up to 7 cy., joy drill limited to joy heavy weight champion or equivalent, mucking machine, post hole digger, pumpcrete machine, rock boring machine, vibratory hammer, welder & well digger.

Group V: Asphalt spreader.

Group VI: Bulldozer, carry-all operators, grader, & scraper pan.

Group VII: Combination hoe and loader machine, concrete mixer - 5 bags and over, front end loader under 3 cy., powerstone spreader.

Group VIII: Fork lift not over 4', Steam Jenny.

Group IX: Roller.

Group X: Dinky machine, power pavement breaker.

Group XI: Mechanical Heater.

Group XII: Fireman (High Pressure).

Group XIII: Oiler.

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POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY):

Class 1: Erecting and handling structural steel; front end loader (7 cy. or over).

Class 2: Piledriver; power shovel and crane; dragline; gradall; trenching machine; lighter derrick; master mechanic; paver (concrete); derrick (stiff leg and guy); steel pile sheeting; Koehring loader (scooper).

Class 3: Drill (joy heavy weight champion or equivalent); side boom; loader (euclid); mucking machine; pumpcrete; rock and earth boring machine; post hole digger; well digger; & hammer (vibratory); central mix; combination hoe & loader (over ¾ yd.).

Class 4: Asphalt spreader.

Class 5: Front end loader (3 yds. or over); grader; power stone spreader; combination hoe and loader.

Class 6: Asphalt roller; bulldozer; carryall; maintenance engineer concrete mixer (5 bags and over); welder.

Class 7: Front end loader (under 3 yds.); roller; power chipper; fork lift; finishing machine; asphalt plant; power pavement breaker; dinky machine.

Class 8: Compressor battery.

Class 9: Well point system.

Class 10: Batch plant.

Class 11: Fireman (high pressure).

Class 12: Compressor; pump.

Class 13: Oiler.

Class 14: Track backhoe oiler.

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SHEET METAL WORKERS:

Area 1: FAIRFIELD; LITCHFIELD.

Area 2: NEW HAVEN; HARTFORD; MIDDLESEX; NEW LONDON; TOLLAND; WINDHAM.

STEAMFITTERS:

Area 1: HARTFORD (Avon, Bloomfield, Burlington, Canton, East Granby, East Hartford, East Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, West Hartford, Wethersfield, Windsor, Windsor Locks) MIDDLESEX (Chester, Cromwell, Deep River, East Haddam, Hampton, Haddam, Haromas - Atomic River Project, Middlefield, Middletown, Portland; TOLLAND (Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, Willington); WINDHAM (Windham).

CLASSIFICATION DESCRIPTIONS

LABORERS (BUILDING):

Group 1: Laborers, carpenter tenders, wrecking laborers, fire watchers.

Group 2: Jack hammer operator, mason tenders, mortar mixer, pipelayers, plasterers tenders, power buggy operators, powdermen.

Group 3: Air track operators, wagon drill operators, sand blasters, blasters.

Group 4: Bottom men on open air caisson, cylindrical work and boring crew.

Group 5: Top men on open air caisson, cylindrical work and boring crew.

LABORERS (HEAVY & HIGHWAY):

Group 1: Laborers (unskilled).

Group 2: Asphalt rakers, chain saw operators, fence and guard rail erectors, pipelayers, mason tenders, pneumatic tool operators, powdermen, and wagon drill operators.

Group 3: Air track operators, block pavers, curb setters.

Group 4: Blasters.

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TRUCK DRIVERS:

Class 1: Two axle trucks; helpers.

Class 2: Three axle trucks; two axle ready mix.

Class 3: Four axle trucks; heavy duty trailer-up to 40 tons.

Class 4: Three axle ready mix.

Class 5: Four axle ready-mix; specialized earth moving equipment other than conventional tye on-the road trucks and semi-trailer (including Euclids).

Class 6: Heavy duty trailer-40 tons and over.

STATE: Illinois COUNTIES: *See Below
DECISION NUMBER: IL83-2043 DATE: Date of Publication
Supersedes Decision No. IL81-2051, dated August 7, 1981 in 46 FR 40413
DESCRIPTION OF WORK: Heavy and Highway Construction Projects (Including Dredging Projects)

*Fulton, Hancock, Henderson, Knox, McDonough, Mercer, Peoria, Stark, Tazewell & Warren

	Basic Hourly Rates	Fringe Benefits
CARPENTERS & PILEDRIVERMEN:		
AREA 1:		
Carpenters	$15.58	$2.82
Piledrivermen	16.08	2.82
AREA 2:		
Carpenters	15.58	2.82
Piledrivermen	16.08	2.82
AREA 3:		
Carpenters	15.45	2.48
Piledrivermen	16.15	2.48
AREA 4:		
Carpenters	15.57	2.82
Piledrivermen	16.07	2.82
AREA 5:		
Carpenters	15.92	2.78
Piledrivermen	15.41	2.78
CEMENT MASONS:		
AREA 1	15.65	2.75
AREA 2	16.14	2.03
AREA 3	16.30	.85
AREA 4	14.37	1.80
AREA 5	17.45	
AREA 6	16.30	.85
AREA 7	14.90	1.35
ELECTRICIANS:		
AREA 1:		
Electricians	17.32	2.50
Cable Splicers	19.05	2.56
AREA 2:		
Electricians	17.32	2.50
Cable Splicers	19.05	2.56
AREA 3:		
Electricians	17.32	2.50
Cable Splicers	19.05	2.56
AREA 4:		
Electricians	16.64	2.69
Cable Splicers	17.64	2.77
AREA 5:		
Electrical Installations not exceeding $4,000.00	16.10	2.07
Electrical Installations over $4,000.00	16.60	2.09
IRONWORKERS:		
AREA 1	15.95	2.23
AREA 2	15.715	3.32
AREA 3	16.25	2.15
AREA 4	16.45	2.79

	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
AREA 1:		
Linemen	$18.02	$2.18
Groundman Equipment Op. - Class 1	16.61	2.08
Groundmen Truck Driver w/Winch	12.77	1.74
Groundmen Truck Driver without Winch	12.02	1.67
Groundmen	11.46	1.62
AREA 2:		
Linemen; Heavy Equipment Op.; & Technicians	14.07	.94
Cable Splicers	14.17	.95
Dynamiter	11.97	.87
Groundmen Equipment Op.	11.39	.85
Groundmen Truck Driver with Winch	10.06	.80
Groundmen Truck Driver without Winch; Groundmen	9.72	.79
PAINTERS:		
AREA 1:		
Brush	15.50	1.73
Bridge Work; Spray & Steel	16.35	1.73
AREA 2:		
Brush	14.25	
Bridge; Spray & Steel	14.75	
AREA 3:		
Brush	12.50	1.00
Steel	12.75	1.00
Spray	13.00	1.00
AREA 4:		
Brush; Roller	14.47	3.49
Spray; Steel	14.97	3.49
Bridge	15.72	3.49
LABORERS:		
AREA 1:		
Unskilled	15.75	1.40
Semi-Skilled	15.95	1.40
Skilled	16.15	1.40
AREA 2:		
Unskilled	14.42	1.70
Semi-Skilled	14.62	1.70
Skilled	14.82	1.70
AREA 3:		
Unskilled	13.97	2.15
Semi-Skilled	14.17	2.15
Skilled	14.37	2.15

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D):		
AREA 4:		
Class 1	$13.18	$2.20
Class 2	13.43	2.20
Class 3	13.68	2.20
AREA 5:		
Road, Driveways & Alleys:		
Group 1	14.71	2.45
Group 2	14.835	2.45
Group 3	14.86	2.45
Group 4	14.96	2.45
Group 5	14.985	2.45
Group 6	15.085	2.45
Tunnel & Subways (Free Air):		
Group 1	14.71	2.45
Group 2	14.835	2.45
Group 3	15.085	2.45
Group 4	15.185	2.45
Cofferdams & Caisson (Free Air):		
Group 1	14.71	2.45
Group 2	14.835	2.45
Group 3	15.185	2.45
Open Sewer Or Trenches:		
Group 1	14.71	2.45
Group 2	14.76	2.45
Group 3	14.835	2.45
Group 4	15.085	2.45
Group 5	15.185	2.45
Levee & Heavy Grading:		
Group 1	14.71	2.45
Group 2	14.835	2.45
Pipeline:		
Group 1	14.71	2.45
Group 2	14.835	2.45
Group 3	14.985	2.45
AREA 6:		
Unskilled	13.72	2.40
Semi-Skilled	13.92	2.40
Skilled	14.13	2.40
AREA 7:		
Unskilled	13.92	2.20
Semi-Skilled	14.12	2.20
Skilled	14.32	2.20

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
AREA 1:		
Group 1	$16.74	$2.35
Group 2	16.54	2.35
Group 3	15.59	2.35
Group 4	15.32	2.35
Group 5	13.88	2.35
AREA 2:		
Class 1	15.30	2.96
Class 2	15.30	2.96
Class 3	13.70	2.96
Class 4	13.70	2.96
Class 5	12.55	2.96
TRUCK DRIVERS:		
AREA 1:		
Group 1	14.325	1.15+a
Group 2	14.725	1.15+a
Group 3	14.925	1.15+a
Group 4	15.175	1.15+a
AREA 2:		
Group 1	14.875	1.15+a
Group 2	15.275	1.15+a
Group 3	15.475	1.15+a
Group 4	15.725	1.15+a
DREDGING:		
Group 1	13.07	1.30
Group 2	12.87	1.30
Group 3	12.495	1.30
Group 4	12.22	1.30
Group 5	11.61	1.30

FOOTNOTE:
a. $51.00 Per Week Per Employee

AREA DESCRIPTIONS

CARPENTERS & PILEDRIVERMEN:
AREA 1: Fulton, Peoria, Stark & Tazewell Cos.
AREA 2: Hancock (E 1/3) & McDonough Cos.
AREA 3: Hancock (W 2/3) Co.
AREA 4: Henderson, Knox, & Warren Cos.
AREA 5: Mercer Co.
CEMENT MASONS:
AREA 1: Fulton (Except NW Part), Peoria & Tazewell Cos.
AREA 2: Fulton (NW Part), Knox, & Warren Cos.
AREA 3: Hancock Co.
AREA 4: Henderson (N ½) & Mercer Cos.
AREA 5: Henderson (S ½) Co.
AREA 6: McDonough Co.
AREA 7: Stark Co.
ELECTRICIANS:
AREA 1: Fulton (Cass, Deerfield, Ellisville, Harris, Lee, Union, Young & Hickory Twps.), Henderson, Knox, McDonough (Blandinsville, Prairie City, Emmet, Tennessee, Scotland, Sciota, Bushnell, Macomb, Colchester, New Salem, Walnut Grove, Hire, Mound & Chalmers Twps.), Mercer (Ohio Grove, Suez & S. Henderson Twps.), & Warren Cos.
AREA 2: Fulton (Exclu. Cass, Deerfield, Ellisville, Harris, Lee, Union, Young & Hickory Twps.), Peoria, Stark (Essex, Valley & W. Jersey Twps.) & Tazewell Cos.
AREA 3: Hancock & McDonough (Lamoine, Bethel, Industry & Eldorado Twps.) Cos.
AREA 4: Mercer (Exclu. Ohio Grove, N. Henderson, & Suez Twps.) Co.
AREA 5: Stark (Elmira, Goshen, Osceola, Penn, & Toulon Twps.) Co.
IRONWORKERS:
AREA 1: Fulton (S. tip, inclu. Marbletown, Astoria & Summum Twps.) Co.
AREA 2: Fulton (N. of Summum & Marbletown Twps.), Knox (S & E of Galesburg), McDonough, Peoria, Stark, & Tazewell Cos.
AREA 3: Hancock, Henderson, Knox (W & SW of Galesburg), Mercer & Warren Cos.
AREA 4: Knox (Galesburg & all area N. of the city) Co.
LINE CONSTRUCTION:
AREA 1: Fulton, Hancock, Henderson, Knox, McDonough, Mercer (N. Henderson & Suez Twps.), Peoria, Stark, Tazewell, & Warren Cos.
AREA 2: Mercer (Exclu. N. Henderson & Suez Twps.) Co.
PAINTERS:
AREA 1: Fulton, Peoria, & Tazewell Cos.
AREA 2: Hancock & McDonough Cos.
AREA 3: Henderson, Knox, Stark, & Warren (N. to Center of E-W Hwy at Alexis) Cos.
AREA 4: Mercer & Warren (Exclu. area N. to Center of E-W Hwy at Alexis) Cos.
LABORERS:
AREA 1: Fulton, & Tazewell (Exclu. City of East Peoria) Cos.
AREA 2: Hancock & McDonough Cos.
AREA 3: Henderson, Knox, & Warren Cos.
AREA 4: Mercer Co.
AREA 5: Peoria, & Tazewell (City of East Peoria) Cos.
AREA 6: Stark (E ½) Co.
AREA 7: Stark (W ½) Co.
POWER EQUIPMENT OPERATORS:
AREA 1: Fulton, Hancock, Henderson, Knox, McDonough, Peoria, Stark, Tazewell, & Warren Cos.
AREA 2: Mercer Co.
TRUCK DRIVERS:
AREA 1: Fulton, Hancock, Henderson, Knox, McDonough, Mercer & Warren Cos.
AREA 2: Peoria, Stark, & Tazewell Cos.
DREDGING: Fulton, Hancock, Henderson, Knox, McDonough, Peoria, Stark, Tazewell & Warren Cos.

LABORERS CLASSIFICATIONS:
AREA 1:
UNSKILLED: Tool Cribmen; Cleaning & Oiling Machinery & Tools; Gravel Box Men; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Pit Men; Landscapers; Unloading Explosives; Laying of Sod; Planting of Trees; Removal of Trees; Wrecking Laborers; Fireproofing; Unloading & Carrying of Rebars; Scaffold Workers; Laborers w/Dewatering Systems; Tunnel Laborers (Free Air); Tenders for Carpenters, Masons, Plasterers, Piledrivers, Asphalt Plant, Firemen or Salamanders, Caisson Top Man, & Truck Drivers
SEMI-SKILLED: Handling of Materials Treated w/Oil & Creosote; Asphalt and/or Foreign Material Harmful to Skin & Clothing Handled by any mode or method; Track Laborers; Cement Handlers; Signalling & Spotting of Rigs & Equipment; Chloride Handlers; Wet Concrete Workers; Batch Dumpers; Kettle & Tar Men; Tank Cleaner; Plastic Installer; Motorized Buggies or Motorized Units used for Wet Concrete or Building Materials; Sewer Workers; Vibrator Ops.; Mortar Mixer Op.; Cement Silica, Clay, Fly Ash, Lime & Plaster Handlers (Bulk or Bag); Cofferdam Workers; Work on Concrete Paving; Placing, Cutting & Tying of Reinforcing; Dock Hand; Dredge Hand & Shore Laborers; Bank Men or Floating Plant; Asphalt Workers & Layers with Machine; Grade Checker; Dumpmen & Spotter where Grade is to be established; Power Tools; Chain Saw Op.; Jackhammer & Drill Ops.; Air Tamping Hammerman; Caisson Top Man; Gunnite Pot Men; Batterboard Setter; Digging Bell Holes; Driving or Stakes & Setting Stringlines for all Machinery
SKILLED: Caisson or Tunnel Miners & Muckers; Gunnite Nozzlemen; Welders; Cutters; Burners; & Torchmen; Steel Form Setters-Street & Highway; Concrete Saw Op.; Screenman on Asphalt Pavers; Front End Man on Chip Spreader; Laborers Tending Masons with Hot Material or/where Foreign Matter of Materials are used; Multiple Concrete Duct-Leadman; Lutemen; Curb Asphalt Machine Op.; Ready Mix Scaleman; Permanent Portable or Temporary Plant; Laborers Handling Master-Plate or similar Materials; Laser Beam Op.; Concrete Burning Machine Op.; Coring Machine Op.; Underpinning & Shoring of Buildings; Dynamite Shooter; Cribbing & Jackmen in Trench & Hydraulic Jackmen
AREA 4:
CLASS 1: Common; Carpenter Tender; Tool Cribmen; Salamander Tender; Form Handler; Material Handler; Fencing; Cleaning Lumber; Landscapers; Unloading Explosives; Laying of Sod; Planting of Trees; Removal of Trees; Wrecking; Unloading of Re-Bars; Scaffold Workers; & Signal Man on Crane
CLASS 2: Handling of Materials treated with Creosote; Kettle Men; Prime Mover or Motorized Unit used for Wet Concrete or Handling of Building Materials; Vibrator Ops.; Mortar Mixer; Power Tools used under the jurisdiction of the Laborer; Sand Points; Gunnite Nozzle Men; Welders; Cutters; Burners and Torchmen; Chain Saw Op.; Jackhammer and Drill Ops.; Paving Breakers; Air Tamping Hammermen; Concrete Saw Op.; Concrete Burning Machine Op.; Coring Machine Op.; Hod Carriers & Plasterers' Tenders
CLASS 3: Caisson Workers after 6 ft. depth; Dynamite Men; Tunnel Miners; Mixermen (Plaster only); & Pump Men
AREA 5:
Road, Driveways & Alleys:
Group 1: Bricklayer Tender; Carpenter Tender; Cement Mason Tender; Concrete Form Dismantler; Piledriver Tender; Tool Cribmen; Expansion Joint Assemblers; All other Excavating Work & Labor; Curing all Concrete by Hand Method; Drive Stakes; Stringlines for all Machinery; Waterproofing w/Cold Stuff; & Landscape Work
Group 2: Power Operated Tool; Asphalt Kettlemen & Carries; Cement Men & Sack Shakers; Chipping Hammermen; Jackhammer & Drill Op. (Open); Power Form Tampers; Power Concrete Saw; Bigmen; Signalling & Spotting Rigs & Equipment, Waterproofing w/Hot Stuff
Group 3: Stripping Concrete Forms with Composite Crew of Carpenters & Laborers
Group 4: Gunnite Pump Man; Puddlers; Vibrator Man; Wire Fabric Placer; Sandblasting Pump Man; Strike Off; Unloading, Handling & Carrying of any Creosoted Material; Concrete Burning Bars
Group 5: Power Wheelbarrows or Buggies
Group 6: Asphalt Raker; Brickmatters; Cutting Torch; Setting Lines to Level Forms; Form Setters; Gunnite Nozzlemen; Sandblasting Nozzlemen; Powdermen; Rip Rapping; Cutting Torchman (elec. & acetylene)

LABORERS CLASSIFICATIONS (CONT'D):
AREA 5 (Cont'd):
Tunnel & Subways (Free Air):
Group 1: Top Laborer
Group 2: Bell Men (Top & Bottom); Laborers in Tunnel
Group 3: Drill & Powder Men; Gunnite Op. (Tunnel); Operator Cement Placement; & Muckers
Group 4: Tunnel Miners
Cofferdams & Caisson (Free Air):
Group 1: Caisson & Cofferdam Top Men Tenders
Group 1: Caisson & Cofferdam Top Men
Group 3: Caisson & Cofferdam Miner; Caisson & Cofferdam Muckers; & Any other Laborers Working in "said" Caisson or Cofferdam
Open Sewer Or Trenches:
Group 1: Top Man & All Other Excavating
Group 2: Men Working in Sewers 2 years old and older
Group 3: Bottom Man who does immediate grading; Batter Board Men; Laser Beam Equipment
Group 4: Tile Layer & Caulker
Group 5: Cribbing, Jackman & Hydraulic Jackman in Trench
Levee & Heavy Grading:
Group 1: All Other Laborers
Group 2: Spotters; Dump Man & Cut Man
Pipelines:
Group 1: All other Laborers; Rollers; Scalers & Spotters
Group 2: Signal Men on Rigs; Rig Man; Kettlemen & Carries; Men Handling Hotstuff; Men who do immediate grading for laying of pipe or digging bells holes
Group 3: Spacers
POWER EQUIPMENT OPERATORS CLASSIFICATIONS:
AREA 1:
GROUP 1 - Cranes; Hydro Cranes; Shovels; Crane Type Backfiller; Tower Cranes, Mobile & Crawler & Stationary; Derricks & Hoist (3-drum); Dragline; Drott Tumbo & similar Types considered as Cranes; Backhoe; Derrick Boats; Pile Driver & Skid Rigs; Clam Shells; Locomotive Cranes; Road Pavers, Single Drum, Dual Drum & Tri Batcher; Motor Patrols & Power Blades, Dumore, Elevating & Similar types; Mechanics; Central Concrete Mixing Plant Op.; Blacktop Plant Ops. & Plant Engineers; Gradall; Caisson Rigs; Skimmer Scoop, Koehring Scooper; Dredges (all types); Hoptoe, Crane type: Escalated rate on Crane & Derricks Booms, $.01 per hour, per ft., over 80' incl. jib; Cherry Pickers; Work Boat; Ross Carrier; Helicopter; Dozer & Tournadozer
GROUP 2 - Asphalt Heater & Planer Combination (used to plane streets); Trench Machines; Pump Crete; Belt Crete; Squeeze Crete; Screw type Pumps & Gypsum; Bulker & Pump; Dinkeys; Tournapulls, all, & similar types; Multiple Unit Earth Movers, $.25 per hour for each scoop over one; Scoops (all sizes); Pushcats; End Loaders (all types); Side Booms; P-H One Pass Soil Cement Machines & similar types; Wheel Tractors (industrial or farm type with Dozer, Hoe, End Loader other attachments; Backfiller; Asphalt Surfacing Machine; Euclid Loader; Fork Lifts; Formless Finishing Machine; Jeep with Ditching Machine or other attachment; Tune-Lugger; Rockcrusher; Automatic Cement & Gravel Batching Plants; Mobile Drills (Soil Testing); & Similar types; Pugmill with Pump; Flaherty Spreader & Similar types; Heavy Equipment Greaser (Top Greaser on Spread); Power Launches; Boring Machine & Pipe Jacking Machine; C.M.I & similar types; All (1) & (2) Drum Hoists; Dewatering System; Straw Blower; Hydro-seeder; Boring Machine; Hydro-broom; Starting Engineer on Pipeline; F. W. D. & similar types

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POWER EQUIPMENT OPERATORS CLASSIFICATIONS (CONT'D):

AREA 1 (Cont'd):

GROUP 3: Apsco Spreader or similar types; Tractors (track-type) without Power Units pulling Rollers; Rollers on Asphalt-brick or Macadam; Concrete Breakers; Concrete Spreaders; Center Stripper; Cement Finishing Machines; Vibro Tampers (all) similar types) self-propelled; Mechanical Bull Floats; Mixers, over 3 bag to 27E; Winch & Boom Trucks; Tractor, pulling Power Blade or Elevating Grader; Porter Tex Rail; Clary Screed; Mule, pulling Rollers; Pugmill without Pump; Barber Greene or similar Loaders; Track-Type Tractors with Power unit attached (minimum); Fireman; Screed Man on Laydown Machine; & Spray Machine on Paving

GROUP 4 - Power Subgrader; Oil Distributor; Straight Tractor; Tracair (without attachments); Curb Machines; Paved Ditch Machines; Truck Crane Oiler; & Truck type Hoptoe Oilers

GROUP 5 - Herman Nelson Heater, Dravo, Warner, Silent Glo & Similar types; Self-propelled Concrete Saws; Assistant Heavy Equipment Greaser; Crawler Crane & Skid Rig Oilers; Rollers, 5 tons & under on Earth & Gravel; Form Graders; Pump (1) or (2); Light Plant (1) or (2); Generator (1) or (2); Conveyor (1) or (2); Mixer, 3 Bags & under; Bulk Cement Plant; Air Compressor (1) or (2); & Welding Machine (1) or (2)

AREA 2:

CLASS 1: Crane; Shovel; Clamshell; Dragline; Backhoe; Derrick; Tower Crane; Cable Way; Concrete Spreader; Asphalt Spreader; Asphalt Mixer Plant Engineer; Dipper Dredge; Dipper Dredge Cranesman; Dual Purpose Truck (Boom or Winch); Leverman or Engineman (Hydraulic Dredge); Mechanic; Paving Mixer with Tower attached; Pile Driver; Boom Tractor; Stationary, Portable or Floating Mixing Plants; Trenching Machine (over 40 H.P.); Building Hoist (two drums); Hot Paint Wrapping Machine; Cleaning & Priming Machine; Backfiller (throw bucket); Locomotive Engineer; Welder; Tow or Push Boat; Concrete Paver; Seaman Trav-L-Plant or similar machines; CMI Autograder or similar machines; Slip Form Paver; Caisson Augering Machine; Mucking Machine; Asphalt Heater-Planer Unit; Hydraulic Cranes; & Mine Hoists

CLASS 2: Athey; Barber-Green; Euclid or Haiss Loader; Asphalt Pug Mill; Fireman & Oiler; Concrete Pump; Concrete Spreader; Bulldozer; Endloader; Log Chipper or similar machines; Elevating Grader; Group Equipment Greaser; LeTourneapul & similar machines; CMI-10 Hystar Winch & similar machines; Motor Patrol; Power Blade; Push Cat; Tractor Pulling Elevating Grader or Power Blade; Tractor Operating Scoop or Scraper; Tractor with Power Attachment; Roller on Asphalt or Blacktop; Single Drum Hoist; Jaeger Mix & Place Machine; Pipe Bending Machine; Flexaplane or similar machines; Automatic Curbing Machines; Automatic Cement & Gravel Batch Plants (one stop set-up); Seaman Pulvi-Mixer or similar machines; Blastholer Self-propelled Rotary Drill or similar machines; Work Boat; Combination Concrete Finishing Machine & Float; Self-propelled Sheep Foot Roller or Compactor; Asphalt Spreader Screed Operator; Apsco Spreader or similar machines; Forklift (over 6,000 lb. cap. or working at heights above 16 ft.); Concrete Conveyors; & Chip Spreader

CLASS 3: Asphalt Booster; Fireman & Pump at Asphalt Plant; Mud Jack; Underground Boring Machine; Concrete Finishing Machine; Form Grader with Roller on Earth; Mixers (1 bag to 16E); Power Operated Bull Float; Tractor without Power attachment; Dope Pot (agitating motor); Dope Chop Machine; Distributor (back end); Straddle Carrier; Portable Machine Fireman; Hydro-Hammer; Power Winch on Paving Work; Self-propelled Roller or Compactor; Pump (more than one well-point pump); Portable Crusher; Trench Machine (under 40 H.P.); Power Subgrader (on forms) or similar machines; Forklift (6,000 lb. cap. or less); Gypsum Pump; Conveyor over 20 H.P.; Fuller Kenyon Cement Pump or similar machines

CLASS 4: Air Compressor (275 c.f.m. or over); Driver on Truck Crane or similar machines; Light Plant; Mixers (1 or 2 bag); Power Batching Machine (Cement Auger or Conveyor); Boiler (Engineer or Fireman); Water Pumps; Mechanical Broom; Automatic Cement & Gravel Batch Plants (two or three stop set-up); Skull Rubber-tired Tractors (not including Backhoes or Endloaders); self-propelled Curing Machines; & Brush Chippers

CLASS 5: Oiler; Mechanic's Tender; Mechanical Heater (other than steam boiler); Belt Machine; Small Outboard Motor Boats (Safety Boat & Life Boat); Engine Driven Welding Machine; & Small Tractors (used to unroll or roll wire mesh)

TRUCK DRIVERS CLASSIFICATIONS:

GROUP 1: Drivers on 2 Axles hauling less than 9 tons; Air Compressor & Welding Machine Incl. those pulled by separate units; Fork Lifts up to 6,000 lbs. cap.; Mechanic Tenders; Pick-ups when hauling materials, tools, or men to and from and on the job site; & Truck Driver Tenders

GROUP 2: 2 or 3 Axles hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winches; Fork Lifts over 6,000 lbs. cap.; 4-Axle Combination units; Hydrolifts or similar equipment when used for transportation purposes; & Winches

GROUP 3: 2, 3 or 4 Axles hauling 16 tons or more; Dispatcher; 5-Axles or more combination units; Mechanics & Working Foreman; & Water Pulls

GROUP 4: Drivers on Oil Distributors; & Drivers on Semi-Lowboys when moving equipment

DREDGE:

GROUP 1: Operators on hydraulic dipper or clamshell dredges, Engineers & Repairmen, Operators on Work Boats.

GROUP 2: Power Winches 1-2-3 Drums

GROUP 3: Security Engineer

GROUP 4: Cranemen on Dipper Dredges, Operators on Launches or Power Boats.

GROUP 5: Firemen & Oilers

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

COUNTIES: ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND, AND FOR HEAVY CONSTRUCTION PROJECTS IN HARFORD & HOWARD COUNTIES, MARYLAND

DECISION NO.: MD83-3010

DATE: DATE OF PUBLICATION

Supersedes Decision No. MD81-3074 dated October 9, 1981 in 46 FR 50238.

DESCRIPTION OF WORK: Building Construction (does not include single family houses and apartments up to and including 4-stories) and Heavy Construction Projects (does not include sewer and water lines)

DECISION NO. MD83-3010	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	15.30	3.39
BOILERMAKERS	17.675	2.915
BRICKLAYERS	14.78	2.87
CARPENTER, SOFT FLOOR LAYERS, MILLWRIGHTS, PILEDRIVERS, DIVERS AND DIVER'S TENDERS		
Zone 1 - Anne Arundel County (the City of Annapolis and that portion of the county south and east of the following line: beginning at Rte. 2 and the Patuxent River, north of Rte. 3 to the junction of Benfield Rd., then right on Benfield Rd. to the junction of Jumpers Hole Rd. left on Jumpers Hole Rd. to the junction of Ritchie Hwy., left on Ritchie Hwy. to the junction of Rte. 100, right on Rte. 100 to Rte. 177 and continuing in an easterly direction on Rte. 177 to Gibson Island):		
Carpenters & soft floor layers	14.92	1.55
Millwrights	15.61	1.55
Piledriver	15.25	1.55
Divers	23.20	1.55
Diver's Tenders	16.53	1.55
Zone 2 - Anne Arundel (remainder of county), Baltimore, Baltimore City, Harford and Howard Counties:		
Carpenters, soft floor layers, resilient floor layers, pile drivers and diver's tenders	13.80	2.11
Divers	77.50	2.11
Millwrights	14.15	2.36
CEMENT MASONS	13.69	2.12
ELECTRICIANS:		
Zone 1 - From Baltimore City Hall to 25 miles	16.60	3.5%+ 2.70
Zone 2 - Over 25 miles to 45 miles from Baltimore City Hall	16.85	3.5%+ 2.70
Zone 3 - Over 45 miles from Baltimore City Hall	17.10	3.5%+ 2.70
ELEVATOR CONSTRUCTORS		
Mechanics	16.08	2.69+ a+b
Helpers	11.23	2.69+ a+b
Helpers (Probationary)	8.02	
GLAZIERS	14.48	4.14
IRONWORKERS:		
Ironworkers, finishers, rodmen; pre-cast & prestress erectors	14.48	4.14
Fence Erectors	14.13	4.14
Sheeters	14.73	4.14
LABORERS, BUILDING & HEAVY (EXCLUDING TUNNEL CONSTRUCTION)		
General Laborers material Handlers (except tenders), clean-up, janitors, truck checkers	9.10	1.225
Construction Laborers - All laborers not otherwise classified	9.95	1.225
Semi-Skilled Laborers Potmen, power tool operators, pipe layers, drillers, concrete laborers, signalmen, small machine operators, laser beam operators	10.35	1.225
Skilled Laborers - Burners, welders, nozzlemen, wagon drillers, powder men	10.60	1.225
Jackhammer Operator - 80 lbs and over	10.35	1.225
LEAD BURNERS	17.35	1.01
LINE CONSTRUCTION:		
Linemen		
Zone 1 - From Baltimore City Hall to 45 miles (air line):		
Linemen, cable splicers digging and equipment operator	16.50	3%+.80
Truck drivers	10.31	3%+.80
Groundmen	9.90	3%+.80
Linemen		
Zone 2 - Over 45 miles from Baltimore City Hall:		
Linemen, cable splicers, digging and equipment operator	16.75	3%+.80
Truck drivers	10.56	3%+.80
Groundmen	10.15	3%+.80
MARBLE SETTERS	12.58	1.72
MASON TENDERS:		
Mason tenders	10.45	1.125
Scaffold builders	10.70	1.125
PAINTERS:		
Brush, roller, spackling, taping and wallcovering	13.30	2.29
Steel, spray, swinging stages, boatswain chair, sand and waterblasting, steam cleaning, and epoxies	14.05	2.29
Ames tool-barocka	14.30	2.29
PLASTERERS	14.00	2.10
PLUMBERS	16.22	2.82
ROOFERS	11.35	1.45
SHEET METAL WORKERS	13.90	3.76
SIGN ERECTORS	9.18	4%+d
SPRINKLER FITTERS:		
Baltimore City including a 10 mile radius beyond the city limits	16.90	2.83
Hartford & Howard Cos. and the remainder of Anne Arundel and Baltimore Counties	16.17	2.83
STEAMFITTERS	16.68	3.51
TILE & TERRAZZO WORKERS	13.86	2.07
TILE, MARBLE & TERRAZZO FINISHER	10.36	.95
TRUCK DRIVERS: BUILDING		
Euclid wagon and dumpster	11.54	2.50+f +g
Dropframe gooseneck and trailers	13.14	2.50+f +g
Dump	11.14	2.50+f +g
Pick-up	11.49	2.50+f +g

DECISION NO. MD83-3010

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: HEAVY		
Euclid wagons & dumpsters	10.54	2.50+f +g
Drop Frame, gooseneck & trailers	10.39	2.50+f +g
Dump; sweeper, boring machine and miscellaneous equipment; water trucks, fuel and lube truck	10.14	2.50+f +g
Pick-up	9.86	2.50+f +g

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS		
Group I	15.08	2.55+e
Group II	13.78	2.55+e
Group III	13.07	2.55+e
Group IV	12.40	2.55+e
Group V	11.05	2.55+e
POWER EQUIPMENT OPERATORS (PAVING, SITE CLEARANCE AND UTILITIES):		
Group I	12.70	2.55
Group II	12.10	2.55
Group III	11.41	2.55
Group IV	10.13	2.55

BUILDING POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group I - Operators handling or setting steel, stone prestressed concrete or machinery. Tower cranes.

Group II - Backfiller, backhoe, batching plants, boat captain, cableway, case type hoe (with a front end bucket over 1-1/4 yds.), concrete mixing plants, concrete paver, crane, derrick boat, double concrete pump, dragline, Eimco type overhead loader, elevating grader, excavating scoop ((25 yds. and over), front end loader (1-3/4 yds. and over), gradall, grader, grader, hoist (2 active drums or more), multiple conveyor, pile driving machine, power shovel, repair mechanic, shield, standard gauge locomotive, trenching machine, tunnel mucking machine, twin engine scraper, welder, whitley rig and bulldozers (D-9 or equalent and above)

Group III - Asphalt spreader, bull float, Case type backhoe (with a front end bucket 1-1/4 yds. and under), concrete mixer (with skip), concrete pump, concrete spreader, excavating scoop (under 25 yds.), finishing machine, front end tractor loader (under 1-3/4 yds.), hi-lift fork lift, longitudinal float, narrow guage locomotive, one drum hoist, power roller on hot mix asphalt, screeding machine, stone crusher, stone spreader, sub-grader, tractor with attachments (2 or more provided both attachments are being used) and all bulldozers except D-9 or equivalent and above.

GROUP IV -Caterpillar type tractor, compressors, elevator operator, firemen, fuel truck, grease truck, grout pump, light plant, mighty midget with compressor, single conveyor, space heaters, welding machines, well-drill, wellpoint system, and all power rollers except on hot mix asphalt.

GROUP V - Deck hands, oilers (all types)

DECISION NO. MD83-3010

(PAVING, SITE CLEARANCE UTILITIES) POWER EQUIPMENT OPERATOR CLASSIFICATIONS

Group I - Backfiller, backhoe, batching plants, cableway, case type hoe (with a front end bucket over 1-¼ 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 mocking 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 - ¼ 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, fuel truck, grease truck, light plan 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)

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. MD83-3010

Welders - receive rates prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Christmas Eve; H-Good Friday.

FOOTNOTES:
a. Holidays: A through F.
b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of the basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. Employee working Christmas Eve shall work 4 hours and receive 8 hours pay.
d. Holidays: A through F,H, Friday after Thanksgiving, and employee's birthday. 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.
e. Holidays: A through F.
f. Employee with 1 year of service - 1 week's paid vacation; 2 - 3 weeks paid vacation, provided the employee has worked during the holiday week).
g. Holidays: A through H plus the employee's birthday; (provided the employee has worked one day and has been available for work during the holiday week).

SUPERSEDEAS DECISION

STATE: Missouri & Kansas

COUNTIES: Cass,Clay,Jackson,Platte, Ray,Henry,Johnson & Lafayette Cos., Missouri; Johnson & Wyandotte Cos., Kansas

DECISION NO: MD83-4043 DATE: Date of Publication

Supersedes Decision NO. MD82-4013 dated April 9, 1982 in 47 FR 15497.

DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories) and heavy and highway construction in Johnson & Wyandotte Cos., Kansas only.

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	17.29	4.26
Boilermakers	16.12	2.825
Bricklayers & Stonemasons	14.44	3.98
Carpenters:		
Zone 1 - Cass,Clay,Jackson, Lafayette,Platte & Ray Cos., Mo.; Johnson & Wyandotte Cos.,Kansas: Carpenters, Lathers, Millwrights & Pile-driversmen	15.05	2.07
Zone 2 - Henry County, Mo.: Carpenters & Lathers	13.55	2.07
Millwrights & Pile-drivermen	15.05	2.07
Zone 3 - Johnson Co.,Mo.: Carpenters & Lathers	14.075	2.07
Millwrights & Pile-drivermen	15.05	2.07
Cement Masons (Building Construction):		
Zone 1 - Cass,Clay, Jackson, Lafayette, Platte & Ray Cos.,Mo.; Johnson & Wyandotte Cos., Kansas: Cement Masons	15.075	1.95
Zone 2 - Henry & Johnson Cos.,Mo.	13.98	
Cement Masons (Heavy & Highway Construction): Johnson & Wyandotte Cos., Kansas	15.17	1.95
Electricians:		
Zone 1 - Western half of Clay & Jackson Cos., Mo. not including Blue Springs; Northern half of Platte Co., Mo.; Northwestern portion of Cass Co., Mo. not including Pleasant Hill: Electricians	16.18	10%+ 2.51
Zone 2 - Henry,Johnson & Lafayette Cos., Mo. & remainder of Clay, Jackson,Platte & Cass Cos.,Mo.: Electricians (contracts exceeding 2000 man hrs.	16.18	10%+ 2.51
Electricians (contracts not exceeding 2000 man hrs.	15.18	10%+ 2.51
Zone 3 - Ray Co.,Mo: Electricians (contracts exceeding 2000 man hrs	16.18	10%+ 2.51
Electricians (contracts not exceeding 2000 man hrs.	14.58	10%+ 2.51
Zone 4 - Johnson & Wyandotte Cos.,Kansas	16.18	10%+ 2.51
Elevator Constructors	16.53	2.465 +a
Elevator Constructors' Helpers	70%JR	2.465 +a
Elevator constructors' Helpers (Prob.)	50%JR	
Glaziers	14.72	2.66+ 15.48%
Ironworkers:		
Zone 1 - Cass,Clay,Jackson,Platte,Ray,Henry, Johnson & Lafayette Cos.,Mo.	16.25	4.25
Zone 2 - Johnson & Wyandotte Cos.,Kansas	16.135	4.25

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	Basic Hourly Rates	Fringe Benefits
Laborers:		
Building Construction:		
Zone 1 - Cass,Clay,Jackson,Lafayette,Platte & Ray Cos.,Mo.; Johnson & Wyandotte Cos.,Kansas:		
Group 1	12.30	1.85
Group 2	12.45	1.85
Group 3	12.60	1.85
Zone 3 - Henry & Johnson Cos.,Mo.:		
Group 1	9.575	2.55
Group 2	9.675	2.55
Group 3	9.90	2.55
Site preparation & grading,Heavy & Highway Construction:		
Zone 4 - Johnson & Wyandotte Cos.,Kansas:		
Group 1	12.02	3.30
Group 2	12.82	3.30
Line Construction:		
Zone 1 - Cass,Clay,Jackson,Platte & Ray Cos., Mo.; Wyandotte & remainder of Johnson Cos., Kansas:		
Linemen	18.28	3-1/2%+1.06
Linemen Operator	17.02	3-1/2%+1.06
Groundman	12.05	3-1/2%+1.06
Zone 2 - Western 3/4 of Johnson Co.,Kansas:		
Lineman	15.50	3-1/2%+.65
Cable Splicers	16.28	3-1/2%+.65
Groundman	9.56	3-1/2%+.65
Powderman	12.81	3-1/2%+.65
Line Truck & Equipment Operators	12.81	3-1/2%+.65
Zone 3 - Cass,Clay,Jackson,Platte,Ray,Henry, Johnson & Lafayette Cos., Mo.; Wyandotte Co. & Johnson Co.-that portion east of Monticello,Olathe & Spring Hill Townships Kansas:		
Line Construction (Telephone & Telegraph Work-		

Line Construction:(Con'd)	Basic Hourly Rates	Fringe Benefits
Including C.A.T.V. Work):		
Cable splicers;air pressure technicians; central office equipment man	10.96	3%+.45
Telephone lineman & installer repairman; C.A.T.V. terminator; equipment operator (1/4 yd. backhoe & larger & D-4 crawlers & larger:	10.39	3%+.45
Equipment operator (trenchers & all other equipment)	9.11	3%+.45
Groundman-winch driver	7.87	3%+.45
Groundman	6.36	3%+.45
Line Construction (Railroad & Cross Country Tranamission Lines):		
Zone 4 - Wyandotte Co. & Johnson Co.-that portion east of Monticello Olathe & Spring Hill Townships:		
Lineman	15.62	3-1/2%+1.06
Lineman Operator	14.45	3-1/2%+1.06
Groundman, Powderman	10.75	3-1/2%+1.06
Groundman	10.03	3-1/2%+1.06
Pole Treating:		
Pole treating specialist	16.35	3-1/2%+1.06
Pole treating inspector	15.62	3-1/2%+1.06
Pole treating truck driver	10.75	3-1/2%+1.06
Pole treating groundman	10.03	3-1/2%+1.06
Marble & Tile Setters	16.55	10%
Marble & Tile Setters Finishers	14.40	

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	Basic Hourly Rates	Fringe Benefits
Painters:		
Zone 1 - Cass,Clay, Henry,Jackson,Johnson (excluding Whiteman AFB),Lafayette,Platte & Ray Cos.,Mo.; Johnson & Wyandotte Cos.,Kansas:		
Brush & Tapers	15.04	1.40
Spray	16.04	1.40
Zone 2 - Johnson Co.,Mo. (Whitman AFB only):		
Brush	14.25	
Spray	15.25	
Plasterers:		
Zone 1 - Cass,Clay,Jackson,Lafayette,Platte & Ray Cos.,Mo.; Johnson & Wyandotte Cos.,Kansas	17.25	
Zone 2 - Henry & Johnson Cos.,Mo.	12.51	
Pipefitters	17.44	3.22
Plumbers	17.96	2.70
Power Equipment Operators:		
Building Construction:		
Group I	15.46	3.75
Group II	15.11	3.75
Group III:		
(a)	10.05	3.75
(b)	13.21	3.75
(c)	10.85	3.75
(d)	13.46	3.75
Group IV	15.71	3.75
Group V	15.36	3.75
Group VI	15.96	3.75
Group VII:		
(a)	15.21	3.75
(b)	14.96	3.75
(c)	12.96	3.75
Group VIII	16.46	3.75
Group IX	15.96	3.75
Site preparation & grading,Heavy & Highway Construction:		
Zone 1 - Johnson & Wyandotte Cos.,Kansas:		
Group I	14.10	3.92
Group II	13.85	3.92
Group III	13.15	3.92
Group IV:		
(a)	9.13	3.92
(b)	12.15	3.92
Group V	14.35	3.92

	Basic Hourly Rates	Fringe Benefits
Roofers:		
Roofers	16.48	2.71
Sheet Metal Workers	16.65	2.63
Soft Floor Layers	11.21	11%+1.95
Sprinkler Fitters	17.83	2.81
Sprinkler Fitters (Henry, Johnson & Lafayette Cos., Mo.)	16.67	2.83
Terrazzo Workers:		
Terrazzo Workers	15.31	10%
Terrazzo Workers Finishers	13.58	
Terrazzo Base Machine	13.93	
Truck Drivers:		
Building Construction:		
Group I	14.085	2.75
Group II	14.135	2.75
Group III	14.21	2.75
Group IV	14.335	2.75
Group V	14.235	2.75
Group VI	14.435	2.75
Group VII	14.285	2.75
Group VIII	14.185	2.75
Truck Drivers:		
Site preparation & grading,Heavy & Highway Construction:		
Zone 1 - Johnson & Wyandotte Cos.,Kansas		
Group I	12.66	3.50
Group II	12.86	3.50
Group III	13.17	3.50
Group IV	13.32	3.50
Group V	12.44	3.50

FOOTNOTES: a - Employer contributes 8% of basic hourly rate for over 5 yrs. of service & 6% of basic hourly rate for 6 mos. to 5 yrs. service as Vacation Pay Credit. Also 7 paid holidays.

CLASSIFICATION DEFINITIONS

LABORERS - (Building Construction Zone 1):
Group 1 - General labor; wiremesh handlers or setters; carpenter tender; track men; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)
Group 2 - Plumber laborers (conduit pipe, sewer work, drain tile and duct lines, digging and power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgia buggies (self-propelled) fork lift; hoseman; insulation man
Group 3 - Fork lift (masonry); brick tender; plasterer tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

LABORERS: (Zone 3):
Group 1 - Carpenter tenders, track men, wreckers (alteration or entire projects); reinforcing rod carriers; signal men; all other general laborers
Group 2 - Plumber laborers; stonemason tenders; air tool operators, sewer work, water lines, conduit pipe, drain tile and duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; jackhammer & chipping hammer operators; material batch hopper man; scaleman; spreader or screed man on asphalt machine; chain or concrete sawman; brush feeders or pulverizers; swinging scaffold; cement handlers (buck or sack); laser beam man
Group 3 - Plasterer tenders; hod carriers; brick tender; cutting torch & burner men; asphalt rakers; barco tampers; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzlemen; head pipe layer or sewer work; man working in tunnels; head form setters & stringline men; hot tar applicator

LABORERS: (Site Preparation)
Group 1 - Carpenter tenders;salamander tenders;dump man and ticket takers - on stock piles;loading trucks under bins,hoppers and conveyors track men and all other general laborers,Air tool operators;cement handler (bulk or sack);chain or concrete saw;deckhands;dump man on earth fill;grade checkers cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; puddlers (paving only); crusher feeder;men handling creosote ties or

CLASSIFICATION DEFINITIONS - (Cont'd)

LABORERS: (Site Preparation) (Cont'd):

creosote materials;men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used
Group 2 - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders helpers and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels; Manhole builder (brick or block);dynamite and powder man

POWER EQUIPMENT OPERATORS
Group I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man
GROUP II Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hamer; lad-a-vator - similar type; rollers; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine
Group III -
(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material)less than 50 h.p.
Group IV -
Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl.jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft. of boom or over (incl. jib)

CLASSIFICATION DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS: (Cont'd):

Group V
Hoists-each additional drum over 1 drum
Group VI
Crane or rigs, over 200 ft. of boom
Group VII
Ready Mixed Concrete Plants:
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor Operator
Group VIII
Master Mechanic
Group IX
Crane-tower or climbing

POWER EQUIPMENT OPERATORS: (Site Preparation)

Group I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

Group II - A-frame truck, asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydrahammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.

Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator -1

CLASSIFICATIONS DEFINITIONS (Cont'd)

POWER EQUIPMENT OPERATORS: (Site Preparation - Cont'd):

Group IV
(a) Oilers
(b) Oiler driver, all types

Group V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over; men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

TRUCK DRIVERS -(building Construction):
Group I - Warehousemen and stock man
Group II - Flat beds; pick-ups; drum trucks, under 10 yds.
Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers
Group IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (20 tons capacity and over)
Group V - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers
Group VI - Mechanics
Group VII - Transit mix, 5 yds. and over
Group VIII - Transit mix, under 5 yds.

TRUCK DRIVERS - (Site Preparation)
Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle
Group II - Material trucks, tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers, single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment
Group III - A-frame, lowboy, and boom truck driver
Group IV - Mechanics and welders
Group V - Oilers and greasers

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: Texas
COUNTIES: Collin,Dallas,Denton,Ellis,Grayson,Hood,Hunt,Johnson,Kaufman,Palo Pinto,Rockwall,Tarrant & Wise
DECISION NO.: TX83-4042 DATE: Date of Publication
Supersedes Decision No. TX82-4054 , dated 11/5/82,in 47 FR 50430.
DESCRIPTION OF WORK: Building Projects(does not include single family homes & apartments up to & including 4 stories).(Use current heavy & highway general wage determination for Paving Incidental to Building Const. in Tarrant Co. & for Paving & Utilities Incidental to Building Const. in remaining Cos.).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.29	2.885
BOILERMAKERS	16.60	2.415
BRICKLAYERS & STONEMASONS:		
ZONE 1 - Collin,Dallas, Ellis,Grayson,Hunt,Kaufman & Rockwall Cos.	15.58	1.74
ZONE 2 - Denton,Hood,Johnson,Palo Pinto, Tarrant & Wise Cos.	15.57	2.11
CARPENTERS:		
ZONE 1 - Grayson Co.:		
Carpenters	14.61	1.655
Millwrights	15.01	1.655
Piledrivermen	15.11	1.655
ZONE 2 - Collin,Dallas, Denton,Ellis,Hood,Hunt, Johnson,Kaufman,Palo Pinto.Rockwall,Tarrant & Wise Cos.:		
Carpenters & pile-drivermen	16.15	2.33
Millwrights	15.66	3.53
CEMENT MASONS:		
ZONE 1 - Denton,Hood,Johnson,Palo Pinto,Tarrant & Wise Cos.	15.63	2.07
ZONE 2 - Collin,Dallas, Ellis,Hunt,Kaufman & Rockwall Cos.	14.45	1.42
ELECTRICIANS:		
ZONE 1 - Denton,Hood, Johnson,Palo Pinto,Tarrant & Wise Cos.:		
Electricians	15.90	.80+8%
Cable splicers	16.15	.80+8%
ZONE 2 - Collin,Dallas, Ellis,Grayson,Hunt,Kaufman & Rockwall Cos.:		
Electricians	17.10	.80+9%
Cable splicers	18.81	.80+9%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.035	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS (excluding Grayson Co.)	$15.60	1.55
IRONWORKERS:		
ZONE 1 - Collin,Dallas, Denton,Ellis,Grayson, Hood,Hunt,Johnson,Kaufman,Palo Pinto(excluding northwest corner),Rockwall,Tarrant & Wise(excluding northwest 1/2)	15.59	2.92
ZONE 2 - Palo Pinto(northwest corner) & Wise (northwest 1/2)	12.625	2.95
LABORERS:		
ZONE 1 - Grayson Co.:		
GROUP 1 - Unskilled	9.675	.775
GROUP 2 - Air tool op. (jackhammer,vibrator), mason tenders & mortar mixers,pipelayers	9.925	.775
ZONE 2 - Collin,Dallas, Denton,Ellis,Hood,Hunt, Johnson,Kaufman,Palo Pinto,Rockwall,Tarrant & Wise Cos.:		
GROUP 1	10.31	1.10
GROUP 2	10.46	1.10
GROUP 3	10.56	1.10
GROUP 4	10.71	1.10
LATHERS	15.86	2.54
LINE CONSTRUCTION:		
Linemen	17.10	.60+8%
Cable splicers	18.81	.60+8%
Operators	17.96	.60+8%
Groundmen	11.97	.60+8%
MARBLE, TILE & TERRAZZO WORKERS (excluding Ellis Co.)	14.42	1.47

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
ZONE 1 - Collin,Dallas, Denton,Ellis,Grayson, Hunt,Kaufman & Rockwall:		
GROUP 1 - Brush	$14.31	1.62
GROUP 2 - All wall covering work:paper, fabric,sheeting,flexwood,etc.	14.56	1.62
GROUP 3 - Ames tool op.	14.435	1.62
GROUP 4 - Structural steel,stage work,bosun chair,spray gun,sandblasting & window jack & fire escapes	14.685	1.62
ZONE 2 - Hood,Johnson, Palo Pinto,Tarrant & Wise:		
GROUP 1 - Brush	16.01	1.27
GROUP 2 - Wallcovering; pressure roller;sandblasting;structural steel;bosun chair,window jack & window sill; stage,fireescape;steel storage tank;stilts; mittens;ames tools, drywall finishing	16.26	1.27
GROUP 3 - Steeple jack (radio & TV towers, smoke stacks,chimneys & water towers & similar facilities & flagpole atop bldgs. located closer to the edge of bldg. than the height of the pole);toxic material(creosote,coal tar products or similar materials injurious to the skin	17.26	1.27
GROUP 4 - Spray	16.585	1.27
PLASTERERS:		
ZONE 1 - Collin,Dallas, Ellis,Hunt,Kaufman & Rockwall Cos.	14.92	3.04
ZONE 2 - Denton,Hood,Johnson,Palo Pinto,Tarrant & Wise Cos.	17.45	.51
PLUMBERS & PIPEFITTERS:		
ZONE 1 - Collin,Dallas, Ellis,Grayson,Hood, Hunt,Kaufman & Rockwall	16.88	2.19
ZONE 2 - Denton,Johnson, Palo Pinto,Tarrant & Wise Cos	16.58	2.03
ROOFERS:		
GROUP 1 - Slate & tile	12.96	.35
GROUP 2 - Composition & built-up,dampproofing & bituminious waterproofing	12.81	.35
SHEET METAL WORKERS:		
ZONE 1 - Collin,Dallas, Denton,Ellis,Grayson, Hood,Hunt,Johnson,Kaufman,Rockwall,Tarrant & Wise Cos.	16.905	2.06
ZONE 2 - Palo Pinto Co.	12.84	.09
SOFT FLOOR LAYERS	15.32	1.16
SOUND INSTALLERS - repair, service & install intercommunication telephone interconnect sound & public address equip., electronic systems,music & TV distributing system for commercial bldgs. & shall include the pulling of all wires in conduit or raceways or surface wiring,the running of open wires,the running of conduit & raceways not to exceed 10 ft. in length & the wiring of all electrical communication devises of 100 volts or less controlling the equip. described above	11.36	.54+3% +b
SPRINKLER FITTERS	16.17	2.83
POWER EQUIPMENT OPERATORS:		
ZONE 1 - Dallas County:		
GROUP 1	15.12	2.35
GROUP 2	15.52	2.35
ZONE 2 - Remaining Cos.:		
GROUP 1	7.265	2.30
GROUP 2	15.61	2.35
GROUP 3	16.01	2.35

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)).

PAID HOLIDAYS
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate. Also 7 Paid Holidays A thru G
b - Sick or Injury Pay:
1st day out - no pay
2nd day out - 1/2 pay
3rd day out & thereafter - full pay for a maximum of 10 days pay per year
Employees who receive pay for less than 5 sick days per year shall receive on 8/31 of each year incentive pay equal in amount to a day's pay for each day that such days were less than 5

Employees who are members of a reserve component of the Armed Services & are ordered to annual active duty for training as a normal part of their reserve obligation shall be eligible for & shall receive differential pay equal to the difference between their computed daily base rate (excluding overtime compensation) & their daily military base pay (excluding quarters & subsistence allowances) for each day of military leave where the employee would normally have performed work up to a maximum of 10 work days per year

Employees absent from work while serving as jurors shall be paid at their hourly rate excluding overtime for the hours actually lost from work less any amount received by the employee as juror's fee

Up to 3 days leave for death of immediate family member (spouse,child,parent, brother,sister,mother-in-law,father-in-law,grandparents & grandchildren)

Paid Vacation:
after 1 year service - 1 week vacation
after 2 years service - 2 weeks vacation
after 5 years service - 2 weeks & 1 day vacation
after 6 years service - 2 weeks & 2 days vacation
after 7 years service - 2 weeks & 3 days vacation
after 8 years service - 2 weeks & 4 days vacation
after 9 years service - 3 weeks vacation

Paid Holidays - A thru G plus the last working day preceding Christmas Day & another day designated by the Company

LABORERS (ZONE 2) CLASSIFICATION DEFINITIONS
GROUP 1 - All hand digging dirt work & backfilling;firing of salamanders,loading & unloading of materials to & from hoist or cages;loading & unloading of tools & equip.;wheeling,placing & pouring of concrete;all excavation;handling of lumber, steel,cement;distribution of all materials;miscellaneous job clean-up;wrecking & razing of bldgs. & all structures;cleaning & clearing of all debris;handling of broken concrete or other damanaged or undamanged materials;removing,moving, handling & greasing of forms,wrecking forms;storing materials to storage place; slip form jacks,scaffold builders, checking materials & tools in & out of receiving lots & sheds; tool housemen;landscaper;asphalt ironer & raker;waterproofing tender;dumper;spotter;concrete pumpcrete pipe(handling & laying); carpenter tender
GROUP 2 - All power tool & equip. ops.(gas,electric or air);cutting torch man; concrete grademan;power buggy op.;wagon drill op.,well driller,drilling rig tender;cement finisher tender;metal pan & steel form men;handling creosoted materials;liquid acids or like materials injurious to health,eyes,skin or clothes; all newly developed equip. which replaces wheelbarrows or buggies previously used by laborers;scale men on batch plants

LABORERS (ZONE 2) (CONT'D)
GROUP 3 - Concrete & clay pipe(handling & laying);mason handler;scaffold bldr.; mason tender;hod carrier mortar mixers;lather tenders,plaster tenders;water pump ops. up to 4"; cement masons tenders;mortar mixers;hod carriers;dry mixers; tank cleaning;all pipe doping,treating & wrapping,including all men working with dope,mortar & plaster mixing machines;grout machines,pumpcrete machines,gunite mixing machine,including placing & cleaning of pipe & conduits used in placing of concrete,handling & placing of gunite materials from stockpile;screening sand,running sand dryer & loading & operating sand blaster,except nozzle, conveying,stocking & handling of all materials for brickmasons,lathers,cement finisher,plasterers;ditch work over 6 ft. & cleaning out drill piers
GROUP 4 - Sand blaster,blaster powderman;gunite worker;gunite nozzleman & terrazzo grinder

POWER EQUIPMENT OPERATORS (ZONE 1) CLASSIFICATION DEFINITIONS
GROUP 1 - Air compressor,water pumps,welding machines(2 to 6 machines) & generators;Blade grader,towed;Flex plane;Form grader;Concrete mixer,less than 14 cu. ft.;Pulsometer;Wagon drill op.;Conveyor;Hoist,single drum;Scraper, 3 cu. yd. or less;Bob cat with loader
GROUP 2 - Heavy duty mechanic;Asphalt mixer op. on job;Blade grader,self-propelled;Bull clam;Backfiller;Bulldozer & all cat type tractors;Backhoe;Concrete mixers over 14 cu. ft.;Crusher on job;Concrete batch plant;Clamshell;Cranes (all types);Truck mounted or crawler requires oiler including groves(hydraulic) or similar type over 12½ ton cap.;Escalated rate on crane & derrick booms: .01¢ per hr., per ft. over 90 ft. including jib;Draglines;Derricks,power operated (all types);DW-10 caterpillar,5-8 Euclid & similar tractors;Elevating grader,self-propelled;Foundation drilling machines(all);Forklifts used in handling machinery on const.;Gradeall;Hoist,motor driven,2 drums or more; Locomotive crane;Mixmobile;Paving mixers(all types);Piledriver;Pumpcrete machines;Pneumatic roller,self-propelled;Shovels,power operated;Scrapers, over 3 cu. yds.;Scoopmobile;Trenching machines,all types;Winch trucks,when pole & winch is used;Water well drilling machines,used on construction;Well point pump;Welding machines(7 to 13 machines)

POWER EQUIPMENT OPERATORS (ZONE 2) CLASSIFICATION DEFINITIONS
GROUP 1 - Oiler-Fireman
GROUP 2 - Air compressors,Pumps,Welding Machines,Throttle Valves,Light Plants; Conveyor;Wagon drill;Elevators Building;Form Graders,Hoist,Single drum;Ford Tractor including blade & mower on rear;Mixers less than 14 cu. ft.;Screening Plants;Crushing Plants;Forklifts(short under 25 ft.);Concrete Pumps(all types);Bobcat type equip.
GROUP 3 - Ford Tractor or like with any attachments(except blade & mower on rear);Drilling Machines(all types);Scoopmobiles;Hoist,2 drums or more;Forklifts (over 25 ft.);Winch Truck, 6 wheel truck,when used continuously for 5 days;Mixermobile;Locomotives;Mixers,14 cu. ft. or over;Blade Graders,self-propelled;Cableways;Cranes-power operated to 100 ft.;Derricks,power operated (all types);Gradall;Hy-Ho;Hop-To;Paving Mixers (all types);Piledrivers; Mobile Concrete Mixers over 14 cu. ft.;Bulldozers,Loaders,Tractorvators; Scrapers & Pulls;Welding;Trenching Machines;Roller, 10 tons or over; Air Compressor & Air Tugger;Boilers,2 or more fired by 1 man;Heavy Duty Mechanic

SUPERSEDEAS DECISION

STATE: Washington
DECISION NUMBER: WA83-5110
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. WA82-5117 dated August 13, 1982, in 47 FR 35433
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	$21.07	$3.30
Area 2	21.52	3.54
Area 3	20.38	2.80
BOILERMAKERS	19.67	3.96
BRICKLAYERS; MARBLE SETTERS:		
Area 1	16.43	3.36
Area 2	17.28	1.62
Area 3	17.84	2.29
Area 4	18.50	2.93
Area 5	17.11	2.85
Area 6	16.76	3.07
Area 7	17.11	3.18
CARPENTERS:		
Area 1:		
Carpenters; Lathers Piledriver; Saw Filer; Stationary Power woodworking tool Operator	15.85	3.57
Boom Men; Carpenters working on borned, charred, creosoted, or similarly treated material	16.00	3.57
Piledriver (creosoted material)	16.10	3.57
Millwrights and Machine Erectors	16.25	3.57
Area 2:	16.35	3.57
Carpenters and Drywall Applicators	17.06	2.66
Carpenters on Creosoted material	17.16	2.66
Sawfilers; Stationary Power Saw; Floor Finisher; Floor Layer; Shinglers; Floor Sander and other stationary power woodworking tools	17.19	2.66
Millwrights and Machine Erectors	17.56	2.66
CARPENTERS: (AREA 2): (Cont'd)		
Piledrivers; Bridge, Dock and Wharf Builders	$17.26	$2.66
Acoustical Workers	17.22	2.66
Boommen	17.31	2.66
Area 3:		
Acoustical and Drywall Applicator, Automatic Nailing Machine, Carpenters, Form Strippers, Manhole Builders	16.19	3.32
Floor Layers and Finishers, Stationary Power Saw Operator	16.34	3.32
Millwrights and Machine Erectors	16.44	3.32
Certified Welders	16.59	3.32
Piledrivermen; Bridge, Dock and Wharf Builders	16.29	3.32
Boommen	16.39	3.32
Area 4:		
Carpenters	16.27	3.32
Piledriver; Sawfiler, Stationary power woodworking tool Operator	16.42	3.32
Boom Men; Carpenters working on burned, charred, creosoted, or similarly treated material	16.52	3.32
Piledriver; Creosoted material	16.63	3.32
Millwrights and Machine Erectors	16.77	3.32
CEMENT MASONS: (AREA 1):		
Group 1	15.50	3.45
Group 2	16.00	3.45
Group 3	16.50	3.45

DECISION NO. WA83-5110	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS: (Cont'd)		
Area 2:		
Cement Masons	$17.86	$2.55
Composition, Color, Mastic, Trowel Machine; Grinder, Power Tool Gunnite Nozzleman	18.11	2.55
Area 3:		
Cement Masons	14.63	2.20
Composition, Color, Mastic, Trowel Machine, Grinder, Power Tools Gunnite Nozzleman	14.88	2.20
Area 4:		
Cement Masons	15.49	4.02
Composition Materials and power machinery	15.80	4.02
Area 5:		
Group 1	15.88	3.20
Group 2	16.38	3.20
Group 3	16.88	3.20
ELECTRICIANS:		
Area 1:		
Electricians	18.95	3%+2.56
Cable Splicers	19.35	3%+2.56
Area 2:		
Electricians	20.39	3%+3.53
Cable Splicers	21.41	3%+3.53
Area 3:		
Electricians	18.70	3%+3.58
Cable Splicers	20.57	3%+3.58
Area 4:		
Electricians	22.12	3%+3.38
Cable Splicers	24.33	3%+3.38
Area 5:		
Electricians	20.80	3%+4.13
Cable Splicers	21.60	3%+4.13
Area 6:		
Electricians	20.15	3%+3.27
Cable Splicers	22.17	3%+3.27
Area 7:		
Electricians	18.72	11%+ 2.28
Cable Splicers	20.59	11%+ 2.28
Area 8:		
Electricians	22.80	3%+2.93
Cable Splicers	25.08	3%+2.93
ELECTRONIC TECHNICIANS:		
Area 1	10.08	3%+0.69
Area 2	13.66	2.63

	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS:		
Mechanics:		
Area 1	$19.73	a+2.47
Area 2	21.155	a+2.477
Area 3	18.06	a+2.33
Elevator Helpers - Areas 1,2, and 3 - 70% of Journeyman Rate plus the above Fringe Benefits		
Probationary Helpers - Areas 1, 2, and 3 - 50% of Journeyman Rate excluding Fringe Benefits		
GLAZIERS:		
Area 1	13.70	b+1.34
Area 2	15.50	2.55
Area 3	10.91	2.51
Area 4	13.79	2.14
Area 5	16.77	b+1.65
Area 6	13.06	1.90
Area 7	16.24	1.84
INSULATION APPLICATORS	14.06	1.65
IRONWORKERS	18.04	3.80
LATHERS:		
Area 1	17.77	2.75
Area 2	14.42	1.86
MASON TENDERS:		
Area 1:		
Mason Tenders (including Tenders of Plasterers, Bricklayers, Tile Setters, Marble Setters, and Terrazzo Workers; Topping for Cement Finishers and Mortar Mixers)	14.22	2.60
PAINTERS:		
Area 1:		
Brush	15.97	2.46
Drywall Taper	16.22	2.46
Steel; Spray; Steam Cleaning	16.47	2.46
Swing Stage or High work over 30 '	16.67	2.46
Bituminastic; Sandblasting; Bridge; Tanks on legs; Tower; Stacks; Steeples	16.77	2.46
TV, Radio, and Electrical Transmission Towers	17.47	2.46
Area 2:		
Brush	13.73	2.99

DECISION NO. WA83-5110	Basic Hourly Rates	Fringe Benefits
PAINTERS-AREA 2: (Cont'd)		
Spray	$14.28	$2.99
Bridges, High work over 50' (brush)	14.63	2.99
Bridges, High work over 50' (Spray)	15.18	2.99
Drywall Finishers	15.48	2.11
Area 3:		
General Painters	16.74	2.32
Drywall Tapers	17.14	2.32
Industrial Painter	17.14	2.32
Area 4:		
Striper	16.65	1.83
Area 5:		
Journeyman Painters	15.97	2.46
Taper Finishers	16.22	2.46
Spray Painters, Steel Painters, Steam Cleaning, Acid Etching	16.47	2.46
Swing Stage Work or high work over 30 ft.	16.67	2.46
Bitumastic, Sand Blasting, Bridges, Towers, Stacks, Steeples, Tank on Legs	16.77	2.46
TV, Radio, and Electrical Transmission Towers	17.47	2.46
PLASTERERS:		
Area 1	15.88	3.20
Area 2	17.23	3.29
Area 3	15.07	3.21
PLASTERERS' TENDERS:		
Area 1	13.62	2.61
PLUMBERS:		
Area 1	17.50	6.07
Area 2	19.43	6.98
Area 3	19.74	6.21
Area 4	20.58	3.60
Area 5	19.25	6.32
ROOFERS:		
Area 1	14.56	4.10
Area 2	16.48	2.55
Area 3:		
Roofers; Waterproofers	18.85	2.27
Slate and Tile Roofers	19.10	2.27
Area 4:		
Roofers; Waterproofers	16.20	2.77
Slate and Tile Roofers	16.45	2.77
Area 5:		
Roofers; Waterproofers	15.25	1.81
Slate and Tile Roofers	15.75	1.81

Page 3	Basic Hourly Rates	Fringe Benefits
ROOFERS: (Cont'd)		
Area 6:		
Roofers	$16.85	$2.30
Handling of irritating material (coal tar or epoxy)	17.10	2.30
Handling of irritating material (coal tar or epoxy) in confined area	17.35	2.30
SHEET METAL WORKERS:		
Area 1	17.46	3%+3.09
Area 2	21.54	3%+2.24
Area 3	17.95	3%+4.13
Area 4	18.14	3%+2.11
Area 5	20.71	3%+3.07
Area 6	20.52	3%+3.17
Area 7	18.76	3%+3.10
SOFT FLOOR LAYERS:		
Area 1	14.19	1.74
Area 2	15.72	2.99
Area 3	15.00	2.34
Area 4	11.75	1.79
Area 5	17.03	3.10
Area 6	13.786	c+2.33
Area 7	14.51	3.05
Area 8	15.05	1.89
SPRINKLER FITTERS		
Area 1	19.76	5.86
Area 2	17.92	2.83
TERRAZZO WORKERS; TILE SETTERS:		
Area 1	15.40	3.15
Area 2	16.61	1.62
Area 3	17.84	2.29
Area 4	17.06	3.13
Area 5	17.31	3.05
Area 6	16.76	3.07
Area 7	17.11	3.18
TILE, MARBLE and TERRAZZO FINISHERS:		
Area 1	14.71	1.97
Area 2	15.70	2.10
Area 3	12.70	3.15
IRRIGATION and LANDSCAPE CONSTRUCTION: (STATEWIDE):		
Laborers	8.66	2.50
Plumbers	10.62	2.31
Power Equipment Operators	10.96	2.95

DECISION NO. WA83-5110 Page 4

LABORERS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian (except DOE Hanford Site in Benton and Franklin Counties)

BUILDING, HEAVY And HIGHWAY CONSTRUCTION

GROUPS	BASE RATE	FRINGE BENEFITS
1	$13.72	$3.37
2	13.97	3.37
3	14.22	3.37
4	14.47	3.37

AREA 2
All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4) and the Northern portion of Pacific County

GROUPS	BASE RATE	FRINGE BENEFITS
1-A	$10.13	$2.88
1-B	15.16	2.88
2	15.50	2.88
3	15.64	2.88
4	15.74	2.88

AREA 3
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties, and the Southern portion of Pacific County

GROUPS	BASE RATE (ZONE 1)	ZONE DIFFERENTIAL - (Add to BASE RATE)
1	$13.59	Zone 2 - $0.65
2	13.94	Zone 3 - 1.15
3	14.24	Zone 4 - 1.70
4	14.49	Zone 5 - 2.75
5	8.66	
6	10.87	FRINGE BENEFITS:
		$3.55

AREA 4
Those portions of Chelan, Douglas, Kittitas, Okanogan, and Yakima Counties lying west of the 120th Meridian

GROUPS	BASE RATE	FRINGE BENEFITS
1-A	$10.13	$2.88
1-B	15.16	2.88
2	15.50	2.88
3	15.64	2.88
4	15.74	2.88

AREA 5
DOE Hanford Site in Benton and Franklin Counties

GROUPS	BASE RATE	FRINGE BENEFITS
1	$14.10	$3.12
2	14.35	3.12
3	14.60	3.12
4	14.85	3.12
5	15.10	3.12

DECISION NO. WA83-5110 Page 5

LINE CONSTRUCTION

	BASE RATE (ZONE 1)
Group 1: Cable Splicer, Leadman Pole Sprayer	$19.93
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	18.01
Group 3: Tree Trimmer	16.25*
Group 4: Line Equipment Man	15.51
Group 5: Head Groundman, Powderman, Jackhammer Man	13.56
Group 6: Head Groundman	13.56*
Group 7: Groundman	12.74

ZONE DIFFERENTIAL (Add to BASE RATE)	FRINGE BENEFITS
Zone 2 - $2.40	Groups 1 to 3 - $2.75+3½%
Zone 3 - 3.15	Groups 4 to 7 - 2.05+3½%
Zone 4 - 3.90	
Zone 5 - 5.15	

*Groups 3 and 6 receive BASE RATE ONLY (no Zone Differential)

ZONE DEFINITIONS -LINE CONSTRUCTION ONLY

ZONE 1 - 0 to 3 miles radius from the geographical center of Seattle, Tacoma, Portland, Medford

ZONE 2 - 3 to 20 miles radius from seattle, Tacoma, Portland, Medford; and 0 to 20 miles radius from the Cities listed below

ZONE 3 - 20 to 35 miles radius from all Cities

ZONE 4 - 35 to 50 miles radius from all Cities

ZONE 5 - More than 50 miles radius from all Cities

BASE POINTS

Bellingham	Astoria	Coeur D'Alene	Ellensburg
Ephrata	Baker	Kellogg	Everett
Kennewick	Bend	Lewiston	Longview
Olympia	Corvallis	Oro Pino	Sandpoint
Spokane	Lakeview	Walla Walla	Klamath Falls
Wenatchee	Pendleton	Salem	Roseburg
Wilbur	The Dalles	Yakima	Umatilla
Eugene	Burns		

DECISION NO. WA83-5110 Page 6

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (AREA 1)		
All Counties and portions of Counties East of the 120th Meridian (except DOE Hanford Site in Benton and Franklin Counties):		
Group 1	$13.65	$4.35
Group 2	13.95	4.35
Group 3	14.50	4.35
Group 4	14.65	4.35
Group 5	14.80	4.35
Group 6	15.05	4.35
Group 7	15.30	4.35
Group 8	16.30	4.35
(AREA 2)		
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3):		
Group 1	18.73	3.66
Group 2	18.23	3.66
Group 3	17.79	3.66
Group 4	17.43	3.66
Group 5	17.13	3.66
Group 6	15.33	3.66
(AREA 3)		
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties; and the Southern portion of Pacific County:		
ZONE 1:		
Group 1	15.00	4.15
Group 2	15.18	4.15
Group 3	15.33	4.15
Group 4	15.53	4.15
Group 5	15.56	4.15
Group 6	15.67	4.15
Group 7	15.74	4.15
Group 8	15.87	4.15
Group 9	15.96	4.15
Group 10	16.04	4.15
Group 11	16.06	4.15
Group 12	16.15	4.15
Group 13	16.25	4.15
Group 14	16.48	4.15
Group 15	16.67	4.15
Group 16	16.91	4.15
Group 17	17.10	4.15
Group 18	17.34	4.15
Group 19	17.52	4.15

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (AREA 3) (Cont'd)		
ZONE DIFFERENTIAL - (Add to Zone 1 Rate):		
Zone 2 - $0.65		
Zone 3 - 1.15		
Zone 4 - 1.70		
Zone 5 - 2.75		
Zone 6 - 3.55		
(DREDGING - AREA 1)		
All Counties and portions of Counties East of the 120th Meridian:		
Group 1	$16.75	$3.60
Group 2	16.85	3.60
Group 3	17.19	3.60
Group 4	17.24	3.60
Group 5	17.61	3.60
(DREDGING - AREA 2)		
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and the Northern part of Pacific County:		
Group 1	16.75	3.66
Group 2	16.85	3.66
Group 3	17.19	3.66
Group 4	17.24	3.66
Group 5	17.61	3.66
(DREDGING - AREA 3)		
Clark, Cowlitz, and Klickitat Counties; Pacific County (Southern portion); Skamania and Wahkiakum Counties:		
Group 1	16.97	3.87
Group 1-A	17.68	3.87
Group 2	16.43	3.87
Group 3	16.02	3.87
Group 4	15.67	3.87
(AREA 4)		
DOE Hanford Site in Benton and Franklin Counties:		
Group 1	14.28	4.10
Group 2	14.58	4.10
Group 3	15.13	4.10
Group 4	15.28	4.10
Group 5	15.43	4.10
Group 6	15.68	4.10
Group 7	15.93	4.10
Group 8	16.93	4.10
Group 9	18.68	4.10

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits
(AREA 1)		
All Counties and portions of Counties East of the 120th Meridian (Except DOE Hanford Site in Benton and Franklin Counties):		
Group 1	$15.19	$3.73
Group 2	15.23	3.73
Group 3	15.29	3.73
Group 4	15.38	3.73
Group 5	15.59	3.73
Group 6	15.63	3.73
Group 7	15.69	3.73
Group 8	15.73	3.73
Group 9	15.84	3.73
Group 10	15.88	3.73
Group 11	16.19	3.73
Group 12	16.33	3.73
Group 13	16.49	3.73
Group 14	16.63	3.73
(AREA 2)		
All Counties and portions of Counties West of the 120th Meridian (Except those enumerated in Area 3) including the Northern portion of Pacific County and all of Kittitas and Yakima Counties:		
Group 1	16.41	2.92
Group 2	16.46	2.92
Group 3	16.51	2.92
Group 4	16.62	2.92
Group 5	16.68	2.92
Group 6	16.72	2.92
Group 7	16.73	2.92
Group 8	16.79	2.92
Group 9	16.84	2.92
Group 10	16.86	2.92
Group 11	16.89	2.92
Group 12	16.99	2.92
Group 13	17.01	2.92
Group 14	17.05	2.92
Group 15	17.17	2.92
Group 16	17.21	2.92
Group 18	17.33	2.92
Group 19	17.38	2.92
Group 19	17.54	2.92
Group 20	17.70	2.92
Group 21	17.86	2.92

TRUCK DRIVERS: (Cont'd)

(AREA 3) Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties; and the Southern portion of Pacific County:	Basic Hourly Rates	Fringe Benefits
ZONE 1		
Group 1	$14.69	$3.74
Group 2	14.74	3.74
Group 3	14.79	3.73
Group 4	14.84	3.73
Group 5	14.89	3.74
Group 6	15.99	3.74
Group 7	15.09	3.74
Group 8	15.19	3.74
Group 9	15.29	3.74
Group 10	15.45	3.74
Group 11	15.56	3.74
Group 12	15.66	3.74
Group 13	15.76	3.74
Group 14	15.86	3.74
ZONE DIFFERENTIAL- (Add to Zone 1 Rate):		
Zone 2 - $0.65		
Zone 3 - 1.15		
Zone 4 - 1.70		
Zone 5 - 2.75		
(AREA 4)		
DOE Hanford Site in Benton and Franklin Counties:		
Group 1	15.19	3.48
Group 2	15.23	3.48
Group 3	15.29	2.48
Group 4	15.38	3.48
Group 5	15.59	3.48
Group 6	15.63	3.48
Group 7	15.69	3.48
Group 8	15.73	3.48
Group 9	15.84	3.48
Group 10	15.88	3.48
Group 11	16.19	3.48
Group 12	16.33	3.48
Group 13	16.49	3.48
Group 14	16.63	3.48

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

*Where Pacific County is stated as "Northern Portion" or "Southern Portion" such areas are defined as follows:

Pacific County (northern portion) - North of Wahkiakum County northern boundary extended due west to the Pacific Ocean

Pacific County (southern portion) - South of Wahkiakum County northern boundary extended due west to the Pacific Ocean

FOOTNOTES:

a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day.

b. Two weeks' vacation with pay after 1 year employment. Also seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day.

c. 4% of all gross wages to be placed to the credit of the employee with less than one(1) year's service - 6% of all gross wages to be placed to the credit of the employee with more than one(1) year of service.

AREA and ZONE DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, and Okanogan Counties; Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom, and Yakima Counties
Area 2: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 3: Remaining Counties

BRICKLAYERS; MARBLE SETTERS:
Area 1: Adams County (except City of Othello); Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, and Stevens Counties; Grand Coulee Dam Area in Okanogan County; and Whitman County
Area 2: Benton, Franklin, and Walla Walla Counties
Area 3: Chelan, Douglas and Grant Counties; Okanogan County (except area of Grand Coulee Dam); and the portion of Adams County that includes the City of Othello
Area 4: Clallam, Island, Jefferson, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom Counties
Area 5: Clark and Cowlitz Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties, and ten mile strip bordering the Columbia River in Klickitat County
Area 6: Kittitas and Yakima Counties; Klickitat County (except a ten mile strip bordering the Columbia River)

AREA and ZONE DESCRIPTIONS (Cont'd)

BRICKLAYERS; MARBLE SETTERS: (Cont'd)
Area 7: Grays Harbor, Lewis, and Mason Counties; Pacific County (northern portion); Pierce and Thurston Counties
Area 8: Whatcom County

CARPENTERS:
Area 1: All Counties and parts of Counties east of the 120th Meridian except DOE Hanford Site in Benton and Franklin Counties
Area 2: All Counties and parts of Counties west of the 120th Meridian except Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 3: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion), Skamania and Wahkiakum Counties
Area 4: DOE Hanford Site in Benton and Franklin Counties

CEMENT MASONS:
Area 1: Adams and Asotin Counties; Benton and Franklin Counties (except DOE Hanford Site); Chelan, Columbia, Douglas, Ferry, Garfield, and Grant Counties; Kittitas County (except western portion lying one mile west of the City of Easton); Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties
Area 2: Clallam, Grays Harbor, and Jefferson Counties; King County (southern portion); Kitsap County; Kittitas County (western portion lying one mile west of the City of Easton); Lewis and Mason Counties; Pacific County (northern portion); Pierce and Thurston Counties
Area 3: Island, San Juan, Skagit, and Snohomish Counties; King County (northern portion); Whatcom county
Area 4: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 5: DOE Hanford Site in Benton and Franklin Counties

GROUP DESCRIPTIONS FOR CEMENT MASONS - AREAS 1 and 5

Group 1: Journeyman Cement Mason, includes but not limited to: Rodding, Tamping, Floating, Troweling, Patching, Stoning, Rubbing, Sack Rubbing; All exposed aggregate finishing, setting of Screeds, Screed Forms, Curb and gutter and sidewalk forms, Preparation of all concrete for caulking of the joints and the caulking of expansion joints, Preparation of concrete for the application of hardeners, sealers and curing compounds and their application; Grouting and dry packing of Machine Base; Removal of Snap Ties and She-bolts prior to patching of concrete

Group 2: Power Troweling Machine Operator; Troweling of Magnesite, Torcganal or material with epoxy base or oxychloride base; All power Grinders, Brushing Hammer, Chipping Gun, Gunnite Nozzleman; All sandblasting for architectural finishes and exposing of aggregate for finish; Concrete sawing and cutting for expansion joints and scoring for decorative patterns; Operating of Clary-type Floats, Longitudinal Floats, Rodding Machines and Belting Machines; Scarifiers

Group 3: Grinding, Brushing or Chipping of toxic materials or high density concrete; Operating power tools on a Scaffold

AREA DESCRIPTIONS (Cont'd)

ELECTRICIANS:
Area 1: Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties
Area 2: Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla, and Yakima Counties
Area 3: Chelan, Douglas, Grant, and Okanogan Counties
Area 4: Clallam, Jefferson, King, and Kitsap Counties
Area 5: Clark, Klickitat, and Skamania Counties
Area 6: Cowlitz and Wahkiakum Counties
Area 7: Grays Harbor, Lewis, Mason, Pierce, Pacific, and Thurston Cos.
Area 8: Island, San Juan, Skagit, Snohomish, and Whatcom Counties

ELECTRONIC TECHNICIANS:
(Installation and repair of low-voltage communication and alarm systems, excluding any work under the jurisdiction of a journeyman wireman):
Area 1: Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties
Area 2: Clallam, Jefferson, King, and Kitsap Counties

ELEVATOR CONSTRUCTORS:
Area 1: Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman Counties
Area 2: Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, and Mason Counties; Pacific County (northern portion); Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom, and Yakima Cos.
Area 3: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

GLAZIERS:
Area 1: Adams County (northeastern portion); Ferry County; Lincoln County (eastern half); Pend Oreille, Spokane, and Stevens Counties
Area 2: Adams County (southeastern portion); Benton, Columbia, Franklin, and Walla Walla Counties
Area 3: Adams County (southwestern corner); Chelan, Douglas, and Grant Counties; Lincoln County (western half); and Okanogan County
Area 4: Asotin, Garfield, and Whitman Counties
Area 5: Clallam, Island, Jefferson, Grays Harbor, King, Kitsap, Lewis, and Mason Counties; Pacific (northern portion); Pierce, San Juan, Skagit, Snohomish, Thurston, and Whatcom Counties
Area 6: Yakima and Kittitas Counties
Area 7: Clark, Cowlitz, and Klickitat Counties, Pacific County (southern portion); Skamania and Wahkiakum Counties

LATHERS:
Area 1: Clallam, Island, Jefferson, King, Kitsap, and Lewis Counties; Pacific County (northern portion); Pierce, San Juan, Skagit, Snohomish, and Whatcom Counties
Area 2: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

MASON TENDERS:
Area 1: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

AREA DESCRIPTIONS (Cont'd)

PAINTERS:
Area 1: Adams and Asotin Counties; Benton and Franklin Counties (except DOE Hanford Site); Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties
Area 2: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 3: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pierce, San Juan, Skagit, Snohomish, and Thurston Counties; Pacific County (northern portion); and Whatcom County
Area 4: Statewide except Wahkiakum, Cowlitz, and Skamania Counties
Area 5: DOE Hanford Site in Benton and Franklin Counties

PLASTERERS:
Area 1: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima Counties
Area 2: Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, and Mason Counties; Pacific County (northern portion); Pierce, San Juan, Skagit, Snohomish, Thurston, and Whatcom Counties
Area 3: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

PLASTERERS' TENDERS:
Area 1: All Counties and portions of Counties east of the 120th Meridian

PLUMBERS:
Area 1: Chelan County; Kittitas County (north of 47°15' N. Lat.); Douglas County (west of the 119°30' W. Long.); Okanogan County (except the area lying east of the 119°31' W. Long., North to 48°30' N. Lat.)
Area 2: Adams County (southern portion), Asotin County (except the City of Clarkston), Benton, Columbia, Franklin, Garfield, Grant, Klickitat, Walla Walla, and Yakima Counties; Douglas County (east of 119°30' W. Long.); Ferry County (west of a line drawn from Creston in Lincoln County northward to the Canadian Border), Kittitas County (south of 47°15' N. Lat.), Lincoln County (west of a line drawn from Schrag in Adams County northward to the Ferry County Line), and Okanogan County (east of 119°30' W. Long. and south of 48°30' N. Lat.)
Area 3: Adams County (northern portion including the City of Ritzville), Asotin County (City of Clarkston only), Cowlitz County; Ferry County (east to a line drawn from Creston in Lincoln County northward to the Canadian Border), Grays Harbor, Island, Kitsap, and Lewis Counties; Lincoln County (east of a line drawn from Schrag in Adams County northward to the Ferry County Line), Mason, Pend Oreille, Pierce, Skagit, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Whatcom, Whitman, Clark, and Skamania Counties (those portions lying north of a east-west line drawn through Woodland eastward to the Klickitat County Line
Area 4: Clark and Skamania Counties south of an east-west line drawn through Woodland eastward to the Klickitat County Line
Area 5: Clallam, King, and Jefferson Counties; and all Dam Sites on the Skagit River in Whatcom County

AREA DESCRIPTIONS (Cont'd)

ROOFERS:
Area 1: Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman Counties
Area 2: Benton, Franklin, Kittitas, Klickitat and Yakima Counties
Area 3: Clallam, Jefferson, King, Kitsap, Mason, and Snohomish Counties
Area 4: Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston, and Wahkiakum Counties
Area 5: Island, San Juan, Skagit, and Whatcom Counties
Area 6: Clark and Skamania Counties

SHEET METAL WORKERS:
Area 1: Adams, Asotin, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman Counties
Area 2: Clallam, Jefferson, Kitsap, and Mason Counties
Area 3: Clark and Skamania Counties
Area 4: Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston, and Wahkiakum counties
Area 5: King, Kittitas, Island, and Snohomish Counties
Area 6: Whatcom, Skagit, and San Juan Counties
Area 7: Benton, Columbia, Franklin, Garfield, Klickitat, Walla Walla, and Yakima Counties

SOFT FLOOR LAYERS:
Area 1: Adams County (northeastern portion); Ferry County; Lincoln County (eastern half); Pend Oreille, Spokane, and Stevens Counties
Area 2: Adams County (southeastern portion); Benton, Columbia, Franklin, and Walla Walla Counties
Area 3: Adams County (southwestern portion); Chelan, Douglas, and Grant Counties, Lincoln County (western half); Okanogan County
Area 4: Asotin, Garfield, and Whitman Counties
Area 5: Island, King, Kitsap, Skagit, and Snohomish Counties
Area 6: Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 7: Grays Harbor, Lewis, and Mason Counties; Pacific County (northern portion); Pierce and Thurston Counties
Area 8: Yakima and Kittitas County

SPRINKLER FITTERS:
Area 1: Skagit, Snohomish, King, Island, Kitsap, Pierce, and Thurston Counties
Area 2: Remaining Counties

TERRAZZO WORKERS; TILE SETTERS:
Area 1: Adams County (except that portion which include the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties, and Grand Coulee Dam area in Okanogan County
Area 2: Benton, Franklin, and Walla Walla Counties
Area 3: Chelan, Douglas, Grant, Okanogan County (except area of Grand Coulee Dam), and the portion of Adams County that include the City of Othello)

AREA DESCRIPTIONS (Cont'd)

TERRAZZO WORKERS; TILE SETTERS: (Cont'd)
Area 4: Clallam, Island, Jefferson, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom Counties
Area 5: Clark and Cowlitz Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties, and a ten-mile strip bordering the Columbia River in Klickitat County
Area 6: Kittitas, Klickitat (except 10 mile striping bordering the Columbia River), and Yakima Counties
Area 7: Grays Harbor, Lewis, Mason, Pierce, and Thurston Counties

TILE, MARBLE, and TERRAZZO FINISHERS:
Area 1: All Counties west of the Cascade Mountain Range (except Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties
Area 2: Clark and Cowlitz Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties, and a ten-mile strip bordering the Columbia River in Klickitat County
Area 3: Adams County (except that portion which includes the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Counties, and Grand Coulee Dam area in Okanogan County

ZONE DESCRIPTIONS (AREA 3) ONLY

LABORERS,
POWER EQUIPMENT and TRUCK DRIVERS
Astoria, Bingen, Goldendale, The Dalles, Longview, Portland and Vancouver

ZONE 1 - all jobs or projects located within 30 miles of the respective City Hall
ZONE 2 - more than 30 miles but less than 40 miles from the respective City Hall
ZONE 3 - more than 40 miles but less than 50 miles from the respective City Hall
ZONE 4 - more than 50 miles but less than 80 miles from the respective City Hall
ZONE 5 - more than 80 miles from the respective City Hall

LABORERS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian (Except DOE Hanford Site in Benton and Franklin Counties)

BUILDING, HEAVY, and HIGHWAY CONSTRUCTION

Group 1: Brush Hog Feeder; Carpenter Tender; Concrete Crewman (to include: Stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, Pumpcrete Machine, Signaling, handling the nozzle of Squeezecrete or similar machine - 6 in. and smaller); Crusher Feeder; Demolition (to include: clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erector (to include: Guard Rail, Guide and Reference Post, Sign Posts, and Right-of-way Markers); General Laborer; Grout Machine Header Tender; Nippers; Riprap Man; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural Mover (to include: separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Truck Loader; Well-point Man; Window Cleaner; Miner Class "A" - Bull Gang, Pump Crete Crewman including Distribution Pipe, Assembling and Dismantle and Nipper; Track Laborer; Railroad Equipment, power driven; Dual Mobile Power Spiker or Puller

Group 2: Asphalt Raker; Asphalt Roller, walking; Cement Finisher Tender; Cement Handler; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Driller Tender (when required to move and position machine); Form Cleaning Machine Feeder; Stacker; Form Setter, paving; Grade Checker using level; Jackhammer Operator; Nozzleman (to include: Squeeze and Flow-crete Nozzle); Nozzleman, water, air or steam; Pavement Breaker; Pipelayer, corrugated metal culverts; Pipelayer, multi-section; Pot Tender; Powderman Tender; Power Buggy Operator; Power Tool Operator, gas, electric, pneumatic; Rodder and Spreader; Sandblast Tailhoseman; Tamper (to include: operation of Barco, Essex and similar Tampers, and Pavement Breakers); Trencher, Shawnee; Tugger Operator; Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow, power driven; Miner Class "B" - Brakeman, Finisher, Vibrator and Form Setter

Group 3: Air Track Drill; Brush Machine (to include: Horizontal Construction Joint Clean-up Brush Machine, power propelled); Caisson Worker, free air, Chain Saw Operator and Faller; Concrete Stack (to include: Laborers when 40 ft. high); Gunnite (to include: operation of machine and nozzle); High Scaler; Hod Carrier; Laser Beam Operator (to include: Grade Checkers and Elevation control); Monitor Operator (track or similar mounting); Mortar Mixer; Nozzleman (to include: Jet Blasting Nozzleman, over 1,200 lbs., Jet Blast Machine, power propelled, Sandblast Nozzle); Pipelayer (to include: working Topman, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, Valve or meter Installer); Pipewrapper; Vibrator, 4 inches and over; Miner Class "C" - Miner and Nozzleman for concrete and Laser Beam Operator in Tunnels

Group 4: Drills with dual masts; Powderman; Miner Class "D" - Raise and Shaft Miner and Laser Beam Operator on Raises and Shafts; Powderman receives $0.25 an hour additional

LABORERS (Cont'd)
AREA 2
All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4 and the Northern portion of Pacific County

AREA 4
Those portions of Chelan, Douglas, Kittitas, Okanogan, and Yakima Counties lying West of the 120th Meridian

Group 1-A: Window Washer

Group 1-B: General Laborer; Asphalt Laborer; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Carpenter Tender; Cement Handler; Changehouse or Dry Shack; Choker Setter; Clean-up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crusher Feeder; Curing Laborer; Demolition: wrecking and moving (including charred material); Ditch Digger; Drierman; Dumpman; Elevator Feeders; Faller and Bucker, hand; Fence Laborer; Pine Grader; Form Setter; Grout Machine Header Tender; Header Laborer and Guardrail Erector; Housewrecker; Material Yard Man (including electrical); Nipper-swamper; Pilot; Pilot Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Skipman; Sloper Sprayman; Stockpiler; Toolroom Man (at job site); Track Laborer; Truck Spotter; Vinyl Seaming

Group 2: Air, Gas, or Electric Vibrating Screed; Anchor Machine; Ballast Regulator Machine; Chipper; Choker Splicer; Chuck Tender; Clary Power Spreader and others; Concrete Saw; Epoxy Technician; Gabian Basket Builder; Grinder; Groutman (pressure) including Post Tension Beams; Jackhammer; Multiple Tamper; Pavement Breaker; Pipe Pot Tender; Pipe Wrapper Powderman's Tender; Power Jack; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon Setter, head; Rip Rap Man, head; Rodder; Sloper (over 20°); Stake Hopper; Tamper (multiple and self-propelled); Tamper and similar electric and air operated tools; Topman - Tailman; Wagon Driller and Air Track Tender; Well Point Laborer

Group 3: Bit Grinder and Drill Doctor; Cement Dumper - paving; Cement Finisher Tender; Faller and Bucker Chain Saw; Grade Checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hod Carrier; Nozzleman (concrete pump, Green Cutter when using combination of high pressure air and water on concrete and rock, Sandblast, Gunnite, Shotcrete) Water Blaster; Pipe Layer and Caulker; Powderman; Raker-asphalt; Spreader (carriers grade with Rodder); Timberman - sewer (Lagger, Shorer and Cribber); Tugger Operator; Vibrator; Wagon Driller and Air Track Operator

Group 4: Caisson Worker; Laser Beam Operator (tunnel); Miner; Spader, tunnel; Powderman; Re-timberman Pipe Reliner (not insert type)

LABORERS (Cont'd)
AREA 3
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties, and the Southern portion of Pacific County

Group 1: General Laborer; Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Changehouse Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert, hand labor; Curing, concrete; Demolition, wrecking and moving Laborers; Drillers' Tenders; Dumpers, road oil crew; Dumpman (for grading crew); Pine Graders; Form Strippers (not swinging stages); Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types; Ribbon Setters (including steel forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bull Gang (above ground); Weightman - Crusher (aggregate when used); Railroad Track Laborers

Group 2: Applicator (including Pot Tender for same) applying protective material by hand or nozzle on utility lines or storage tanks or project; Brush Cutters (power saw); Burners; Choker Splicer; Clary, power spreader and similar types; Cleanup Nozzleman-Greencutter (concrete, rock, etc.); Concrete power Buggyman; Crusher Feeder; Demolition and wrecking charred materials; Grade Checker; Gunite Nozzleman Tender; Gunite and Sandblasting Pot Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine, Jackhammer, Chipping Guns, Paving Breakers, Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Ribbon Setter, head; Rip Rap Man, head, hand placed; Sand Blasting (wet); Stake Setter; Tunnel-Muckers; Brakemen; Concrete Crew; Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators; Air Tracks; Cat Drills; Wagon Drills; Rubber - mounted Drills and other similar types; Concrete Saw Operator; Gunite Nozzleman; High Scalers; Strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down or sloping and stripping); Laser Beam (pipe laying); Applicable when employee assigned to move, set up, align Laser Beam; Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzleman; Sandblasting (dry); Sewer (Pipe Layers); Sewer Timberman; Track Liners; Anchor Machines, Ballast Regulators, multiple Tampers, Power Jacks; Tugger Operator; Tunnel Chuck Tenders; Nippers and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4: Laser Beam (tunnel) - Tunnel Miners; Tunnel Powdermen

Group 5: Landscaping or Planting Laborers

Group 6: Fence Builder (including Guard Rail, Median Rail, Reference Post, Guide Post Right-of-way Marker)

LABORERS (Cont'd)
AREA 5
DOE Hanford Site in Benton and Franklin Counties

Group 1: Brush Hog Feeder; Carpenter Tender; Concrete Crewman (to include: Stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, Pumpcrete Machine, Signaling, handling the Nozzle of Squeezecrete or similar machine - 6 in. and smaller); Crusher Feeder; Demolition (to include: clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erector (to include: Guard Rail, Guide and reference Post, Sign Posts, and Right-of-way Markers); General Laborer; Grout Machine Header Tender; Nippers; Riprap Man; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural Mover (to include: separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Truck Loader; Wellpoint Man; Window Cleaner; Miner Class "A" - Bull Gang, Pump Crete Crewman including Distribution Pipe, Assembling and Dismantle and Nipper

Group 2: Asphalt Raker; Asphalt Roller, walking; Cement Finisher Tender; Cement Handler; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Driller Tender (when required to move and position machine); Form Cleaning Machine Feeder; Stacker; Form Setter, paving; Grade Checker using level; Jackhammer Operator; Nozzleman (to include: Squeeze and Flow-crete Nozzle); Nozzleman, water, air or steam; Pavement Breaker; Pipelayer, corrugated metal culvert; Pipelayer, multi-section; Pot Tender; Powderman Tender; Power Buggy Operator; Power Tool Operator, gas, electric, pneumatic; Rodder and Spreader; Sandblast Tailhoseman; Tamper (to include: operation of Barco, Essex and similar Tampers, and Pavement Breakers); Trencher, Shawnee; Tugger Operator; Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow, power driven; Miner Class "B" - Brakeman, Finisher, Vibrator and Form Setter

Group 3: Air Track Drill; Brush Machine (to include: Horizontal Construction Joint Clean-up Brush Machine, power propelled); Caisson Worker, free air, Chain Saw Operator and Faller; Concrete Stack (to include: Laborers when 40 ft. high); Gunnite (to include: operation of machine and nozzle); High Scaler; Hod Carrier; Laser Beam Operator (to include: Grade Checkers and Elevation control); Monitor Operator (track or similar mounting); Mortar Mixer; Nozzleman (to include: Jet Blasting Nozzleman, over 1,200 lbs., Jet Blast Machine, power propelled, Sandblast Nozzle); Pipelayer (to include: working Topman, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, Valve or meter installer); Pipewrapper; Vibrator, 4 inches and over; Miner Class "C" - Miner and Nozzleman for concrete and Laser Beam Operator in Tunnels

Group 4: Drills with dual masts; Miner Class "D" - Raise and Shaft Miner and Laser Beam Operator on Raises and Shafts

Group 5: Powderman

POWER EQUIPMENT OPERATORS
(AREA 1)
All Counties and portions of Counties East of the 120th Meridian
(Except DOE Hanford Site in Benton and Franklin Counties)

Group 1: Bit Grinder; Bolt Threading Machine; Compressor, under 2,000 cu. ft. per minute, gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Driller's Tender; Fireman and Heater Tender; Grade Checker; Tender (Mechanic, H.D.); Oiler, Oiler and Cable Tender, Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or Compacting or Vibrator) except when pulled by Dozer with operable blade; Steam Cleaner; Welding Machine; Hydro-seeder

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmixer (asphalt); Bagley or Stationary Scraper; Belt Finishing Machine; Blower Operator (cement); Cement Hog; Compressor (2,000 cu. ft. or over, 2 or more, gas, diesel or electric power); Concrete Saw multiple cut); Distributor Leverman; Elevator hoisting materials; Dope Pots (power agitated); Fork lift or Lumber Stacker; Hydralift and similar; Gin Trucks (Pipeline); Hoist, single drum; Loader (Bucker, Elevator and Conveyors); Longitudinal Float; Mixer (portable - concrete); Pavement Breaker; Hydra Hammer and similar; Power Broom; Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Beltcrete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Batch Plant and Wet Mix Operator, single unit (concrete); Bending Machine; Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (Pipeline); Elevating Belt-type Loader (Euclid, Barber Green or similar); Elevating Grader-type Loader (Dumor, Adams or similar); Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Mixermobile; Mucking Machines; Soil Stabilizer (P & H or similar); Spreader Machine; Pump; Tractor to D-6 or equivalent and Traxcavator; Transverse Finish Machine, Turnhead Operator

Group 4: Blade Operator (Motor Patrol and attachments); Concrete Pump (Squeeze-crete, Flow-crete, Pump-crete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Equipment Serviceman, Greaser and Oiler; Hoist (2 or more drums or Tower Hoist); Loaders Overhead and Front-end, under 4 yds. R/T); Pave or Curb Extruders (asphalt or concrete); Refrigeration Plant Engineers (under 1,000 tons); Rubber-tired Skidders (R/T with or without attachments); Screed Operator; Surface Heater and Planer Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead (with re-screening); Vacuum Drill (Reverse Circulation Drill, under 5" bit)

POWER EQUIPMENT OPERATORS (Con'td)
AREA 1 (Cont'd)

Group 5: Backhoe (under 1 yard); Crane (25 tons and under); Derrick and Stifflegs (under 65 tons); Drilling Equipment (8" bit and over) (Robbins, Reverse Circulation and similar); Hoe Ram; Piledriving Engineers; Paving (dual drum); Refrigeration Plant Engineer (1,000 tons and over); Signalman (Whirleys, Highline, Hammerheads or similar)

Group 6: Asphalt Plant Operator; Automatic Subgrader (Ditches and Trimmers (Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (1 yard to 3 yards); Batch Plant (over 4 units); Batch and Wet Mix Operator (multiple units, 2 and including 4); Blade (finish and Bluetop) (Automatic, CMI, ABC, and similar when used as automatic); Boat Operator; Boom Cats (side); Cableway Controller (Dispatcher); Clamshell Operator (under 3 yds.); Concrete Slip Form Paver; Cranes (over 25 tons including 45 tons); Crusher, Grizzle and Screening Plant Operator; Draglines (under 3 yards); Drill Doctor; H.D. Mechanic; H.D. Welder; Loader Operator (Front-end and Overhead, 4 yards including 8 yards); Multiple Dozer Units with single blade; Quad-track or similar equipment; Rollerman (finishing pavement); Rubber-tired Scrapers (one motor with one scraper, under 40 yards); Rubber-tired Scrapers, Multi-engine power with one Scraper (Euclid, TS 24 and similar); Rubber-tired Scrapers, one motor with one scraper (40 yards and over); Rubber-tired Scraper, multiple engines with two scrapers; Shovels (under 3 yards); Tractors (D-6 and equivalent and over); Trenching Machines (7 feet depth and over)

Group 7: Backhoe (3 yards and over); Cableway Operators; Clamshell Operator (3 yards and over); Cranes (over 45 tons to 85 tons); Derricks and Stifflegs (65 tons and over); Draglines (3 yards and over); Elevating Belt (Holland type); Loader 360 degrees revolving Koehring Scooper or similar; Loaders (Overhead and Front-end, over 8 yards to 10 yards); Rubber-tired Scrapers (multiple engine with three or more Scrapers); Shovels (3 yards and over); Whirleys and Hammerheads, all

Group 8: Cranes (85 tons and over, and all climbing, rail and tower); Loaders (Overhead and Front-end, 10 yards and over); Helicopter Pilot

AREA 2
All Counties and portions of Counties West of the 120th Meridian
(Except those enumerated in Area 3)

Group 1: Cranes, 100 tons and over or 200' of boom including jib and over; Loaders, 8 yds. and over; Shovels and attachments, 6 yds. and over

Group 2: Cableways; Cranes, over 45 tons up to 100 tons or over 150' including jib; Hollagon; Tower Crane; Helicopter, Winch; Remote Control Operator; Loader, Overhead, 6 yds. up to 8 yds.; Shovels, Backhoes, over 3 yds. to 6 yds.; Slipform Pavers; Scrapers, self-propelled, 45 yds. and over; Quad 9, HD 41, D-10

POWER EQUIPMENT OPERATORS (Cont'd)
(AREA 2) (Cont'd)

Group 3: Concrete Batch Plant Operator; Bump Cutter; Cranes, 20 tons through 45 tons; Hydralifts; Chipper; Crushers; Derrick; Drilling Machine; Finishing Machine; Loaders, Overhead, under 6 yds.; Mechanics; Mixers, Asphalt Plant; Motor Patrol Graders, finishing; Pump Truck mounted Concrete Pump with boom attachment; Piledriver Operator; Screed Man; Shovels, Backhoes 3 yds. and under; Subgrader, Trimmer; Tractors, Backhoes, over 60 HP; Scrapers, Self-propelled, under 45 yds.

Group 4: Brooms; Dozers, D-9 and under; Paydozers; A-Frame Crane; Cranes up to 20 tons; Conveyors; Hoists, Air Tugger; Loaders, elevating type; Fork Lifts; Motor Patrol Grader, non-finishing; Mucking Machine; Concrete Pumps; Roller, Plant Mix or Multi-lift materials; Saws, Concrete; Scrapers, Carryall; Spreaders, Blaw Knox; Trenching Machines; Equipment Service Engineer; Oiler Driver on Truck Cranes over 45 tons; Tractor, Backhoe, 60 HP and under

Group 5: Oiler Driver on Truck Cranes, 45 tons and under; Oil Distributors, blower; Assistant Engineer (formerly Oiler classification); Pavement Breaker; Posthole Digger, mechanical; Power Plant; Wheel Tractors, Farmall type; Compressor; Pumps, water; Rollers, other than plant mix;

Group 6: Gradechecker and Stakeman

AREA 3
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties;
and the Southern portion of Pacific County

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler - driver, 25 ton capacity or over; Crane Fireman (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Tender; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Tender; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 1,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc.; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

POWER EQUIPMENT OPERATORS (Cont'd)
AREA 3 (Cont'd)

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite Work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Factor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2½ cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Fuller-Kenyon and similar; Concrete Pump; Grouting Machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without Front End attachments 2½ cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor towed requiring Operator or Grader; Pot Rammer

Group 8: Diesel-electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Egnerator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yds.; Loader, Front End and Overhead, 2½ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (bit grinder); H.D. Mechanic Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. Flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

POWER EQUIPMENT OPERATORS (Cont'd)
AREA 3 (Cont'd)

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller - Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu .yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine; Single Scraper, with Push-pull attachments, self-loader; Paddle Wheel, auger type; Blade mounted Spreaders Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 40 tons; Piledriver Operator; Floating Clamshell, etc., under 3 cu. yds.; Floating Crane (Derrick Barge), less than 30 ton; Elevating Grader, operated by tractor operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, auger type, finish and/or 2 or more units

Group 15: Rock Bound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley, over 80 ton and including 150 ton; Floating Crane (Derrick Barge), 80 ton, but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

POWER EQUIPMENT OPERATORS (Cont'd)
AREA 3 (Cont'd)

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane, 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in connection with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane, 250 ton and over; Remote controlled earth moving equipment; Underwater equipment, remote or otherwise

DREDGING

AREA 1 - All Counties and portions of Counties East of the 120th Meridian

AREA 2 - All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and the Northern part of Pacific County

Group 1: Assistant Mate (Deckhand)

Group 2: Oiler

Group 3: Assistant Engineer (Electric, Diesel, Steam of Booster Pump); Mates and Boatmen

Group 4: Craneman, Engineer Welder

Group 5: Leverman, Hydraulic

AREA 3- DREDGING
Clark, Cowlitz, and Klickitat Counties; Pacific County (southern portion); Skamania and Wahkiakum Counties

Group 1: Leverman, Hydraulic

Group 2-A: Leverman, Dipper

Group 2: Assistant Engineer (including Watch Engineer, Mechanic, and Machinist) and Mate

Group 3: Tenderman (Boatman, attending Dredging Plant); Fireman

Group 4: Assistant Mate (Deckhand); Oiler

POWER EQUIPMENT OPERATORS (Cont'd)
AREA 4
DOE Hanford Site in Benton and Franklin Counties

Group 1: Bit Grinders; Bolt Threading Machine; Compressors (under 2,000 CFM, gas, diesel or electric power); Crusher Feeder (mechanical); Deck Hand; Driller Tender; Fireman and Heater Tender; Grade Checker; Mechanic or Welder, H.D.; Hydro-seeder, Mulcher, Nozzleman; Oiler; Oiler and Cable Tender, Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar, or Compacting Vibrator), except when pulled by Dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single drum); Assistant Refrigeration Plant (under 1,000 ton); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or Stationary Scraper; Belt Finishing Machine; Blower Operator (cement); Cement Hog; Compressor (2,000 CFM or over, 2 or more, gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Ditch Witch or similar; Elevator, hoisting materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loaders (bucket, elevators and conveyors); Longitudinal Float; Mixer (portable - concrete); Pavement Breaker, Hydra-hammer and similar; Power Broom; Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job only); Tractor (Farm type R/T with attachments, except Backhoe); Tugger Operator

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1000 ton); Backfillers (Cleveland and similar); Batch Plant and Wet Mix Operator, single unit (concrete); Belt-crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Bend Machine; Bob Cat; Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginau or similar); Canal Lining Machine (concrete); Cleaning and Doping Machine (pipeline); Deck Engineer; Elevating Belt-type Loader (Euclid, Barber Green and similar); Elevating Grader-type Loader (Dumor, Adams or similar); Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Mixermobile; Posthole Auger or Punch; Pump (Grout or Jet); Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (to D-6 or equivalent) and Trasacavator; Traverse Finish Machine; Turnhead Operator

Group 4: Blade Operator (Motor Patrol and attachments); Concrete Pumps (Squeeze-crete, Flow-crete, Pump-crete, Whitman and similar); Curb Extruder (asphalt or concrete); Drills (Churn, Core, Calyx, or Diamond); Equipment Serviceman, Greaser and Oiler; Hoist (2 or more drums or Tower Hoist); Loaders (Overhead and Front-end, under 4 yds. R/T); Refrigeration Plant Engineers (under 1000 ton); Rubber-tire Skidders (R/T with or without attachments); Screed Operator; Surface Heater and Planer Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead (with re-screening); Vacuum Drill (Reverse Circulation Drill under 8" bit)

POWER EQUIPMENT OPERATORS (Cont'd)
AREA 4 (Cont'd)

Group 5: Drilling Equipment (8" bit and over) (Robbins, Reverse Circulation and similar); Hoe Ram; Paving (dual drum); Refrigeration Plant Engineer (1000 tons and over); Signalman (Whirleys, Highline, Hammerheads or similar)

Group 6: Automatic Subgrader (Ditches and Trimmers)(Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoe (under 1 yd.); Batch Plant (over 4 units); Batch and Wet Mix Operator (multiple units, 2 and including 4); Boat Operator; Cableway Controller (Dispatcher); Cranes (25 tons and under); Derricks and Stifflegs (under 65 tons); Drill Doctor; Multiple Dozer Units with single blade; Paving Machine (asphalt and concrete); Piledriving Engineers; Quad-track or similar equipment; Rollerman (finishing pavement); Trenching Machines (7 ft. depth and over)

Group 7: Asphalt Plant Operator (Backhoes (1 yd. to 3 yds.); Blade (finish and Bloetop) Automatic, CMI, ABC and similar when used as automatic; Boom Cats (side); Cableway Operators; Clamshell Operators (under 3 yds.); Concrete Slip Form Paver; Cranes (over 25 tons, including 45 tons); Crusher, Grizzle and Screening Plant Operator; Draglines (under 3 yds.); Elevating Belt (Holland type); H.D. Mechanic; H.D. Welder; Loader Operator (Front-end and Overhead, 4 yards, including 8 yards); Mucking Machine; Quad-track or similar equipment; Rubber-tired Scrapers; Shovels (under 3 yds.); Tractors (D-6 and equivalent and over)

Group 8: Backhoes (3 yds. and over); Cranes (over 45 tons, to 85 tons); Cranes (85 tons and over, all climbing, rails and tower); Clamshell Operator (3 yds. and over); Derricks and Stifflegs (65 tons and over); Draglines (3 yds. and over); Loader (360 degrees revolving Koehring Scooper or similar); Loaders (Overhead and Front-end, over 8 yds.); Helicopter Pilot; Shovels (3 yds. and over); Whirleys and Hammerheads, all

Group 9: Transi-lift

TRUCK DRIVERS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian (Except DOE Hanford Site in Benton and Franklin Counties)

Group 1: Flat Bed Truck, single rear axle; Fork Lift, 3,000 lbs. and under; Tender and Swamper; Leverperson loading Trucks at Bunkers; Pick-up hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck, 1,800 gallons

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material); Tireperson No. 1

TRUCK DRIVERS (Cont'd)
AREA 1 (Cont'd)

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Straddle Carrier (Hoss Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yards and under); Trucks, side, end, and bottom dump (under 6 yards); Water Tank Truck, 1,801 - 4,000 gallons

Group 4: Auto Crane, 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flat Bed Truck (with hydarulic system); Fork Lift (3,001 - 16,000 lbs.); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks, 4,001 to 6,000 gallons; Wrecker and Tow Trucks; Fuel Truck Driver; Steam Cleaner and Washer; Flaherty Spreader

Group 5: Service Greaser; Tireperson No. 2; Truck, side, end, and bottom Dump (over 6 yds. to 12 yds.); Oil Distributor Driver (Road, Boot Person, Lever Person, Tender)

Group 6: A-Frame; Water Tank Truck, 6,001 to 8,000 gallons

Group 7: Dumptor (over 6 yds.); Transit Mixers and Trucks hauling concrete (6 yds. to 10 yds.); Trucks, side, end, and bottom dump (over 12 yds. including 20 yds.); Semi Truck and Trailer 50 tons and under; Lowboy

Group 8: Low Boy (over 50 tons); Water Tank Trucks, 8,001 to 10,000 gallons; Tractor with Steer Trailer; Truck mounted Crane with load bearing surface, either mounted or pulled

Group 9: Transit Mixer and Trucks hauling concrete (10 yds. to 15 yds.); Trucks, side, end, and bottom dump (over 20 yds. including 30 yds.); Water Tank Truck (10,001 to 12,000 gallons); Fork Lift, over 16,000 lbs.; Flaherty Spreader Box Driver; Plow Boys; Semi-end Dumps

Group 10: Mechanic, Field

Group 11: Tournarocker, D. W.'s and similar, with 2 to 4 wheel power tractor with trailer, gallonage or yardage scale, whichever is greater; Transit Mixers and Trucks hauling concrete (15 yds. to 20 yds.); Trucks, side, end, and bottom dump (over 30 yds. to 40 yds.); Water Tank Truck, 12,001 to 14,000 gallons

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds.); Trucks, side, end, and bottom dump (over 40 yds. to 50 yds.)

Group 13: Trucks, side, end, and bottom dumps (over 50 yds. to 100 yds.)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end, and bottom dump (over 100 yards)

TRUCK DRIVERS (Cont'd)
AREA 2
All Counties and portions of Counties West of the 120th Meridian (Except those enumerated in Area 3) including the Northern portion of Pacific County and all of Kittitas and Yakima Counties

Group 1: Leverman and Loaders at Bunkers and Batch Plants; Pickup Trucks, Escort or Pilot Car; Swampers; and Checkers

Group 2: Team Drivers

Group 3: Bull Lifts and similar equipment used in loading and unloading trucks, transporting materials on job site (warehousing); Dumpsters and similar equipment (including Tournarockers, Tournawagon, Turnatrailer, Cat DW series, Terra Cobra, LeTourneau, Westinghouse, Athey Wagon, Euclid, two and four-wheeled power tractor with trailer and similar top-loaded equipment transporting material: Dump Trucks, side, end and bottom dump, including Semi-trucks and Trains or combinations thereof) - up to and including 5 yds.; Flatbed, single rear axle; Fuel Truck; Grease Truck; Greaser, Battery Service Man and/or Tire Service Man; Scissor Truck; Spreader, Flaherty; Tractor (small, rubber-tired); Vacuum Truck; Water Wagon and Tank Trucks, up to 1,600 gallons; Winch Truck, single rear axle; Wrecker, Tow Truck and similar equipment

Group 4: Flatbed, dual rear axle

Group 5: Buggymobile; Hyster Operators; Straddle Carrier (Ross, Hyster, and similar equipment); Water Wagon and Tank Trucks, 1,6600 gallons to 3,000 gallons

Group 6: Transit-mix, 0 to and including 4½ yards

Group 7: Dumpsters and similar equipment (as listed in Group 3) - over 5 yds. to and including 12 yds.; Explosive Truck (field mix) anmilar equipment; Lowbed and Heavy Duty Trailer, under 50 tons gross; Road Oil Distributor Driver; Slurry Truck; Sno-go and similar equipment; Winch Truck, dual rear axle

Group 8: Dumpster and similar equipment (as listed in Group 3) - over 12 yards to and including 16 yards

Group 9: Bulk Cement Tankers; Dumpsters and similar equipment (as listed in Group 3) - over 16 yds. to and including 20 yds.; Water Wagon and Trank Truck, over 3,000 gallons

Group 10: Bull Lifts or similar equipment used in loading or unloading trucks transporting materials on job site, other than warehousing

Group 11: Transit-mix, over 4 yds. to and including 6 yds.

Group 12: "A" Frame or Hydralift Trucks or similar equipment

TRUCK DRIVERS (Cont'd)
AREA 2 (Cont'd)

Group 13: Dumpster and similar equipment (as listed in Group 3) - over 20 yds. to and including 30 yds.; Lowbed and Heavy Duty Trailer, over 50 tons gross to and including 100 tons gross

Group 14: Transit-mix, over 6 yds. to and including 8 yds.

Group 15: Dumpsters and similar equipment (as listed in Group 3) - over 30 yds. to and including 40 yds.; Lowbed and Heavy Duty Trailer, over 100 tons gross

Group 16: Transit-mix, over 8 yds. to and including 10 yds.

Group 17: Dumpsters and similar equipment (as listed in Group 3) - over 40 yds. to and including 55 yds.

Group 18: Transit-mix, over 10 yds. to and including 12 yds.

Group 19: Transit-mix, over 12 yds. to and including 16 yds.

Group 20: Transit-mix, over 16 yds. to and including 20 yds.

Group 21: Transit-mix, over 20 yds.

AREA 3
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties; and the Southern portion of Pacific County

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: 6 cu. yds. and under, Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch Plant (manually operated); Pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Warehouseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Fireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

TRUCK DRIVERS (Cont'd)
AREA 3 (Cont'd)

Group 3: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and Wet or Dry Mix Trucks: 5 cu. yds. and under; Tireman (full-time basis); Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Stadddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and Wet or Dry Trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. and including 20 cu. yds.; Transit Mix and Wet or Dry Mix Truck, over 7 cu. yds. and including 9 cu. yds.; Truck Mechanic - Welder - Body Repairman; Water Wagons (rated capacity) - 5,000 to 7,000 gallons

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity) over 7,000 gallons to 10,000 gallons

Group 8: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. and including 13 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 40 cu. yds. and including 50 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

TRUCK DRIVERS (Cont'd)
AREA 3 (Cont'd)

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

AREA 4
DOE Hanford Site in Benton and Franklin Counties

Group 1: Flat Bed Truck, single rear axle; Fork Lift, 3,000 lbs. and under; Tender and Swamper; Leverperson loading Trucks at Bunkers; Pick-up hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired Pulling trailer or similar equipment); Water Tank Truck, 1,000 gallons

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power Operated Sweeper; Straddle Carrier (Ross Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yds. and under); Trucks, side, end, and bottom dump (under 6 yds.); Water Tank Truck, 1,801 - 4,000 gallons

Group 4: Auto Crane, 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flat Bed Truck (with hydraulic system); Fork Lift (3,001 - 16,000 lbs.); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks, 4,001 to 6,000 gallons; Wrecker and Tow Trucks; Fuel Truck Driver; Steam Cleaner and Washer; Flaherty Spreader

Group 5: Service Greaser; Tireperson No. 2; Truck, side, end, and bottom Dump (over 6 yds. to 12 yds.); Oil Distributor Driver (road, Boot Person, Lever Person, Tender)

Group 6: A-Frame; Water Tank Truck, 6,001 to 8,000 gallons

Group 7: Dumptor (over 6 yards); Transit Mixers and Trucks hauling concrete (6 yards to 10 yards); Trucks, side, end, and bottom dump (over 12 yards including 20 yards); Semi Truck and Trailer; Lowboy 50 tons and under

Group 8: Low Boy (over 50 ton); Water Tank Trucks, 8,001 to 10,000 gallons; Tractor with Steer Trailer; Truck mounted Crane with load bearing surface, either mounted or pulled

Group 9: Transit Mixer and Trucks hauling concrete (10 yds. to 15 yds.); Trucks, side, end, and bottom dump (over 20 yds. including 30 yds.); Water Tank Truck (10,001 to 12,000 gallons); Fork Lift, over 16,000 lbs.; Flaherty Spreader Box Driver; Plow Boys; Semi-end Dumps

TRUCK DRIVERS (Cont'd)
AREA 4 (Cont'd)

Group 10: Mechanic, Field

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, whichever is greater; Transit Mixers and Trucks hauling concrete (15 yds. to 20 yds.); Trucks, side, end, and bottom dump (over 30 yds. to 40 yds.); Water Tank Truck, 12,001 to 14,000 gallons

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds.); Trucks, side, end, and bottom dump (over 40 yds. to 50 yds.)

Group 13: Trucks, side, end, and bottom dumps (over 50 yds. to 100 yds.)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end, and bottom dump (over 100 yards)

Drivers and Tenders (hauling sacked cement - add $.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

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)).

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federal register

Friday
June 3, 1983

Part IV

Department of Health and Human Services

Food and Drug Administration

Proposal To Make Prosthetic Hair Fibers a Banned Device; Notice of Immediately Effective Proposed Rule and Opportunity for Hearing

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 895

[Docket No. 80N-0301]

Banned Devices; Proposal To Make Prosthetic Hair Fibers a Banned Device and Declaration of a Special Effective Date

AGENCY: Food and Drug Administration.

ACTION: Immediately effective proposed rule.

SUMMARY: The Food and Drug Administration (FDA) has determined that prosthetic hair fibers intended for implantation into the human scalp to simulate natural hair or conceal baldness present substantial deception and an unreasonable and substantial risk of illness or injury, that the deception or risk cannot be corrected or eliminated by labeling or a change in labeling, and that the deception or risk associated with use of the device presents an unreasonable, direct, and substantial danger to the health of individuals. Therefore, FDA proposes that prosthetic hair fibers be made a banned device and declares the proposed regulation to be effective June 3, 1983, pending final action on the proposed regulation. The special effective date will protect the public health during the comment period and until FDA either promulgates a final regulation or terminates the proceeding.

Elsewhere in this issue of the **Federal Register**, FDA also is announcing an opportunity for an informal hearing on the proposed regulation. After the hearing, if any, and after considering any written comments submitted on the proposal and any additional available information and data that the agency believes are pertinent, FDA will as expeditiously as possible either affirm, modify, or withdraw the proposed regulation.

DATES: Effective June 3, 1983; comments by August 2, 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: Pamela F. Wojtowicz, National Center for Devices and Radiological Health (HFK-114), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7218.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295) (the amendments), amending the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 et seq.), became law on May 28, 1976. Among other provisions, the amendments added section 516 to the act (21 U.S.C. 360f), which authorizes FDA to ban, by regulation and after an opportunity for an informal hearing, any device intended for human use if FDA finds, based on all available data and information, and after consultation with the appropriate classification panel, that such device presents a "substantial deception" or an "unreasonable and substantial risk of illness or injury" that FDA finds cannot be, or has not been, corrected or eliminated by labeling or a change in labeling. If FDA determines that the deception or risk of illness or injury associated with use of the device presents an unreasonable, direct, and substantial danger to the health of individuals, FDA may declare a regulation to make the device a banned device to be effective upon publication of the proposal in the **Federal Register**, and until the effective date of any final action taken respecting the regulation, provided FDA, before the date of publication of such regulation, notifies the domestic manufacturer of the device of the special effective date of the regulation.

Section 501(g) of the act (21 U.S.C. 351(g)) deems a device to be adulterated, and thus prohibited from commerce, if it is a banned device. Section 304(a)(2) of the act (21 U.S.C. 334(a)(2)) authorizes the seizure of any adulterated device without regard to interstate commerce. Section 709 of the act (21 U.S.C. 379a) establishes for FDA's injunction and criminal prosecution cases involving devices a statutory presumption of interstate commerce for any device in commerce. Consequently, once FDA makes a device a banned device, in subsequent regulatory proceedings to remove the device from commerce the government need show only that the device has been banned; the government is not required to adduce evidence in court to establish any of the elements usually necessary to prove that the device is adulterated and should be condemned.

The banning proposed by this regulation applies to prosthetic hair fibers, which are devices intended for implementation into the human scalp to stimulate natural hair or conceal baldness. Prosthetic hair fibers may consist of various materials, e.g., synthetic fibers, such as polyester, modacrylic, and polyacrylic, or natural fibers, such as processed human hair. Excluded from the scope of the proposed regulation are natural hair transplants, in which a person's hair and its surrounding tissues are surgically removed from one location on the person's scalp and then grafted onto another area of the person's scalp:

Various techniques have been used to insert prosthetic hair fibers into the scalp. For all methods of insertion employed, local anesthetics are first injected into the scalp. At least four procedures have been used to insert the prosthetic hair fibers into the scalp.

1. By threading 1 to 10 fibers at a time on a needle, a prosthetic hair fiber is sewn into, and pulled about half its length through the scalp, to allow two free ends. A knot close to the scalp is tied in the middle of the fiber. By grasping the free ends of the fiber and using an alternating pulling motion, the knot is pulled into and under the scalp surface to anchor the prosthetic hair fiber (Refs. 1 and 2).

2. After folding a fiber over a notch about ¼ inch from the end of a curved stainless steel suturing needle, the needle is driven by hand into the scalp. When the needle is withdrawn, the prosthetic hair fiber remains in the scalp (Ref. 3).

3. After loading four to six fibers into a hypodermic-type needle attached to a syringe modified by the addition of a spring and a thin wire, the needle is inserted into the scalp. The wire travels through the needle and pushes the fibers into the scalp. When the needle is withdrawn the prosthetic hair fibers remain in the scalp (Ref. 4).

4. Using a small plastic clip containing seven notched stainless steel needles, over each of which is looped a fiber, seven fibers at a time are forced by hand into the scalp. When the device is withdrawn, the prosthetic fibers remain in the scalp (Ref. 5).

Subpart A of Part 895 of FDA's regulations on banned devices (21 CFR Part 895) describes the procedures by which the agency may institute proceedings to make a device a banned device. Under section 516 of the act and Subpart A of Part 895, FDA has determined, on the basis of all available data and information, and after consultation with the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel (the Section), an FDA advisory committee, that prosthetic hair fibers present a substantial deception and an unreasonable and substantial risk of illness or injury to individuals that cannot be corrected or eliminated by labeling or a change in labeling. Further, the agency has determined that the deception and risk of illness or injury associated with use of prosthetic hair

fibers present an unreasonable, direct, and substantial danger to the health of individuals. Therefore, FDA is proposing to make prosthetic hair fibers a banned device, and declares the implementing regulation (21 CFR 895.101) to be effective on the date of publication in the **Federal Register**, June 3, 1983, as authorized by the special effective date provisions of section 516(b) of the act and § 895.30 (21 CFR 895.30). Thus, any prosthetic hair fiber as defined in proposed § 895.101 is a banned device until the effective date of any final action taken by FDA with respect to this proceeding. Devices banned by the regulation include those prosthetic hair fibers now in commercial distribution and those devices already sold to, but not implanted in, the ultimate user.

At present, FDA is not aware of any person engaged in the commercial distribution of prosthetic hair fibers. However, as required by section 516(b)(2) of the act and § 895.30(a)(2), before publication of this proposed regulation in the **Federal Register**, FDA, by letters forwarded by certified mail, notified all known domestic manufacturers of the devices that the agency intended to declare the proposal to be effective upon such publication. Copy of the letter and a list of the addresses are on file with the Dockets Management Branch (address above) under the docket number appearing at the head of this notice and are available for public inspection between 9 a.m. and 4 p.m., Monday through Friday.

Notice of Opportunity for an Informal Hearing

Elsewhere in this issue of the **Federal Register**, in accordance with section 516(b)(2) of the act and § 895.30(c), FDA is announcing an opportunity for an informal regulatory hearing on the proposed regulation. If FDA receives a request for such a hearing, FDA will grant the request and will publish notice of the hearing in the **Federal Register**. The notice will state the issues to be considered, the persons who may participate in the hearing, the date, time, and place where the hearing will be held, and other details. The provisions of section 201(y) of the act (21 U.S.C. 321(y)) and Part 16 (21 CFR Part 16) shall govern any hearing on the proposed regulation.

Agency Proceeding To Make Prosthetic Hair Fibers a Banned Device

Section 895.21(d) provides that a proposal to make a device a banned device will briefly summarize:

1. The findings regarding the risk, deception, and illness or injury presented by the device;

2. The reasons why FDA initiated the proceeding;

3. The evaluation of data and information obtained by FDA under provisions of the act other than section 516, submitted by the manufacturer or distributor of the device, or voluntarily submitted by any other interested persons;

4. The consultation with the classification panel required by § 895.21(b);

5. The determination of whether the deception or risk of illness or injury or the danger to the health of individuals could be corrected by labeling or a change in labeling;

6. The determination of whether any required labeling or change in labeling has been made;

7. The determination of whether, and the reasons why, the banning should apply to devices already in commercial distribution or those already sold to the ultimate user, or both; and

8. Any other data and information that FDA believes are pertinent to the proceeding.

1. *Summary of findings (§ 895.21(d)(1)).* FDA has determined that the continued marketing of prosthetic hair fibers intended for implantation, no matter how they are labeled, presents a substantial deception and an unreasonable and substantial risk of illness or injury to individuals, and provides no benefit to the public health. Implantation of prosthetic hair fibers frequently has resulted in, and can be expected to continue to result in, serious infections or other illnesses or injuries to individuals because the device is inherently dangerous when used in the manner recommended or suggested in its labeling. Furthermore, prosthetic hair fibers of materials currently available have not been, and cannot be, effective either in simulating natural hair or concealing baldness. Within a short time after implantation, prosthetic hair fibers usually fall out or break off at the scalp line. The human body rejects the implanted fibers because they are not biocompatible.

Adequate directions for use cannot be written, even for use by a physician, to assure the safe and effective use of prosthetic hair fibers intended for implantation to simulate natural hair or conceal baldness. There are no conditions under which the prosthetic hair fibers can be safely and effectively marketed for the device's intended purposes. There is, therefore, no benefit to the public health from continued marketing of prosthetic hair fibers, and the deception and risk posed by their continued marketing is important, material, and significant, considering the severity of the infections, illnesses, or injuries caused by their implantation. It is irrelevant whether manufacturers or distributors of the device have intended to deceive ultimate users. Actions, such as promoting, offering for sale, selling, and implanting prosthetic hair fibers, have the capacity or tendency to make users believe, contrary to fact, that the fibers are safe and effective and that their implantation will simulate natural hair or conceal baldness.

FDA has determined that the data described in paragraphs 3. and 4. of this notice establish in accordance with § 895.30 that the deception and risk of illness or injury associated with the implantation of prosthetic hair fibers present an unreasonable, direct, and substantial danger to the health of individuals. Moreover, implantation of prosthetic hair fibers may have long-term, as well as short-term, risks. Prosthetic hair fibers used by one firm have at least one unidentified, leachable, component that is mutagenic to *Salmonella typhimurium* and the dyes used by another firm to color its fibers also are mutagenic to *Salmonella typhimurium*. Because the components and dyes are mutagenic in the Ames test, implantation of the devices may increase the risk to the health of the user.

2. *Reasons for proceeding (§ 895.21 (d)(2)).* FDA is initiating this proceeding to prevent further introduction into commerce of prosthetic hair fibers intended for implantation and to expedite the removal of these devices from commerce, thereby preventing deception and risk of illness or injury that present an unreasonable, direct, and substantial danger to the health of individuals.

3. *Evaluation of data and information (§ 895.21(d)(3))*—a. *Consumer complaints.* In the period from December 1978 through February 1981, FDA received through its Device Experience Network 166 consumer complaints concerning implanted prosthetic hair fiber (Refs. 6 and 7). The seriousness of the complaints ranged from reports of user dissatisfaction because the implanted fibers fell out soon after the insertion procedure was completed (Ref. a) to reports of serious harm to users, such as infection at implantation sites (Ref. 8b); facial swelling (Ref. 8c); severe pain (Ref. 8d); itching (Ref. 8e); severe and punctate scarring (Ref. 8f); frequent breakage of the implanted fibers at the scalp line that make it difficult to extract the fibers remaining below the scalp line (Refgs. 8g, 8h, and 8i); and permanent,

additional loss of the person's natural hair (Ref. 8j). Several of the injuries to users required substantial corrective medical (Ref. 8k) or surgical (Refs. 8l and 8m) treatment.

In 138 cases (Ref. 8b), complainants reported infections resulting from implantation of the devices. The infections ranged from mild to severe. Some cases required prolonged systemic antibiotic treatment (Refs. 8b and 8k). Complications reported by complainants included possible endocarditis, serum hepatitis, phlebitis, benign fatty tumor, heart murmur, nervous colitis, and various visual, auditory, urinary, and respiratory problems (Ref. 8n). Often the treatment of the infection was not effective until the fibers were removed from the scalp (Ref. 8b). In 54 cases, the fibers spontaneously had broken at, or beneath, the scalp line, which made removal extremely difficult (Refs. 8g and 8h). In seven cases, surgical removal of portions of the scalp to effect treatment was necessary (Ref. 8m).

In some cases, plastic and reconstructive surgery to correct scarring that resulted from implanted prosthetic hair fibers was necessary (Ref. 8l). In 21 cases, the prosthetic hair fibers could not be physically extracted and surgical removal was not indicated. Therefore, the person's scalp remains disfigured by the visible fiber stubble, which resembles large blackheads (Ref. 8h). Similar injuries from prosthetic hair fibers have been reported in published court opinions (e.g., Ref. 9) and the medical literature (see paragraph 3.b., below) and described in testimony presented to the Section at its meetings on January 12, March 30, and October 18, 1979 (see paragraph 4. below).

Moreover, the Federal Trade Commission (FTC) obtained the complaints of 181 consumers who had received or contracted to receive implants of prosthetic hair fibers from one firm or its franchisees. Twenty-nine persons complained that they had deposited money for implantation of the fibers, but had not received their implants and were unable to obtain refunds. One hundred fifty-two persons complained that the implants they received did not work because the fibers fell out soon after the procedure was completed. In addition, 37 consumers complained of pain, 41 of infection, 22 of scarring, 19 of swelling, 9 of loss of natural hair, and 8 of fiber breakage (Ref. 10).

FDA does not know how many consumers have had prosthetic hair fibers implanted. Therefore, the agency cannot provide accurate data on the rate of adverse reactions in the general population. However, because many consumers may not realize that FDA regulates prosthetic hair fibers intended for implantation, the agency believes that the 166 complaints received by FDA through February 1981 represent only a small fraction of all those in whom the implantation of prosthetic hair fibers has caused serious infections or other illnesses or injuries. Considering the reports in the medical literature (see paragraph 3.b., below), the inherent risks of infection, implant rejection, and tissue and foreign body reactions (see paragraphs 3.b. and 4., below), the possible long-term risk of users developing cancer (see paragraphs 3.d., 3.e., and 4., below), other data (see paragraphs 3.f. and 3.g., below), FDA believes that it is unnecessary for the agency to present data on the rate of adverse reactions in the general population to establish that implantation of prosthetic hair fibers presents a substantial deception and an unreasonable, direct, and substantial danger to the health of a significant number of individuals, and that the device provides no benefit to the public health.

b. *Reports in the medical literature.* In January 1979, Hanke and Bergfeld reported on complications in 20 patients who had received modacrylic prosthetic hair fibers (Ref. 11). All patients suffered pain, swelling, crusting, and spontaneous loss of the implanted fibers. Seventeen patients complained of itching, 15 reported that their eyes were swollen shut, 11 sustained scarring, 10 had infections, and 9 patients suffered permanent loss of natural hair.

In June 1979, Gonzales and McBride reported that the implantation of synthetic prosthetic hair fibers continued to cause medical problems for patients. The problems included pain, swelling, local and systemic infections, foreign body reactions, scarring, fiber breakage, loss of natural hair, and emotional difficulties (Ref. 12). Treatment required long-term antibiotic therapy, fiber removal, scalp removal, cosmetic surgery, and hospitalization.

From March 1979 through March 1980, Lepaw reported on complications he had observed in 100 patients who had received prosthetic hair fibers made of synthetic materials (Refs. 1, 2, 13, and 14). These complications included facial swelling, bleeding, oozing, comedopustular dermatitis (blackheads), foreign body reactions, microbial infections, septicemia, scarring, pain, itching, numbness, fiber breakage, and loss of natural hair. In addition, one case of cardiac arrest and one case of osteomyelitis following implantation of the device were reported to the author by other physicians. Dr. Lepaw reported that the complications were severe enough in all cases to necessitate the removal of the fibers in order to effect treatment. In some cases, removal of the fibers was impossible because of their fragility. In three of these cases, complete excision of the scalp and split thickness grafts were necessary to correct the injury. The author believes that long-term complications that may develop from use of implanted prosthetic hair fibers include progressive sclerosis (hardening) of the scalp caused by irretrievable fiber fragments and knots, and possible malignant degeneration of the tissues of the scalp.

In March 1980, Bloomenstein reported on a patient who had suffered an extensive *Staphylococcus aureus* coagulase-positive infection due to the implantation of prosthetic hair fibers into the scalp (Ref. 15). Four months after the procedure was completed, the patient was hospitalized for treatment of the infection and subsequent plastic surgery to remove imbedded fibers. Very deep implants were impossible to remove. Skin grafts were not used in this case. The author states that patients treated for implant-related infections may never be suitable candidates for autogenous hair transplants because of permanent scarring and repeated episodes of infection from retained implants.

In May 1980, Schwartz and Downham reported that a patient suffered a secondary foreign body reaction and persistent infection from the implantation of prosthetic hair fibers made of systhetic materials (Ref. 16). The authors warn that such implants always presents the potential of the emergence of antibiotic-resistant infection of the scalp which may lead to infection in other areas of the body. When infection does not clear after appropriate systemic antibiotic therapy, excision of the fibers and infected skin is recommended.

In April 1981, Rauscher and DiGregorio described the treatment of 11 patients with various complications resulting from the implantation of prosthetic hair fibers made of synthetic materials (Ref. 17). All 11 patients demonstrated multiple scalp abscesses resistant to synstemic antibacterial drugs. Conservative treatments, such as the suppression of localized foreign body reaction, provided only temporary relief for the scalp conditions; ideally, all synthetic fibers should be removed. Complete removal of all fibers by manual extraction usually was not possible due to fiber breakage, the uncontrolled depth of fiber insertion,

and scalp edema. Complete removal of synthetic fibers was performed on some patients by excision of the involved scalp area. Because of the large skin area involved, the use of hair-bearing scalp flaps was not always feasible. Thus, various surgical techniques including manual fiber extraction, scalp excision and skin graft, scalp excision and local flap closure, and a combination of scalp excision, local flap closure, and skin graft were used to remove the fibers and correct the defects.

Also in April 1981, Hanke and Bergfeld reported on complications that occurred in 41 patients in each of whose scalps unknotted modacrylic fibers were implanted using one technique (Ref. 18). All patients experienced swelling of the head and forehead that lasted for 5 to 21 days after the procedure. The eyes were swollen shut in 76 percent of these cases. Some patients had swelling of additional areas such as the nasal bridge, cheeks, anterior neck, and jawline. All patients experienced some degree of pain following the procedure. The most severe pain coincided with the period of acute facial swelling. Seventeen percent of the patients had persistent headache pain for 1 to 6 months following the procedure. Within 12 weeks following the implant procedure, at least 70 percent of the fibers fell out spontaneously in all patients. In 33 percent of the cases, all the fibers had fallen out within 4 weeks. Itching was a problem in 90 percent of the cases; itching subsided when fibers fell out, indicating that the fibers had been rejected by the body. Three patients experienced itching for 3 months due to broken fibers remaining imbedded in the scalp. Fifty-four percent of the patients experienced scalp infections with pustules usually observable at the bases of the implanted fibers. Fifteen percent of these patients had severe infections which lasted 4 months or longer. Scarring occurred in 63 percent of the cases. Forty-six percent of the patients had pitted scars while 17 percent had severe scarring. Sixty-six percent of the patients reported permanent loss of their own natural scalp hair as a result of the procedure.

Hanke and Bergfeld further reported that many patients had self-image problems and long-standing psychological trauma following the procedure in addition to the economic loss, which included a total of $100,610 paid by the patients for the procedure, time lost from work, and the costs of continuing medical treatment for complications following fiber implantation.

The authors concluded that the major problems with fiber implants are the foreign body reactions and the infections that develop due to the implanted fibers. The foreign body reaction appears to be the controlling event when infections occur, because scalp infections persist despite systemic antibiotic therapy and tend to resolve when fibers are removed. Infections also can be caused by contaminated fibers and lack of aseptic implantation techniques and because openings to the deeper scalp tissues are created by the fiber tracts, which can serve as a portal of entry for bacteria from the skin surface.

Also in April 1981, Hanke, Norins, Pantzer, and Bennett reported that four patients experienced complications of infection, foreign body reaction, crusting, loss of natural hair, pain, itching, swelling, and scarring as a result of the implantation of prosthetic hair fibers consisting of natural human hair (Ref. 19). The patients spontaneously lost about 50 percent of the implanted hair within 12 weeks of the implant process. The remaining hairs fractured at the scalp surface or below the dermis. These hairs were nearly impossible to remove. In summary, the authors stated, there is no scientific evidence to show the effectiveness of implantation of prosthetic hair fibers made of human hair. Quite the contrary, such a prosthetic hair fiber does not have an intact hair follicle like a normal growing hair; therefore, the implants have no protection against the body's immune system. The authors believe that the prosthetic hair fibers are not biocompatible and cause a foreign body reaction, even when the implanted hair is a person's own natural hair.

c. *FDA investigations.* During April and May 1979, under the inspectional and investigational authority of sections 702 and 704 of the act (21 U.S.C. 372 and 374), FDA conducted a nationwide investigation of establishments that promoted, shipped, sold, or implanted prosthetic hair fibers. The agency inspected or attempted to inspect about 90 establishments (Refs. 3 through 5 and 20 through 76). Frequently, however, FDA was unable to inspect these device establishments because they had gone out of business (e.g., Refs. 21 through 35).

In some instances, the responsible persons in the defunct device establishments resumed promoting, shipping, selling, and implanting prosthetic hair fibers using new business names under new corporate or other organizational structures soon after the original establishments had ceased to operate (Refs. 3, 31, and 33 through 42).

During the agency's nationwide investigation, FDA collected examples of the available labeling and promotional materials used by manufacturers and distributors of prosthetic hair fibers intended for implantation. The agency believes that the labeling and promotional materials are false and deceptive in nine general areas. The labeling or promotional materials represent, directly or by implication, that the implantation of prosthetic hair fibers to simulate natural hair or conceal baldness is: (1) safe (Refs. 3, 4, 25, 28, 32, 34 through 37, 39, 40, and 43 through 60); (2) effective (Refs. 3, 4, 29, 32, 34 through 37, 39, 40, and 43 through 60); (3) long lasting or permanent (Refs. 3, 4, 32, 36, 37, 39, 44 through 51, and 56); (4) painless or causes little or no discomfort (Refs. 3, 4, 28, 32, 34 through 37, 39, 44, 45, 47 through 55, and 58 through 60); or (5) approved by FDA for use (Refs. 4, 40, 50, and 55). Additionally, the labeling states or indicates (6) that the fibers used are made of scientifically or medically accepted materials (Refs. 4, 39, 40, 45, 49, 50, and 56); (7) that the implantation process has been scientifically or medically tested (Refs. 3, 4, 25, 28, 32, 34 through 37, 39, 43 through 46, 48 through 54, 56, and 59 through 61); (8) that the fibers are stronger or hold stronger than natural hairs (Refs. 5, 32, 34 through 37, 39, 45, 48, 49, 51, 53, and 55 through 57); or (9) that the fibers remain in the scalp longer than natural hairs (Refs. 51 and 52). Further, FDA inspections revealed that the prosthetic hair fibers were not accompanied by adequate directions for lay use and that the labeling for professional use that is required by FDA's regulations on prescription devices (21 CFR 801.109(c)) bears inadequate information for use, including inadequate or no information on indications, effects, routes, methods, frequency, and duration of administration, and any relevant hazards, contraindications, side effects, and precautions.

In releases or postoperative instructions, some firms informed clients that the implantation process could cause minor problems, such as swelling, itching, headaches, or that fibers would fall out over a period of time (Refs. 3, 4, 25, 36, 37, 40, 41, 43, 45 through 47, 49, 51, 52, 55, 57, 60, and 62). Major risks, such as infection, rejection, scarring, and breakage of fibers with the stubble remaining in the scalp, were disclosed to users by only a few firms. The disclosure of major risks was done

either when a client signed a medical waiver before implantation of the prosthetic hair fibers (Refs. 40 and 57) or in the postoperative instructions for clients (Ref. 43). One firm required the client to obtain his or her own medical malpractice insurance for protection in the event the person experienced problems with the implants (Ref. 39). Another device firm promoted four different implantation procedures under different corporate names. In this instance, promotional letters were sent to former clients stating that if the implantation procedure used had failed, there was a new "improved" method available that would be successful. All four procedures, however, were unsuccessful (Refs. 3, 8, 10, 33, and 41).

d. *Analytical results.* FDA collected postseizure samples of prosthetic hair fibers that consisted of the polyester materials and dyes used by one device firm to color its fibers. FDA testing of these fibers and dyes revealed that the dyes used in the manufacture of these prosthetic hair fibers are mutagenic to *Salmonella typhimurium* in the Ames test (Ref. 77).

In the Ames test, strains of the bacterium *Salmonella typhimurium*, which will not grow in a medium deficient in histadine, are used. Colonies of this bacterium will grow in the test medium only if mutated by a chemical agent. There is a high correlation between results in bacterial mutagenicity tests and carcinogenicity, as determined by chronic toxicity studies (Refs. 77, 78, 79, and 80). This correlation is not perfect—10 percent of carcinogens are not mutagenic in the Ames test—but few compounds that are not carcinogenic show any degree of mutagenicity (Ref. 80). For this reason, some of the mutagenic dyes used in the manufacture of implanted prosthetic hair fibers may present an increased risk to the health of the user.

e. *Data and information submitted by manufacturers.* One firm submitted to FDA preclinical (animal) test data and human skin biopsies intended to show the safety and effectiveness of the prosthetic hair fibers used in the firm's implantation procedure (Ref. 72). These fibers were made of modacrylic materials. FDA and two consultants to the Section reviewed the submitted data from four animal studies (Refs. 82, 83, and 84). The studies allegedly were designed to reveal adverse effects attributable to the fibers, including acute or chronic toxicity, mutagenicity, and allergization. FDA found that the data were irrelevant. The studies did not address the potential major medical problems, such as chronic foreign body reaction, continuous susceptibility to infection, possible ulceration, and irreversible scarring. In the tests performed by the firm, sterilized prosthetic hair fibers were fully encapsulated in animal tissue and isolated within the body. By contrast, when prosthetic hair fibers are used in the human scalp, they are asepticized in alcohol and implanted in an open-air environment. Thus, after implantation in the scalp, prosthetic hair fibers provide a bacterial pathway from outside the body to the subcutaneous tissue—a pathway that would not exist where sterilized fibers were fully encapsulated in tissue.

The firm's mutagenicity tests were conducted on ethanol rather than saline extracts of its prosthetic hair fibers. Because ethanol, unlike saline, does not represent the physiological environment, the negative results obtained from these tests are inadequate to show that the fibers are not mutagenic. The manufacturer's data submitted to FDA from biopsies of specimens of human skin and associated prosthetic hair fibers revealed a chronic granulomatous foreign body reaction in 80 percent of the specimens.

In summary, FDA believes that the submitted preclinical data are irrelevant, that the submitted mutagenicity data are inadequate, and that the submitted biopsy data reveal the prosthetic hair fibers to be biologically incompatible. These findings by FDA refute the firm's claim that the submitted data demonstrate that the prosthetic hair fibers are safe and effective.

f. *FDA regulatory actions.* On May 18, 1979, at United Laboratories of America, Inc., Maple Heights, OH, FDA placed under administrative detention a quantity of prosthetic hair fibers and related promotional materials and labeling. This action was taken under the administrative detention authority provided in section 304(g) of the act (21 U.S.C. 334(g)) and § 800.55 of FDA's administrative detention regulations (21 CFR 800.55). The action was taken because FDA had reason to believe, based on complaints received, advisory panel deliberations, and inspectional evidence: (1) that the devices were misbranded within the meaning of section 502(a) of the act (21 U.S.C. 352(a)) in that the labeling was false and misleading; section 502(j) of the act (21 U.S.C. 352(j)) in that the devices were dangerous to health when used in the manner recommended in the labeling; and section 502(o) of the act (21 U.S.C. 352(o)) in that the devices were manufactured, prepared, propagated, compounded, or processed in an establishment in any State not duly registered under section 510 of the act (21 U.S.C. 360); and (2) that the devices were adulterated within the meaning of section 501(h) of the act (21 U.S.C. 351(h)) in that the methods used in, or the facilities or controls used for their manufacture, packing, or storage were not in conformity with applicable requirements under section 520(f)(1) of the act (21 U.S.C. 360j(f)(1)) and FDA's current good manufacturing practice regulations in 21 CFR Part 820. The firm appealed the detention order and a hearing was held on June 4, 1979 at the Chicago Regional Office of FDA (Ref. 85). The presiding officer's decision following the hearing upheld the detention and found that FDA had reason to believe that the devices were misbranded within the meaning of section 502(j) of the act (Ref. 86). The presiding officer found that insufficient evidence was available to support the charges under sections 502(a) and 501(h) of the act (Ref. 86). No decision was made on the validity of the charge under section 502(o) of the act. On June 15, 1979, after the government filed a Complaint for Forfeiture alleging that the prosthetic hair fibers were misbranded within the meaning of section 502(f)(1) of the act (Ref. 87a), the detained products were seized under a Warrant for Arrest. No Claim or Answer was filed regarding the Complaint for Forfeiture, and the seized articles were subsequently destroyed in accordance with a Default Decree of Condemnation and Destruction entered by the United States District Court for the Northern District of Ohio, Eastern Division (Ref. 87b).

On May 18, 1979, at United Laboratories of America, Bellevue, WA, FDA placed under administrative detention a quantity of prosthetic hair fibers and related promotional materials and labeling. On June 18, 1979, after the government filed a Complaint for Forfeiture alleging that the prosthetic hair fibers were misbranded within the meaning of section 502(f)(1) of the act, the detained products were seized under a Warrant for Arrest (Ref. 88a). No Claim or Answer was filed regarding the Complaint for Forfeiture, and the seized articles were subsequently destroyed in accordance with a Default Decree of Condemnation and Destruction entered by the United States District Court for the Western District of Washington (Ref. 88b).

On August 1, 1979, after the government filed a Complaint for Forfeiture alleging that prosthetic hair fibers and fiber implantation devices

were misbranded within the meaning of sections 502 (f)(1), (f)(2) and (o) of the act, the fibers and implantation devices were seized at Hairegenics, Inc., Atlanta, GA, under a Warrant for Arrest (Ref. 89a). No Claim or Answer was filed regarding the Complaint for Forfeiture, and the seized articles were subsequently destroyed in accordance with a Default Decree of Condemnation and Destruction entered by the United States District Court for the Northern District of Georgia, Atlanta Division (Ref. 89b).

On September 29, 1979, at Hair Replacement Survival Center, Inc., Tonawanda, NY, FDA placed under administrative detention a quantity of prosthetic hair fibers, fiber implantation devices, and related promotional materials and labeling. On October 23, 1979, after the government filed a Complaint for Forfeiture alleging that the devices were misbranded within the meaning of sections 502 (a), (f)(1), (f)(2), and (o) of the act, the detained articles were seized under a Warrant for Arrest (Ref. 90a). No Claim or Answer was filed regarding the Complaint for Forfeiture, and the seized articles were destroyed in accordance with a Default Decree of Condemnation and Destruction entered by the United States District Court for the Western District of New York (Ref. 90b).

On January 10, 1979, in the United States District Court for the Western District of New York, the government filed a Complaint for Injunction against Henryk R. Hanulewicz, an individual, doing business as Hair Replacement Survival Center, Cosmetic Medical Center, and Hair Survival Center. The Complaint alleged that the defendant violated the act by causing the introduction into interstate commerce of misbranded prosthetic hair fibers; receiving the misbranded prosthetic hair fibers in interstate commerce; and then delivering them, or proffering them for delivery, and further misbranding the prosthetic hair fibers while they were held for sale after shipment in interstate commerce. The Complaint charged that the prosthetic hair fibers were misbranded because their labeling was false and misleading (section 502(a)(1) of the act); because their labeling failed to bear adequate directions for use (section 502(f)(1) of the act); because the fibers were dangerous to health when used in the manner recommended or suggested in their labeling (section 502(j) of the act); and because they had not been the subject of a premarket notification to FDA as required by sections 510(k) and 502(o) of the act, and § 807.81 of the regulations (21 CFR 807.81). On January 14, 1980, the District Court entered a Consent Decree of Permanent Injunction. The defendant subsequently were out of business (Ref. 91). On March 13, 1980, the Grand Jury of Erie County, Supreme Court of the State of New York, indicted Henryk R. Hanulewicz on 10 courts arising out of his prosthetic hair fiber implantation business: one count of Scheme to Defraud in the First Degree, one count of Unauthorized Practice of Medicine, five counts of Grand Larceny in the Third Degree, and three counts of Assault in the Second Degree (Ref. 92a). Hanulewicz plead guilty to one count of Grand Larceny in the Third Degree and was sentenced to 3 years in prison (Ref. 92b).

g. *Involvement of other government agencies*—(1) *Federal Trade Commission (FTC).* On April 3, 1980, Hair Extension of Beverly Hills, Inc., also doing business as Hair TransCenter, and two individuals, Lee Marlow and Ann Marlow, entered into a consent order with FTC prohibiting the firm and the individuals from soliciting, selling, or performing prosthetic hair fiber implants or misrepresenting in advertising, or otherwise, the safety or effectiveness of the "hair implant process" in the treatment of baldness. The order also provided for FTC to notify former customers that the implant process is unsafe and that persons who had the device implanted should seek medical attention promptly. The consent order defined the "hair implant process" as any hair replacement product, process, or surgical procedure that involves the insertion or placement of (1) synthetic fibers or filaments which simulate hair or (2) nonliving human hairs into or under the scalp of a patient (Refs. 93 and 94).

On September 27, 1979, in the United States District Court for the Northern District of Ohio, Eastern Division, FTC filed a Complaint for Injunction and Ancillary Equitable Relief against Ronald S. Kazdin, doing business as United Laboratories of America, Inc., and United Laboratories of Cleveland, Inc., and Nate Kazdin and Sylvia Kazdin (Reg. 96a). The Complaint alleged that the defendants engaged in unfair or deceptive acts or practices in violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45), in that the hair implant process (the implantation of of prosthetic hair fibers) is not recognized as, and in fact is not, a safe and effective method for the treatment of baldness; that many customers suffer severe pain, serious infections, extensive scarring, and other medical complications as a result of the hair implant process; that the hair implant process is generally ineffective as a method for treating baldness because the implanted fibers ordinarily fall out or break off shortly after being inserted; that customers frequently lose their own remaining hair as a result of the hair implant process; that the defendants have falsely represented, explicitly and implicitly, that the hair implant process is, and is recognized as, a safe and effective method of treatment of baldness and that the process has been approved by FDA; that the defendants failed to disclose to the prospective customers the material facts that there are high risks, such as severe pain, serious infections, extensive scarring, and other medical complications that may result from the hair implant process; and that the defendants failed to disclose to prospective customers the material fact that the hair implant process is unlikely to be effective for the treatment of baldness. FTC further alleged that the defendants violated section 12 of the Federal Trade Commission Act (15 U.S.C. 52) because the defendants' advertisements constitute false advertisements within the meaning of section 15 of the Federal Trade Commission Act (15 U.S.C. 55). FTC filed a Motion for Default Judgment on June 25, 1980 (Ref. 95b), and on June 30, 1980, the court entered an order granting the relief sought by FTC (Ref. 95c). A Motion to Set Aside Entry of Default (Ref. 95d) was denied on June 30, 1981 (Ref. 95e).

(2) *Regulatory actions by States.* On January 18, 1979, in the Court of Common Pleas, Cuyahoga County, OH, the Ohio State Medical Board filed a petition for injunctive relief against United Laboratories of Cleveland, Inc., to prevent that firm from illegally practicing medicine (Ref. 96a). The court found that the implantation of synthetic prosthetic hair fibers constituted the practice of medicine, ordered that the implantation be performed only by individuals licensed to practice medicine or surgery in the State of Ohio, and granted the injunction (Ref. 96b).

On March 26, 1979, in the Court of Common Pleas, Cuyahoga County, OH, the State of Ohio filed an injunction against United Laboratories of Cleveland, Inc., United Laboratories of Cincinnati, United Laboratories of America, and United Laboratories of Northern Ohio, three principals of the firms and unknown officers, directors, franchisees, salesmen, and licensed or unlicensed medical doctors of the four named corporate defendants, charging that the defendants in violation of

section 1345.02 of the Ohio Revised Code, engaged in deceptive and unfair acts by representing that the "dermis inversion process" the firms' trade name for the implantation of prosthetic hair fibers) was effective; that the body would not reject the fibers following implantation into the scalp; that the process would last for a period of years; that the process would cause no pain or discomfort; that infection would not result from the process; that consumers would have no scarring, marking, discoloration, or irritation; that no healing period would be necessary following the process; that the resistance to pull strength from the scalp of the prosthetic hair fibers would be greater than that of natural hair; that the process was approved by FDA; and that licensed doctors supervise the process, when such was not the case. The State of Ohio also charged that the defendants, in violation of section 1345.03, Ohio Revised Code, engaged in unconscionable acts or practices by entering into consumer transactions while knowing of the inability of consumers to receive a substantial benefit from the subject of the consumer transaction (Ref. 97). The case is pending.

On April 19, 1979, in the Supreme Court of the State of New York, Queens County, the State of New York filed a petition for injunctive relief and monetary restitution against Syntho-Hair Centers International, Ltd., Ivan M. Rubin, Lawrence Goldspiel, Leo J. Grant, and Joan Martin Rubin (Ref. 98a). The State charged that the respondents, in violation of the Executive Law, section 63, subdivision 12, misrepresented the safety and effectiveness of the prosthetic fiber hair implants by deceiving consumers regarding the very painful and distressing after-effects which commonly accompany the procedure, and that, in violation of the Education Law, section 6512, a medical/surgical technique of some complexity was performed by nonphysicians. The petition was granted February 14, 1980 (Ref. 98b). The State of New York also brought charges against Ivan M. Rubin in the Criminal Court of the State of New York, Queens County (Ref. 99a). The defendant pleaded guilty and was sentenced to 60 days in prison plus 3 years probation (Ref. 99b).

On October 18, 1979, in the Supreme Court of the State of New York, New York County, the State of New York filed a petition for injunctive relief against Underwood Hair Adaption Process, Inc., Donald Underwood and Christine Underwood (Ref. 100a). The State charged that in violation of the Executive Law, section 63, subdivision 12, the respondents engaged in repeated fraud by misrepresenting the safety and effectiveness of the hair implant process (the implantation of prosthetic hair fibers) by deceiving customers regarding the very painful and distressing after-effects which almost invariably accompanied the procedure, and that in violation of the Education Law, section 6512, respondent's employees and Christine Underwood, personally, illegally performed medical procedures including the surgical implantation of synthetic prosthetic hair fibers, administration of anesthetics, and the dispensing of drugs. The petition also requested restitution and punitive and exemplary damages for victims. The case was dismissed, however, due to improper service of process (Ref. 100b).

On December 19, 1979, in the Supreme Court of the State of New York, New York County, the State of New York filed a petition for injunctive relief against Howard Kleiman; Hair Labs, Inc.; Kleiman Process, Inc.; and Hair Labs, Inc.; doing business as Hair Discovery Center (Ref. 101a). The State charged that in violation of the Executive Law, section 63, subdivision 12, the respondents engaged in particularly dangerous and illegal fraud by persuading consumers, with false assurances of safety, to undergo a baldness cure; and that in violation of the Education Law, section 6512, the respondents' unsupervised employees illegally performed the medical procedure of sewing synthetic fibers into the scalp. The petition also requested a judgment against the respondents for restitution to consumers of all funds paid to the respondents.

On March 12, 1980, the court issued an order which, pending the outcome of the litigation, prohibits the respondents from performing any new implant procedures, but allows the respondents to consult with existing clients concerning the care of their heads and to remove broken fibers from existing clients' heads by simple pulling, provided that the dispensing of prescription drugs and other medical procedures be performed only by licensed doctors (Ref. 101b). The case is pending.

The California State Legislature passed a bill which become law on July 13, 1980, adding Section 638a to the Penal Code making it illegal for anyone in the State to implant foreign materials within the scalp of another person for the purpose of preventing or alleviating baldness. "Foreign materials" include, but are not limited to, synthetic fibers and strands of hair from another person. Procedures for the transplantation of a person's own hair or for the fixation of hair pieces, toupees, or wigs are not subject to the law's provisions. Violation of Section 638a constitutes a misdemeanor (Ref. 102).

h. *Publicity.* Newspapers, magazines, and various electronic media throughout the country have publicized the infections, injuries, and illnesses caused by implantation of prosthetic hair fibers (Ref. 103). On May 28, 1979, FDA issued a press release warning the public of the hazards associated with the use of these devices (Ref. 104). The agency published an article on prosthetic hair fibers in the October 1979 issue of the *FDA Consumer* magazine (Ref. 105).

4. *Consultation with the classification panel (§ 895.21(d)(4)).* Throughout the period of investigative, administrative, and court enforcement actions described in paragraph 3., above, FDA consulted the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel (the Section).

On January 12, 1979, the Section heard testimony regarding the use of prosthetic hair fiber implants (Ref. 106a). Dr. Marvin Lepaw, a teaching and practicing dermatologist, reported that he had treated 10 patients for postimplant complications. Within 2 weeks after the implant procedures were completed, all patients began to experience bioincompatibility tissue rejection reactions to the materials that had been inserted into their scalps. Because of the these reactions and because of the bacterial pathways through the skin created by the fibers, bacteria were invading the skin and causing an almost continuous infection and inflammation that varied from multiple pustules around the fibers, to bleeding, purulent fistulas and larger fluctuant abscesses. Bacterial cultures of specimens from the infected areas revealed the presence of various organisms, including *Pseudomonas aeruginosa, Staphylococcus epidermidis,* klebsiella, acetobacter, calcoaceticus, enterococcus, and enterobacter group. All patients experienced spontaneous breakage of the prosthetic hair fibers at the scalp line. Other complications included constant pain, itchiness, and numbness present for up to 6 months following implantation. There was also a total or partial loss of the patients' own hair in the areas treated with implants. All patients experienced postinflammatory pitting and severe scarring. Dr. Lepaw expressed concern about the risk of death due to infection with *Pseudomonas aeruginosa,* and the risk

of induced osteomylitis, meningitis, or encephalitis (Ref. 106a, pp. 21–35).

Christine Underwood, a registered nurse, made a presentation to the Section concerning the Underwood Hair Adaption Process that she and her husband, Dr. Donald Underwood, had developed, used, and promoted. Mrs Underwood stated that of about 400 patients treated, none had experienced any spontaneous fall out of prosthetic hair fibers. Fiber breakage, which was experienced by 48 patients, was said to have been prevented through the use of satin pillowcases. According to Mrs. Underwood, no complaints or problems were reported by 333 patients, including the 48 patients who experienced fiber breakage. Mrs. Underwood stated that slight inflammations or localized infections that were easily treated and healed were experienced by 40 patients. Mrs. Underwood reported that three patients currently had moderate infections. Hair pieces were furnished to two patients at Underwood's expense, due to problems caused by the patients themselves. Mrs. Underwood stated that, if properly cared for, the implanted fibers would last for up to 10 years or longer (Ref. 106a, pp. 36–48).

The Section requested that Mrs. Underwood furnish additional data and expressed its concerns about prosthetic hair fiber implants. Section members suggested that the procedure should be investigational, because (1) the data presented lacked short-term and long-term patient followup, (2) histological studies were not available to address the problems associated with the foreign body reaction which would be present, and (3) infections would result (Ref. 106a, pp. 48–76). The testimony presented to the Section on behalf of the Underwood Hair Adaption Process regarding the alleged safety and effectiveness of the firm's prosthetic hair fibers and implant procedure was refuted by subsequent investigations by FDA (Refs. 47 through 51), consumer complaints received by FDA (Refs. 1 and 2), and court enforcement action taken by New York State (Ref. 100).

During the March 30, 1979 meeting of the Section, Howard Messer, an attorney from Pittsburgh, PA, made a presentation to the Section on behalf of a client who had purchased prosthetic hair fibers from, and had the fibers implanted by, United Laboratories of Western Pennsylvania. Mr. Messer stated that his client had been misled by the firm's advertisements which claimed a fast, easy, moderately inexpensive, and complication-free method of providing the appearance of a full head of hair. In reality, according to Mr. Messer, the client paid $3,250 for the implantation of the prosthetic hair fibers, the process was ineffective, and his client had to pay for medical bills and expenses necessary to cure the aftereffects. The client was said to have suffered severe swelling, pain, permanent scarring, loss of the implanted fibers, and missed several weeks of work. Mr. Messer stated that he was aware of 10 to 15 consumers who had experienced similar problems with implants from the same firm, but he had been unable to locate anyone in whom the implantations were successful (Ref. 107a, pp. 3–12).

During the Section meeting, testimony was presented on behalf of Hairegenics, Inc., to support claims of safety and effectiveness for its prosthetic hair fibers and implant procedure. The firm claimed that 2,000 to 3,000 looped polyester fibers could be inserted into a person's scalp with minimal bleeding, that biopsy specimens showed only mild fibrosis with a mild inflammatory reaction, that the fibers were durable over a 2½ year period, that there were only minor complications, that the fiber fall-out rate was less than 10 percent, that there was little or no permanent scarring, and that the fibers could be removed easily if necessary (Ref. 107a, pp. 14–46). Representatives of the firm stated that no experimental testing had been done on the process before use of the procedure in consumers, and that results of long-term experience were not available. The claims of safety and effectiveness of prosthetic hair fiber implants that were made by Hairegenics, Inc., were contradicted by its own representative's testimony (Ref. 107a, pp. 46–48), consumer complaints received by FDA (Refs. 6 and 7), and an FDA investigation (Ref. 5). The firm's prosthetic hair fibers were seized on August 1, 1979. A Default Decree of Condemnation and Destruction was entered on January 29, 1980, and the fibers were subsequently destroyed in accordance with the Decree (Ref. 89).

During the Section meeting (Ref. 107a), the Section members discussed the labeling and promotional advertising used for prosthetic hair fibers, the feasibility of implanting prosthetic hair fibers, recommendations for agency classification of prosthetic hair fibers, and possible regulatory options available to control the use of prosthetic hair fibers. A Section member presented a case report of a person treated following implantation of the device. A consultant to the Section presented a multicase review.

One Section member reviewed the labeling and promotional materials used by several promoters of prosthetic hair fibers and concluded that the materials were misleading because claims were made that the procedures were painless and permanent (Ref. 107a, pp. 60–63). Another Section member presented scientific data regarding the problems inherent in implanting prosthetic hair fibers. The Section member stated that problems could occur because the implanted fibers do not duplicate naturally growing hair. This Section member explained that infection is prevented and anchorage is provided for, such hair by, among other things, a constant sloughing and renewal of the follicle epithelium, the presence of glands which secrete antibacterial substances into the lumen of the follicle, and the production of sebum which constantly flows outward to prevent the invasion of the scalp by bacteria. Because the implantation of prosthetic hair fibers yields an accumulation of scar tissue (fibrosis) and because fibrosis is a known carcinogenic (cancer-causing) stimulus in animals, the Section member also expressed concern that a carcinogenic risk may exist (Ref. 107a, pp. 64–65). Still another Section member reported that the member had treated a patient who developed an infection 6 weeks after the patient had received prosthetic hair fiber implants from Hair Discovery Center, Bellmore, NY. Cultures of specimens from the patient revealed the presence of pathogenic *Staphylococcus aureus* as well as nonpathogenic *Streptococcus fecalis*. After 1 month of treatment with topical antibiotics and alcohol cleansing, the patient's condition had not improved. To cure the infection, it would be necessary to remove the implanted fibers (Ref. 107a, pp. 66–67).

A consultant to the Section reviewed several reports of illness and injury caused by implantation of prosthetic hair fibers. The reports had been received and investigated by FDA. The consultant concluded that in the cases reviewed, inflammation of the scalp was a universal problem. The inflammation of the scalp was attributed to the composition of the fibers and the implantation procedure. The consultant recommended that the implantation of prosthetic hair fibers be discontinued until more information is available because (1) sinus tracts that allow bacterial communication between the inner and outer surfaces of the scalp persist around the implanted prosthetic hair fibers, (2) there is considerable traumatic injury to the scalp from needle punctures, from the administration of anesthesia, and from the accumulation of numerous foreign particles in the

scalp, and (3) nonsterile surgical techniques are used at the time of implantation (Ref. 107a, pp. 67–74).

One Section member believed that prosthetic hair fiber implants should be banned, because the available evidence showed that many individuals received permanent and debilitating injuries from the device (Ref. 107a, pp. 77–78).

In summary, based on numerous reports of inflammations and infections experienced by persons implanted with prosthetic hair fibers, on the inevitability of tissue and foreign body reactions to the implants as well as the possible adverse effects of chronic fibrosis (scar tissue) accumulating in the scalp, and other complications, the Section members doubted that prosthetic hair fibers intended for implantation into the human scalp are safe or effective. The Section members also noted that no data were available to show that the use of prosthetic hair fiber implants was safe or effective.

The Section recommended that all prosthetic hair fibers intended for implantation be classified into class III (premarket approval), as provided under section 513 of the act (21 U.S.C. 360c). The Section believed, however, that the public health would not be protected sufficiently during the 30-month period following any such classification before FDA could require submission of applications for premarket approval of the devices (section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B))). Therefore, the Section recommended that FDA institute more restrictive regulatory controls over prosthetic hair fibers that were marketed before the enactment date of the amendments. The Section also recommended that manufacturers of prosthetic hair fibers not be exempted from the premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)). The Section believed that premarket notification is necessary for manufacturers of new or modified fibers (Ref. 107b).

On October 18, 1979, the Section met to consider an FDA proposal to ban prosthetic hair fibers intended for implantation into the scalp to simulate natural hair or conceal baldness.

Dr. Marvin Lepaw made a second presentation to the Section. He stated that he had treated a total of 70 patients who experienced adverse effects from prosthetic hair fibers. All his patients had serious infections. Dr. Lepaw stated that to treat the infections effectively, he had to remove completely the scalps from some patients and to lift the scalps and remove the fibers from other patients. In some instances, the fibers were implanted so deeply that they were attached to the periosteum of the skull bone (Ref. 108a, pp. 60–61).

An FDA representative presented to the Section the results of FDA's tests of polyester and modacrylic prosthetic hair fibers. Using the Ames test, FDA evaluated the toxicological effects of the devices. The FDA test data showed that some of the dyes used to color the fibers were mutagenic to *Salmonella typhimurium* in the Ames test (Ref. 108a, pp. 14–19). (See also paragraph 3.d., above.)

Another FDA representative then reported to the Section that the agency had received 140 consumer complaints of injury from the use of prosthetic hair fibers of all the kinds known to be used in the United States, including modacrylic, polyacrylic, polyester, and processed human hair. Moreover, FDA had performed a nationwide investigation of about 90 firms that promoted the use of prosthetic hair fibers. The nationwide investigation had resulted in the agency's insuurance of four regulatory letters, and the accomplishment of three administrative detentions and four seizures of the devices. Further regulatory actions were being considered by FDA. In addition to FDA actions, FTC and several States were also instituting legal actions. The FDA representative stated that because FDA, FTC, and local authorities were using considerable manpower pursuing legal actions against individual establishments, FDA believed it necessary to ban the devices to protect the public health, expedite regulatory actions, and conserve agency resources (Ref. 108a, pp. 27–32). (See also paragraph 3., above.)

After considering the data presented to it, the Section concluded that prosthetic hair fibers present substantial deception and an unreasonable and substantial risk of injury, because, contrary to claims made in the labeling of, and advertising for, the device: (1) implantation of the fibers into the scalp does not provide permanent, simulated hair; (2) the fibers often either break off at the scalp line or fall out; (3) implantation is neither painless nor without significant complications; and (4) inherent hazards such as infections, inflammations, and tissue and foreign body reactions are the inevitable result of the implantation of the fibers (Ref. 108a, pp. 6–14 and 19–27). The Section found that prosthetic hair fibers are neither safe nor effective for their intended purposes and that neither the substantial deception nor the unreasonable and substantial risk of illness or injury presented by the devices could be corrected or eliminated by labeling or a change in labeling (Ref. 108a, pp. 22–36 and Ref. 108b).

The Section unanimously concluded that the deception and risk of illness or injury associated with use of prosthetic hair fibers present an unreasonable, direct, and substantial danger to the health of individuals and that such deception and risk could not be corrected by labeling or a change in labeling (Ref. 108a, pp. 34–36, and Ref. 108b).

5. *Determination whether the deception, risk of illness or injury, or the danger to the health of individuals could be corrected by labeling or a change in labeling (§ 895.21(d)(5)).* Prosthetic hair fibers are ineffective in simulating natural hair or concealing baldness and also are inherently hazardous. There are no conditions of use under which prosthetic hair fibers can be marketed safely for their intended uses. Therefore, FDA has determined that the deception or risk associated with the use of the device presents an unreasonable, direct, and substantial danger to the health of individuals and that such danger could not be corrected by labeling or a change in labeling.

6. *Determination of whether any required labeling or change in labeling has been made (§ 895.21(d)(6)).* FDA has determined that prosthetic hair fibers intended for implantation are inherently dangerous to the health of individuals and are not safe, no matter how they are labeled. Accordingly, FDA has not proposed a change in device labeling.

7. *Determination of the reasons why the banning should apply to devices already in commercial distribution or to those already sold to the ultimate user or both (§ 895.21(d)(7)).* Because of the serious infections, illnesses, or injuries sustained by individuals in whose scalps prosthetic hair fibers have been implanted, the inherently hazardous nature of the device, and because the fibers provide no benefit to the public health, FDA has determined that the banning should apply to those devices now in commercial distribution and those already sold to, but not implanted in, the ultimate user.

Further Agency Actions

After any informal regulatory hearing, and after considering any written comments and any additional information and data submitted on the proposed regulation, the agency will, as expeditiously as possible, affirm, modify, or withdraw the proposed regulation making the device a banned device. If the agency decides to affirm or modify the proposed regulation to make the device a banned device, the agency

will publish in the **Federal Register** a final rule amending Subpart B of Part 895 by adding the name or description of the device, or both, to the list of banned devices. If the agency decides to withdraw the proposed regulation to make the device a banned device, FDA will publish in the **Federal Register** a notice of withdrawal of the proposed rulemaking.

References

The following information is on file in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Lepaw, M. L., "Complications of Implantation of Synthetic Fibers into the Scalp for 'Hair' Replacement," *Journal of Dermatology Surgery and Oncology*, 5:201–204, 1979.

2. Lepaw, M. L., "Scalp Injuries from 'Hair' Replacement," *Consultant*, 2:149, 1980.

3. United Laboratories of America; United Laboratories of Cleveland, Cleveland, OH, Establishment Inspection Report (EIR).

4. Hair Replacement Survival Center, Buffalo, NY, EIR.

5. Hairegenics, Inc., Atlanta, GA, EIR.

6. Descriptive computer print-out of complaints received by FDA on prosthetic hair fiber devices.

7. Copies of complaints received by FDA.

8. Computer print-outs of categorized complaints received by FDA.

9. *Baker* v. *Underwoods's Hair Adoption Process, Inc.*, 490 F. Supp. 276 (D. Mass. 1980).

10. Copies of complaints received by the Federal Trade Commission.

11. Hanke, C. W. and W. F. Bergfield, "Fiber Implantation for Pattern Baldness," *Journal of the American Medical Association*, 241:146–148, 1979.

12. Gonzales, E. R. and G. McBride, "Synthetic Hair Implants Continue; Serious Complications Result," *Journal of the American Medical Association, Medical News*, 241:2687–2689, 1979.

13. Lepaw, M. L., "The Synthetic Fiber Implant Scam," *International Journal of Dermatology*, 18:468–471, 1979.

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20. FDR Nationwide Assignment to Investigate the Hair Implant Industry.

21. Creative Enterprises, Hollywood, FL, EIR.

22. Underwood Hair Adaption Process, Cleveland, OH, EIR.

23. Underwood Hair Adaption Process, Toledo, OH, EIR.

24. Underwood Hair Adaption Process, Milwaukee, WI, EIR.

25. Underwood Hair Adaption Process, Mineola, NY, EIR.

26. United Laboratories of Cincinnati, OH, EIR.

27. Underwood Hair Adaption Process, Cherry Hill, NJ, EIR.

28. Underwood Hair Adaption Process, Cincinnati, OH, EIR.

29. Headstart Hair for Men, Inc., New York, NY, EIR.

30. Creative Hair Replacement Center, Brooklyn, NY, EIR.

31. United Laboratories of Washington, DC, Washington, DC, EIR.

32. United Laboratories of Western Pennsylvania, Pittsburgh, PA, EIR.

33. United Laboratories of Eastern Massachusetts, Burlington, MA, EIR.

34. United Laboratories of Central Florida; Bio-Hair Clinique, Bio-Cosmetic Surgical Clinique, Altamonte Springs, FL, EIR.

35. United Laboratories, Atlanta, GA, EIR.

36. Affiliated Laboratories, Dallas, TX, EIR.

37. Affiliated Laboratories, Houston, TX, EIR.

38. Federated Laboratories, New York, NY, EIR.

39. Cosmetic Medical Center, Ft. Lauderdale, FL, EIR.

40. Hair Discovery Center, Bellmore, NY, EIR.

41. Northfield Medical Center, Northfield Center, OH, EIR.

42. Scientific Devices; Triocologists Total Hair Care; Hair Connection, Freeport, NY, EIR.

43. Aurel Medical Centers, Cleveland, OH, EIR.

44. Chambliss Hair Replacement Centers, Louisville, KY, EIR.

45. Cosmetic Surgical Group, Edison NJ, EIR.

46. CNI Scientific, Indianapolis, IN, EIR.

47. Denver Tricology Clinic, Denver, CO, EIR.

48. Federated Laboratories of Tennessee, Inc., Nashville, TN, EIR.

49. Federated Laboratories of Colorado, Inc., Denver, CO, EIR.

50. Hair Replacement Center, Canastota, NY, EIR.

51. Hairegenics, Inc., Cambridge, MA, EIR.

52. Hair Replacement Center, Houston, TX, EIR.

53. HRC of Texas, Dallas, TX, EIR.

54. Hair Research Associates; Cosmetic Surgery, Inc., Ft. Wayne, IN, EIR.

55. Nu-Image, Houston, TX, EIR.

56. Nu-Image, Phoenix, AZ, EIR.

57. Sheffield Spottswood, Inc., West Caldwell, NJ, EIR.

58. Syntho Hair, Ltd., Rego Park, NY, EIR.

59. United Laboratories of Northern California; Federated Laboratories of Northern California, San Francisco, CA, EIR.

60. United Laboratories, Inc., Bellevue, WA, EIR.

61. Hair Consultants; Cosmetic Hair Clinic, Inc., New York, NY and Ft. Lee, NJ, EIR.

62. Hair Survival Center; California Cosmetic Clinic, San Francisco, CA, EIR.

63. Buchheit, Goshen, NY, EIR.

64. Hair Injection Company, Santa Monica, CA, EIR.

65. Impla-Hair Systems, Inc., Tucson, AZ, EIR.

66. Federated Laboratories of New Jersey, Cherry Hill, NJ, EIR.

67. Jon-Vic Enterprises, Inc.; Biohair Clinique; Biomedical Co., New York, NY, EIR.

68. Monte Carlo Hairpieces; Patrician International, North Miami, FL, EIR.

69. Naturelle International, Inc., Dania, FL, EIR.

70. The Professional's Custom Hair Centers, Cherry Hill, NJ, EIR.

71. Progressive Industries, Chicago, IL, EIR.

72. Underwood Hair Adaption Process, Kansas City, MO, EIR.

73. Underwood Hair Adaption Process, Towson, MD; Hair Again, Silver Spring, MD; Avon Hair Research, Baltimore, MD, EIR.

74. Underwood Hair Adaption Process, Despares, MO, EIR.

75. Virtex Hair Laboratory; Armgarr, Inc., Washington, DC, EIR.

76. Derma-Hair, Atlanta, GA, EIR.

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81. "Research Results re: Safety and Efficacy of Artificial Hair for Implantation in Humans," Presented to FDA, May 10, 1979 by United Laboratories of America.

82. Memorandum Dated June 12, 1979, to Division of Compliance Operations from Division of Surgical and Rehabilitation Devices, "Review of Research Results re: Safety and Efficacy of Artificial Hair for Implantation into Humans," submitted May 10, 1979, by Wayne B. Statt and Joseph Radzius, representing United Laboratories.

83. Communication Between R. H. Rigdon, M.D., and Mark F. Parrish, Division of Surgical and Rehabilitation Devices, Bureau of Medical Devices, July 13, 1979.

84. Communication Between K. G. Brand, M.D., and Mark F. Parrish, Division of

Surgical and Rehabilitation Devices, Bureau of Medical Devices, July, 9, 1979.

85. Transcript, Administrative Hearing on Appeal of Administrative Detention of Medical Devices, CIN-79-1, June 4, 1979.

86. Decision Document: In the Matter of Detention of Certain Medical Devices, Detention Order, CIN-79-1.

87. *United States* v. *An Article of Device*, C79-1211, United States District Court for the Northern District of Ohio, Eastern Division, July 23, 1979.

a. Complaint for Forfeiture.

b. Default Decree of Condemnation and Destruction.

88. *United States* v. *Article of Device*, C79-722, United States District Court for the Western District of Washington, Seattle, WA, September 24, 1979.

a. Complaint for Forfeiture.

b. Default Decree for Condemnation and Destruction.

89. *United States* v. *An Undetermined Quantity of Articles of Device*, C79-1387A, United States District Court for the Northern District of Georgia, Atlanta Division, January 29, 1980.

a. Complaint for Forfeiture.

b. Default Decree of Condemnation and Destruction.

90. *United States* v. *Articles of Device*, C79-827, United States District Court for the Western District of New York, February 21, 1980.

a. Complaint for Forfeiture.

b. Default Decree of Condemnation and Destruction.

91. *United States* v. *Hair Replacement Survival Center, et al.*, C80-28, United States District Court for the Western District of New York, January 14, 1980.

92. *People* v. *Hanulewicz*, Supreme Court of the State of New York, Erie County, Indictment No. 46,480, March 13, 1980.

a. Indictment.

b. Docket sheet.

93. **Federal Register**, October 23, 1979 (44 FR 61050).

94. **Federal Register**, April 3, 1980 (45 FR 22021).

95. *Federal Trade Commission* v. *Ronald S. Kazden, et al.*, C79-1857, United States District Court for the Northern District of Ohio, Eastern Division, August 28, 1980.

a. Complaint for Injunction and Ancillary Equitable Relief.

b. Motion for Default Judgment.

c. Order Dated June 30, 1980.

d. Motion to Set Aside Entry of Default.

e. Docket Sheet.

96. *State of Ohio, State Medical Board* v. *United Laboratories of Cleveland, Inc.*, Court of Common Pleas, Cuyahoga County, OH, 99-38-39, March 28, 1979.

a. Petition for Injunctive Relief.

b. Journal Entry dated March 28, 1979.

97. *William J. Brown* v. *United Laboratories of Cleveland, Inc.*, Court of Common Pleas, Cuyahoga County, OH, 99-65-19, March 26, 1979.

98. *State of New York* v. *Syntho-Hair Centers International, Ltd., et al.*, Supreme Court of the State of New York, Queens County, Index No. 41121/79, February 21, 1980.

a. Petition for Injunctive Relief and Monetary Restitution.

b. Final Judgment.

99. *People* v. *Rubin*, 103 Misc. 2d 227, 424 N.Y.S. 2d 592 (Crim. Ct. N.Y. 1979).

a. Information.

b. Order dated August 28, 1981.

100. *State of New York* v. *Underwood Hair Adaption, et al.*, Supreme Court of the State of New York, New York County, Index No. 41677/79, June 25, 1979.

a. Petition.

b. Order and Judgment dated July 7, 1981.

101. *State of New York* v. *Howard Kleiman*, Supreme Court of the State of New York, New York County, Index No. 43216/79, February 7, 1979.

a. Petition.

b. Memorandum and Order dated March 11, 1980.

102. Assembly Bill No. 2295, California State Legislature, July 13, 1980.

103. News Items:

a. "Hair's Difference in State Court Complaint," *The Plain Dealer*, Cleveland, OH, January 19, 1979.

b. "Baldness Remedy is Assailed," *New York Times*, March 14, 1979.

c. "Warnings on Hair Implants," *New York Times*, March 29, 1979.

d. "Artificial Hair Implantation Found to be Dangerous." *Dermatology News*, June 1979.

e. "Scalped Victims Left with Infection and Scars in Worst Hair Fraud Ever," *The Medical Post*, Toronto, Canada, July 17, 1979.

f. "S. F. Fraud Unit Sues Hair Injection Clinic," *San Francisco Chronicle*, July 27, 1979.

g. "4 Hair Transplant Doctors Accused of Incompetence," *Los Angeles Times*, August 22, 1979.

h. "2 File $6 Million Hair-Implant Suit," *The Nashville Banner*, October 23, 1979.

104. HEW Press Release, March 28, 1979.

105. *FDA Consumer*, October 1979.

106. a. Transcript of the Meeting of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel held on January 12, 1979.

b. Summary Minutes.

107. a. Transcript of the meeting of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel held on March 30, 1979.

b. Summary Minutes.

108. a. Transcript of the meeting of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel held on October 18, 1979.

b. Summary Minutes.

Environmental Impact

The agency has determined pursuant to 21 CFR 25.24(b)(12) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Assessment

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposed regulation and has determined that it is not a major rule under the criteria of the Order. Further, FDA certifies that it will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act. At this time, FDA is unaware of any person actively engaged in the manufacture, promotion, distribution, or implantation of prosthetic hair fibers—the result, it is believed, of the adverse publicity described in paragraph 3.b. above and the case-by-case administrative and court enforcement actions described in paragraph 3.f. and g. above. The proposed banning is necessary, nevertheless, to prevent most efficiently any further social costs caused by a recurrence of marketing of these unsafe, ineffective, and deceptive devices. Thus the proposal offers social benefits (in the form of social costs avoided) without itself imposing any social costs.

List of Subjects in 21 CFR Part 895

Administrative practice and procedure, Banned devices, Labeling, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502(r), 516, 518, 519, 701(a), 52 Stat. 1055, 90 Stat. 560, 562-565, 577-578 (21 U.S.C. 352(r), 360f, 360h, 360i, 371(a))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Part 895 be amended by adding new Subpart B consisting of § 895.101, to read as follows:

PART 895—BANNED DEVICES

Subpart B—Listing of Banned Devices

§ 895.101 Prosthetic hair fibers.

Prosthetic hair fibers are devices intended for implantation into the human scalp to simulate natural hair or conceal baldness. Prosthetic hair fibers may consist of various materials; for example, synthetic fibers, such as modacrylic, polyacrylic, and polyester; and natural fibers, such as processed human hair. Excluded from the banned device are natural hair transplants, in which a person's hair and its surrounding tissue are surgically removed from one location on the person's scalp and then grafted onto another area of the person's scalp.

The special effective date for the proposal is June 3, 1983. Interested persons may, on or before August 2, 1983, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may

submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 26, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-14772 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 895

[Docket No. 80N-0301]

Notice of Opportunity for an Informal Hearing on Proposal To Make Prosthetic Hair Fibers a Banned Device

AGENCY: Food and Drug Administration.

ACTION: Notice of opportunity for hearing.

SUMMARY: The Food and Drug Administration (FDA) announces an opportunity for an informal public hearing on its immediately effective proposed regulation published elsewhere in this issue of the **Federal Register** to make prosthetic hair fibers a banned device and its declaration of a special effective date for the regulation. If FDA receives a request for such a hearing, FDA will grant the request and will publish in the **Federal Register** notice of the hearing.

DATE: Requests for an informal regulatory hearing by July 5, 1983.

ADDRESS: Written requests for a hearing to the Dockets Management Branch, Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, FDA is issuing a proposed regulation to make prosthetic hair fibers a banned device and declaring the proposal to be effective on June 3, 1983, pending final action on the proposed regulation. The special effective date will protect the public health during the comment period and until FDA either promulgates a final regulation or terminates the proceeding.

FDA's announcement of opportunity for an informal hearing on the proposed regulation is governed by section 516(b)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360f(b)(2)) and § 895.30(c) of the agency's regulations providing procedures for banning a device (21 CFR 895.30(c)). The provision of section 201(y) of the act (21 U.S.C. 321(y)) and Part 16 of the agency's administrative practices and procedures regulations (21 CFR Part 16) shall govern any hearing on the proposed regulation.

Interested persons may on or before July 5, 1983, submit to the Dockets Management Branch (address above), written requests for an informal regulatory hearing under section 201(y) of the act and Part 16. Two copies of any requests are to be submitted, except that individuals may submit one copy. Requests are to be identified with the docket number found in the heading of this document. Received requests may be seen in the office above between 9 a.m and 4 p.m., Monday through Friday.

Dated: April 26, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 83-14543 Filed 6-2-83; 8:45 am]

BILLING CODE 4160-01-M

federal register

Friday
June 3, 1983

Part V

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 904]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 31, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS VOLUME 904

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	ISSUED MAY 31, 1983	FIELD NAME	PROD	PURCHASER
						NEW MEXICO DEPARTMENT OF ENERGY & MINERALS				
-AMAX PETROLEUM CORPORATION				RECEIVED:	05/10/83	JA: NM				
8336056		3003900000		108-PB		BISHOP #2		SOUTH BLANCO	18.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	05/10/83	JA: NM				
8336055		3004523113		108		GARRETT "A" #1		BLOOMFIELD CHACRA	20.0	EL PASO NATURAL G
-LEWIS B BURLESON				RECEIVED:	05/10/83	JA: NM				
8336054		3002525842		108		MOBIL #1		LANGLIE-MATTIX	21.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	05/10/83	JA: NM				
8336052		3002527906		102-4		STATE LG 25 #1		SOUTH KEMNITZ - ATOKA	0.0	
-YATES PETROLEUM CORPORATION				RECEIVED:	05/10/83	JA: NM				
8336053		3001242250		103		BERRY "EE" COM #2		UND KENNEDY FARMS MOR	0.0	TRANSWESTERN PIPE
						NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION				
-BENNETT PETROLEUM CORP				RECEIVED:	05/09/83	JA: NY				
8336013	5076	3112115955		107-TF		BLANCHE M BRICK #1 - 31-121-15955		UNNAMED	94.9	COLUMBIA GAS TRAN
8336018	2913	3105115976		102-2		CIPRIANO BROS #2 - 31-051-15976		UNNAMED	620.5	COLUMBIA GAS TRAN
8336017	5081	3105115976		107-TF		CIPRIANO BROS #2 - 31-051-15976		UNNAMED	620.5	COLUMBIA GAS TRAN
8336015	5080	3112114615		107-TF		FRANK IRELAND #1		UNNAMED	6.0	COLUMBIA GAS TRAN
8336012	5079	3112114426		107-TF		JAMES W WRIGHT #1			9.0	COLUMBIA GAS TRAN
8336016	5077	3105116154		107-TF		MARG C CURRY - 31-051-15833		UNNAMED	0.0	COLUMBIA GAS TRAN
8336014	5075	3112114427		107-TF		THOMAS FARLEY #1		UNNAMED	30.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED:	05/09/83	JA: NY				
8335994	3921	3101316229		107-TF		ARTHUR ROBERTS #1 KJ-20		SHERMAN	30.0	COLUMBIA GAS TRAN
8335995	3919	3101316229		102-2		ARTHUR ROBERTS #1 KJ-20		SHERMAN	30.0	COLUMBIA GAS TRAN
8335997	3918	3101317708		102-2		D J WHITE #1 KA-150		FRENCH CREEK	30.0	COLUMBIA GAS TRAN
8335996	3920	3101317708		107-TF		D J WHITE #1 KA-150		FRENCH CREEK	30.0	COLUMBIA GAS TRAN
8336000	3626	3101315974		107-TF		G SANDBERG #1 KA-92		CARROLL	30.0	COLUMBIA GAS TRAN
8336001	3625	3101315974		102-2		G SANDBERG #1 KA-92		CARROLL	3.0	COLUMBIA GAS TRAN
-PENNZOIL COMPANY				RECEIVED:	05/09/83	JA: NY				
8335973	3930	3100917269		102-4		SUE MALONEY #1		CHIPMUNK	0.0	
-TRAHAN PETROLEUM INC				RECEIVED:	05/09/83	JA: NY				
8335975	4246	3101317149		107-TF		B & E GOSTOMSKI NY #34 31-013-17149		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335974	4273	3101317149		102-2		B & E GOSTOMSKI NY #34 31-013-17149		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335999	3982	3101316255		102-2		BEIGHTOL #1 31-013-16255		ELLINGTON	36.0	COLUMBIA GAS TRAN
8335998	3981	3101316255		107-TF		BEIGHTOL #1 31-013-16255		ELLINGTON	36.0	COLUMBIA GAS TRAN
8335976	4245	3101316967		107-TF		BREHM NY #35 31-013-16967		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336007	4269	3101312520		102-2		DELARA NY #14 31-013-12520		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336006	4242	3101312520		107-TF		DELARA NY #14 31-013-12520		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335985	4268	3101312490		102-2		FROST NY #30 31-013-12490		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335984	4241	3101312490		107-TF		FROST NY #30 31-013-12940		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336024	4287	3101317283		102-2		HESS #2 31-013-17283		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336023	4253	3101317283		107-TF		HESS #2 31-013-17283		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336011	4286	3101317695		102-2		HESS #3 31-013-17695		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336010	4252	3101317695		107-TF		HESS #3 31-013-17695		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336028	4283	3101317694		102-2		HESS #4 31-013-17694		CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336027	4249	3101317694		107-TF		HESS #4 31-013-17694		CHERRY CREEK	36.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8335969	4282	3101317170		102-2		HITCHCOCK #1 31-013-17170	ELLINGTON	36.0	COLUMBIA GAS TRAN
8336026	4288	3101317736		102-2		MELBY #2 31-013-17736	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336025	4254	3101317736		107-TF		MELBY #2 31-013-17736	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336022	4289	3101317242		102-2		NEWCOMB #1 31-013-17242	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336021	4255	3101317242		107-TF		NEWCOMB #1 31-013-17242	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335989	4080	3101317271		102-2		NOBLES #1 31-013-17271	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335988	4265	3101317271		107-TF		NOBLES #1 31-013-17271	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335981	4266	3101312488		102-2		NOBLES NY #32 31-013-12488	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335980	4240	3101312488		107-TF		NOBLES NY #32 31-013-12488	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335987	4274	3101312541		102-2		NOBLES NY #33 31-013-12541	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335986	4259	3101312541		107-TF		NOBLES NY #33 31-013-12541	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336032	4271	3101312511		102-2		NOBLES NY #36 31-013-12511	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336031	4244	3101312511		107-TF		NOBLES NY #36 31-013-12511	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336003	4270	3101317620		102-2		NOBLES NY #81 31-013-17620	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8336002	4243	3101317620		107-TF		NOBLES NY #81 31-013-17620	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335991	3966	3101315749		102-2		RICE NY #47 31-013-15749	LEON	36.0	COLUMBIA GAS TRAN
8335990	3965	3101315749		107-TF		RICE NY #47 31-013-15749	LEON	36.0	COLUMBIA GAS TRAN
8335993	3968	3101315753		102-2		RICE NY #9 31-013-15753	LEON	36.0	COLUMBIA GAS TRAN
8335992	3967	3101315753		107-TF		RICE NY #9 31-013-15753	LEON	36.0	COLUMBIA GAS TRAN
8335983	4267	3101317174		102-2		SMALLBACK NY #31 31-013-17174	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335982	4239	3101317174		107-TF		SMALLBACK NY #31 31-013-17174	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335977	4272	3101316967		102-2		THOMAS BREHM NY #35 31-013-16967	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8335979	4281	3101317193		102-2		WEHRENBERG #3 31-013-17193	ELLINGTON	36.0	COLUMBIA GAS TRAN
8335978	4247	3101317193		107-TF		WEHRENBERG #3 31-013-17193	ELLINGTON	36.0	COLUMBIA GAS TRAN
8336005	4284	3101317172		102-2		WOLFE #1 31-013-17172	ELLINGTON	36.0	COLUMBIA GAS TRAN
8336004	4250	3101317172		107-TF		WOLFE #1 31-013-17172	ELLINGTON	36.0	COLUMBIA GAS TRAN
8336029	4251	3101317676		107-TF		WOLFE #2 31-013-17676	ELLINGTON	36.0	COLUMBIA GAS TRAN
8336030	4285	3101317676		102-2		WOLFE #2 31-013-17676	ELLINGTON	36.0	COLUMBIA GAS TRAN
-UNION DRILLING INC				RECEIVED:	05/09/83	JA: NY			
8335972	4162	3100916851		107-TF		CLYDE H LOOMIS #1 NY-0008	RANDOLPH TOWN	0.0	COLUMBIA GAS TRAN
8336020	4165	3101316443		102-2		DONALD S COE SR #1 NY-0003	POLAND TOWN	0.0	COLUMBIA GAS TRAN
8336019	4163	3101316443		107-TF		DONALD S COE SR #1 NY-0003	POLAND TOWN	0.0	COLUMBIA GAS TRAN
8336009	4166	3100916890		102-2		LAWRENCE GROVER #1 NY-0002	RANDOLPH TOWN	0.0	COLUMBIA GAS TRAN
8336008	4164	3100916890		107-TF		LAWRENCE GROVER #1 NY-0002	RANDOLPH TOWN	0.0	COLUMBIA GAS TRAN
8335971	4161	3100916852		107-TF		TIMOTHY J PARKER NY-0007	RANDOLPH TOWN	0.0	COLUMBIA GAS TRAN
-US ENERGY DEVELOPMENT CORP				RECEIVED:	05/09/83	JA: NY			
8335970	4555	3101317771		102-2		TERRY-SIUTA #1	GERRY BASS ISLAND	50.0	COLUMBIA GAS TRAN
TENNESSEE OIL & GAS BOARD									
-AMTEX RESOURCES INC				RECEIVED:	05/05/83	JA: TN			
8336060	A-2443	4104921024		102-2		BRUNO GERNTESTATES INC #50	MONTEAGLE	10.0	FENTRESS GAS TRAN
8336064	A-2339	4103520138		102-2		CHESTER BROWN #1	MONTEAGLE	1.0	
8336063	A-2430	4112921258		102-2		JAMES WEBB #1	MONTEAGLE	3.0	
8336061	A-2444	4112921275		102-2		JAMES WEBB #2	MONTEAGLE	3.0	
8336062	A-2445	4112921272		102-2		VIRGIL SMITH UNIT #1	MONTEAGLE	5.0	
-FRANCIS PETROLEUM CORP				RECEIVED:	05/05/83	JA: TN			
8336074	A-2416	4115121070		102-2		COMMODORE TODD UNIT #1	FORT PAYNE	3.0	
8336070	A-2415	4115121076		102-2		COMMODORE TODD UNIT #2	MONTEAGLE	1.0	
8336066	A-2411	4104920908		102-2		CURTIS SMITH #1	MONTEAGLE	2.0	
8336071	A-2407	4104920925		102-2		EUGENE STORIE #1-A	MONTEAGLE	2.0	
8336067	A-2413	4104920917		102-2		EUGENE STORIE UNIT #1	MONTEAGLE	2.0	
8336068	A-2409	4104920948		102-2		HOLLIS RICHARDSON UNIT #1	MONTEAGLE	2.5	
8336065	A-2408	4104920563		102-2		ODIE TOMPKINS #1	FORT PAYNE	3.0	
8336072	A-2414	4115121048		102-2		PLATEAU PROPERTIES #1	MONTEAGLE	2.0	
8336073	A-2412	4104920890		102-2		ROYAL TOMPKINS #1-A	MONTEAGLE	2.5	
8336069	A-2410	4104920973		102-2		TOMPKINS-MILLS-SMITH UNIT #1	MONTEAGLE	2.5	
WEST VIRGINIA DEPARTMENT OF MINES									
-ASHLAND EXPLORATION INC				RECEIVED:	05/10/83	JA: WV			
8336091		4703901820		108		EASTERN GAS & FUEL #20 - 033880	PAINT CREEK	21.0	COLUMBIA GAS TRAN
8336094		4701900145		108		EASTERN GAS & FUEL #39 - 039740	PAINT CREEK	0.0	COLUMBIA GAS TRAN
8336090		4701900147		108		EASTERN GAS & FUEL #40 - 0400005	PAINT CREEK	21.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED:	05/10/83	JA: WV			
8336079		4700101659		108		THACKER #1	VALLEY	13.8	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	05/10/83	JA: WV			
8336084		4701702363		107-DV		D C STEWART 12571	WEST UNION DISTRICT	15.0	
8336086		4701702296		107-DV		D C STOUT 12558	NEW MILTON DISTRICT	5.0	
8336075		4701701853		107-DV		E W KREYENBUHL 12356	COVE DISTRICT	14.0	
8336076		4701701904		107-DV		J D MCREYNOLDS 12284	GRANT DISTRICT	12.0	
8336085		4709500669		107-DV		J VICTOR AYRES 12563	MEADE DISTRICT	7.0	
8336083		4703501369		107-DV		L A BAIER #11940	UNION DISTRICT	37.0	
8336078		4703501373		107-DV		L A BAIER #12144	UNION	11.0	
8336082		4703501371		107-DV		LEWIS H MILLER #12041	UNION DISTRICT	4.0	
8336077		4705300138		107-DV		R M MCKINNEY 12164	COLOGNE	3.0	
-GLENN L HAUGHT & SONS				RECEIVED:	05/10/83	JA: WV			
8336087		4708505030		107-DV		JOHN CUMMINGS H-896	GRANT DISTRICT	15.0	CONSOLIDATED GAS
8336095		4708504544		108		M TAYLOR H-809	CLAY DISTRICT	4.4	CONSOLIDATED GAS
-JAMES DRILLING CORP				RECEIVED:	05/10/83	JA: WV			
8336093		4701301895		108		A C DOUGLAS #1	WASHINGTON	0.3	CONSOLIDATED GAS
8336098		4701301876		108		AGNES HAYS #1	WASHINGTON	3.5	CONSOLIDATED GAS
8336101		4701700605		108		C R FORD #1	GREENBRIER	0.5	CONSOLIDATED GAS
8336099		4701301875		108		CLARA MEADOWS #1	WASHINGTON	5.0	CONSOLIDATED GAS
8336100		4701301976		108		FLORA HINZMAN #1	WASHINGTON	7.5	CONSOLIDATED GAS
8336097		4701301892		108		JOSEPH BAILEY #1	WASHINGTON	0.5	CONSOLIDATED GAS
8336102		4708502387		108		MADGE SMITH #1	UNION	5.0	CONSOLIDATED GAS
8336104		4708502529		108		MADGE SMITH #2	UNION	0.5	CONSOLIDATED GAS
8336103		4708502566		108		MADGE SMITH #3	UNION	1.0	CONSOLIDATED GAS
8336096		4701301893		108		W W BAILEY #1	WASHINGTON	0.7	CONSOLIDATED GAS
-PEAKE OPERATING CO				RECEIVED:	05/10/83	JA: WV			
8336080		4710900855		108		WELCHLANDS #7-AW	(SLAB FORK DISTRICT)	5.0	CONSOLIDATED GAS
8336081		4710900871		108		WELCHLANDS #9-AW	(SLAB FORK DISTRICT)	5.0	CONSOLIDATED GAS
-WARREN R HAUGHT AGENT				RECEIVED:	05/10/83	JA: WV			
8336088		4708503736		108		D L GOFF H-529	MURPHY DISTRICT	1.7	CONSOLIDATED GAS
8336089		4708503737		108		D L GOFF H-530	MURPHY DISTRICT	1.7	CONSOLIDATED GAS
8336092		4708504894		108		M M WELCH H-1048	MURPHY DISTRICT	20.0	CONSOLIDATED GAS
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA									
-CHEVRON U S A INC				RECEIVED:	05/09/83	JA: CA 2			
8336057	OCS-P 4-83	04311120519		102-5		OCS-P-0217 #A-23	SANTA CLARA UNIT	1000.0	PACIFIC LIGHTING
8336058	OCS-P 5-83	04311120528		102-5		OCS-P-0217 #A-25	SANTA CLARA UNIT	2000.0	PACIFIC LIGHTING
-UNION OIL COMPANY OF CALIF				RECEIVED:	05/09/83	JA: CA 2			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8336059	DCS-P 6-83	04311120524		102-5		SANTA CLARA UNIT WELL 5-10	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK									
-DCK RESOURCES LTD				RECEIVED:	05/09/83	JA: OK &			
8336048		3511300000		102-4		SIGNAL HILLS #1A		3.2	PHILLIPS PETROLEU
8336047		3511300000		102-4		SIGNAL HILLS #2A		3.6	PHILLIPS PETROLEU
8336049		3511300000		102-4		SIGNAL HILLS #3A		3.2	PHILLIPS PETROLEU
8336050		3511300000		102-4		SIGNAL HILLS 4A		3.5	PHILLIPS PETROLEU
8336051		3511300000		102-4		W PIONEER DOME #1-A		54.0	PHILLIPS PETROLEU
-DEREK A J CLARK				RECEIVED:	05/09/83	JA: OK &			
8336044		3511300000		108		MYERS #2-31 SW/4 31-27N-9E		7.0	PHILLIPS PETROLEU
8336045		3511300000		108		MYERS #4-31 SW/4 31-27N-9E		7.0	PHILLIPS PETROLEU
8336042		3511300000		103		PAWHUSKA #2-28 NE/4 SEC28-26N-9E		21.9	PHILLIPS PETROLEU
8336043		3511300000		103		PAWHUSKA #3-28		73.0	PHILLIPS PETROLEU
8336035		3511300000		103		S WHITETAIL #3-7 SW/4 SEC7-26N-10E		18.2	PHILLIPS PETROLEU
8336036		3511300000		103		S WHITETAIL #5-7 SW/4 SEC7-26N-10E		18.2	PHILLIPS PETROLEU
8336033		3511300000		103		S WHITETAIL #6-7 NE/4 SEC7-26N-10E		18.2	PHILLIPS PETROLEU
8336034		3511300000		103		S WHITETAIL #7-7 NE/4 SEC7-26N-10E		18.2	PHILLIPS PETROLEU
8336037		3511300000		103		S WHITETAIL #8-7 SW/4 SEC7-26N-10E		27.4	PHILLIPS PETROLEU
-DUFFIELD IRVING W				RECEIVED:	05/09/83	JA: OK &			
8336039		3511300000		108		OSAGE #1-B	BIGHORSE	0.0	NATIONAL ZINC CO
8336040		3511300000		108		OSAGE #2-B	BIGHORSE	0.0	NATIONAL ZINC CO
8336041	100851	3511300000		108		OSAGE #6(246)	BIGHORSE	0.0	NATIONAL ZINC CO
-J M GRAVES				RECEIVED:	05/09/83	JA: OK &			
8336038		3511300000		102-4		MULLENDORE #4-B	HICKORY CREEK	180.0	AJAX OIL & GAS CO
-PITCOCK INC				RECEIVED:	05/09/83	JA: OK &			
8336046		3511300000		102-2		HENRY "B" #1 SE 33-22-8		292.0	SANTA FE - ANDOVE

[FR Doc. 83-14959 Filed 6-3-83; 8:45 am]

BILLING CODE 6717-01-C

[Vol 905]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 31, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-01-M

NOTICE OF DETERMINATIONS VOLUME 905

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME ISSUED MAY 31, 1983	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-AKERS AND FULTZ INC				RECEIVED:	05/09/83	JA: TX			
8336162	F-09-063015	4223732405		102-4		ROY CHERRYHOMES #89 20048	ROY CONGLOMERATE	12.8	CITIES SERVICE CO
-AMERIND OIL CO				RECEIVED:	05/09/83	JA: TX			
8336258	F-08-066394	4208333297		103		COWDEN "F" #6	GOLDSMITH N (SILURIAN	10.0	WESTAR TRANSMISSI
-AMOCO PRODUCTION CO				RECEIVED:	05/09/83	JA: TX			
8336361	F-08-067092	4208333415		103		MIDLAND FARMS AW #6	FASKEN (PENN)	0.2	AMOCO PRODUCTION
8336215	F-06-065780	4220330989		102-4		W E JACKSON GAS UNIT #2	WOODLAWN (TRAVIS PEAK	165.0	TEXAS GAS TRANSMI
-APEX PETROLEUM INC				RECEIVED:	05/09/83	JA: TX			
8336251	F-7B-066282	4208333141		102-4		JOHN E WOLF #5	WOLF (SERRATT)	0.0	EL PASO HYDROCARB
-ARCO OIL AND GAS COMPANY				RECEIVED:	05/09/83	JA: TX			
8336141	F-04-060582	4213134436		103		HAGIST GAS UNIT II #2	HAGIST RANCH (WILCOX	150.0	NATURAL GAS PIPEL
8336358	F-10-067080	4223300000		108		HENRY HARRISON #1	PANHANDLE HUTCHINSON	2.0	J M HUBER CORP
8336357	F-10-067079	4223300000		108		HENRY HARRISON #2	PANHANDLE HUTCHINSON	2.0	J M HUBER CORP
8336356	F-10-067078	4223300000		108		HENRY HARRISON #3	PANHANDLE HUTCHINSON	2.0	J M HUBER CORP
8336362	F-08-06709	4208333333		103		UNIVERSITY 11 SEC 11 #3	MARTIN (CLEARFORK LOW	71.0	PHILLIPS PETROLEU
8336269	F-08-066818	4208333192		103		UNIVERSITY 11 SEC 13 #8-4	MARTIN (CLEARFORK)	370.0	PHILLIPS PETROLEU
-ATWA ENERGY CO				RECEIVED:	05/09/83	JA: TX			
8336245	F-7B-066088	4242933476		102-4		HOPE "E" #1	BRECKENRIDGE SE (DUFF	73.0	WARREN PETROLEUM
-BEAL OPERATING				RECEIVED:	05/09/83	JA: TX			
8336107	F-7B-045584	4208300000		102-4		RUTH ANN HEMPHILL #2	WILDCAT	79.0	ODESSA NATURAL CO
-BETTIS BOYLE & STOVALL				RECEIVED:	05/09/83	JA: TX			
8336372	F-04-067129	4224900000		108		GOLDAPP HEIRS #1-C (014792)	TSESMELIS (3400)	7.3	VALLEY GAS TRANSM
8336370	F-04-067127	4224900000		108		GOLDAPP HEIRS #2 (014790)	TSESMELIS (3400)	7.0	VALLEY GAS TRANSM
8336371	F-04-067128	4224900000		108		M O SCHUETTE #1 (039943)	ALICE (4200)	9.0	VALLEY GAS TRANSM
-BRACKEN EXPLORATION CO				RECEIVED:	05/09/83	JA: TX			
8336117	F-10-053898	4221131408		102-4		AITKENHEAD #1-259	ALLISON PARKS	183.0	EL PASO NATURAL G
-BRANNON & MURRAY				RECEIVED:	05/09/83	JA: TX			
8336239	F-7B-066011	4208333223		103		DIBRELL ESTATE #3A	COLEMAN COUNTY REGULA	17.0	SOUTHWESTERN GAS
8336240	F-7B-066012	4208333162		103		DIBRELL ESTATE 2A	COLEMAN COUNTY REGULA	13.0	SOUTHWESTERN GAS
-BTA OIL PRODUCERS				RECEIVED:	05/09/83	JA: TX			
8336198	F-7C-064957	4238332421		103		JACKSON "B" #18	SPRABERRY (TREND AREA	22.0	EL PASO NATURAL G
8336252	F-7C-066379	4238332416		103		JACKSON "B" #21	SPRABERRY (TREND AREA	22.0	EL PASO NATURAL G
-C & K PETROLEUM INC				RECEIVED:	05/09/83	JA: TX			
8336194	F-04-064834	4224731501		102-3		MESTENA E-6	MESTENA GRANDE (QUEEN	540.0	AMERICAN PIPELINE
-C F LAWRENCE & ASSOC INC				RECEIVED:	05/09/83	JA: TX			
8336170	F-08-063471	4237134021		103		IRT 61-1	LEHN 52986 001	0.0	
-CENTRAL PRODUCERS INC				RECEIVED:	05/09/83	JA: TX			
8336119	F-02-054562	4229732177		102-4	103	HARRIS-SKAGGS UNIT #1	CLAYTON	37.0	DELHI GAS PIPELIN
-CHALMERS OPERATING CO INC				RECEIVED:	05/09/83	JA: TX			
8336257	F-7B-066496	4208330926		102-4		PRITCHARD UNIT	CHARLIES (MISSIPPI)	32.3	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	05/09/83	JA: TX			
8336111	F-04-051925	4235500000		102-4	103	TEXON ROYALTY CO #7-L	WILDCAT	0.0	TENNESSEE GAS PIP
-CITIES SERVICE COMPANY				RECEIVED:	05/09/83	JA: TX			
8336297	F-08-066960	4213534075		103		CUMMINS-D #4	GOLDSMITH WEST (SAN A	59.0	PHILLIPS PETROLEU
8336296	F-08-066938	4238931348		103		MATTHEWS CAMP A #6	COLLIE (DELAWARE)	183.0	INTRATEX GAS CO
-COASTAL OIL & GAS CORP				RECEIVED:	05/09/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8336351	F-8A-067066	4216532439		103		SO HARRIS UNIT 4-7	HARRIS (GLORIETA)	28.0	PHILLIPS PETROLEU
-CONOCO INC				RECEIVED:	05/09/83	JA: TX			
8336108	F-04-049027	4247933113		102-3		CARLOS BENAVIDES #1	WILDCAT	437.0	
8336161	F-04-062811	4247933365		102-2	107-TF	IGNACIO VERGARA #1	WILDCAT	711.8	UNITED TEXAS TRAN
8336175	F-04-063656	4250531506		103		L E BRUNI #1	WILDCAT	850.0	HOUSTON PIPELINE
-CORDOVA RESOURCES INC				RECEIVED:	05/09/83	JA: TX			
8336293	F-7B-066897	4213333191		103		M D SAUCIER #11	EASTLAND COUNTY REGUL	6.9	EL PASO HYDROCARB
8336243	F-7B-066058	4213332796		103		NORTH PIONEER UNIT #1105	EASTLAND COUNTY REGUL	1.4	EL PASO HYDROCARB
8336268	F-7B-066814	4213333689		103		NORTH PIONEER UNIT #1720	EASTLAND COUNTY REGUL	11.3	EL PASO HYDROCARB
-COTTON PETROLEUM CORPORATION				RECEIVED:	05/09/83	JA: TX			
8336154	F-06-061922	4200530138		102-4		CAMERON #1	RED LAND NORTH	0.0	UNITED GAS PIPELI
-CRESCENT ENERGY CORP				RECEIVED:	05/09/83	JA: TX			
8336135	F-10-060319	4248330852		103		FIELDS (101521) #1	EAST PANHANDLE	83.0	HIGH PLAINS NATUR
8336137	F-10-060321	4248330849		103		M CROCKETT (100134) #1	EAST PANHANDLE	50.0	HIGH PLAINS NATUR
8336138	F-10-060322	4248330896		103		NORMA CROCKETT (100133) #1	EAST PANHANDLE	192.0	HIGH PLAINS NATUR
8336134	F-10-060318	4208730177		103		POWELL (100521) #1	EAST PANHANDLE	32.0	HIGH PLAINS NATUR
8336136	F-10-060320	4248330851		103		R CROCKETT (100135) #1	EAST PANHANDLE	136.0	HIGH PLAINS NATUR
-CREWS OIL CO				RECEIVED:	05/09/83	JA: TX			
8336298	F-7C-066505	4239932681		102-4		THORA IRWIN #1	PETRIE (GARDNER)	88.0	LONE STAR GAS CO
-D & B PETROLEUM INC				RECEIVED:	05/09/83	JA: TX			
8336110	F-10-049238	4248330889		103		MERTAL #1	PANHANDLE EAST	0.0	WARREN PETROLEUM
8336109	F-10-049229	4248330999		103		VERONICA #1	PANHANDLE EAST	0.0	WARREN PETROLEUM
-DAMERON PETROLEUM CORP				RECEIVED:	05/09/83	JA: TX			
8336316	F-7C-066993	4210534227		102-2		MRS RAY DUNLAP - SEC 91 BLK 1 #2	AMERICAN (SPRABERRY B	120.0	EL PASO NATURAL G
-DANDEN PETROLEUM INC				RECEIVED:	05/09/83	JA: TX			
8336105	F-10-005562	4219500000		108-ER		HUNTER #1	HANNAS DRAW (DOUGLAS)	0.0	NORTHERN NATURAL
-DAWKINS ENERGIES INC				RECEIVED:	05/09/83	JA: TX			
8336359	F-10-067083	4206531281		103		DAWKINS #1 (ID #103600)	PANHANDLE WEST	100.0	GETTY OIL CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	05/09/83	JA: TX			
8336180	F-10-064052	4221131511		103		DAVID Q ISAACS SR #6-216	CANADIAN SE	0.0	NORTHERN NATURAL
8336369	F-10-067123	4229531053		103		LEROY BECKER "A" #3-635	BRADFORD	217.0	
-DINERO OIL CO				RECEIVED:	05/09/83	JA: TX			
8336120	F-02-055363	4239100000		108-ER		W J FOX #1	REFUGIO - FOX (5000)	13.0	UNITED GAS PIPE L
-EL PASO NATURAL GAS COMPANY				RECEIVED:	05/09/83	JA: TX			
8336114	F-7C-052958	4243500000		103	107-TF	WARD #9	SONARA (CANYON/UPPER)	78.0	EL PASO NATURAL G
-ENERGETICS INC				RECEIVED:	05/09/83	JA: TX			
8336123	F-03-055649	4214931303		102-2		EDGAR H SCHMIDT #1	GIDDINGS (GEORGETOWN)	15.0	PHILLIPS PETROLEU
8336122	F-03-055648	4214931302		102-2		JACK H SCHUECKE #1	GIDDINGS (GEORGETOWN)	15.0	PHILLIPS PETROLEU
-ENSERCH EXPLORATION INC				RECEIVED:	05/09/83	JA: TX			
8336211	F-06-065544	4218300000		108		HENRY BUTLER #1C & 1T	WILLOW SPRINGS	2.0	WESTERN GAS CORP
-ESENJAY PETROLEUM CORP				RECEIVED:	05/09/83	JA: TX			
8336178	F-04-063905	4240900000		102-4		TAYLOR G R G U #2 096001	ST PAUL N W (5100)	0.0	TRANSCONTINENTAL
-EXXON CORPORATION				RECEIVED:	05/09/83	JA: TX			
8336214	F-10-065665	4219535166		108		H J COLLIER "E" #2	HITCHLAND 4640	4.0	NORTHERN NATURAL
8336209	F-10-065448	4235735581		108		HELEN ROGERS #3	DUDE WILSON	21.0	TRANSWESTERN PIPE
8336260	F-08-066511	4210332649		103		J B TUBB C #30U	SAND HILLS (MCKNIGHT)	8.0	EL PASO NATURAL G
8336106	F-03-027330	4215730993		103		J H P DAVIS #59 U	THOMPSON SE (FRIO UP)	7.3	ARMCO STEEL CORP
8336179	F-03-063991	4247330374		103		KATY GAS FIELD UNIT #1 W-52	KATY (WILCOX SPARKS S	273.8	ARMCO STEEL CORP
8336339	F-04-067037	4227331716		102-4		KING RANCH BORREGOS 585 (06544)	BORREGOS (ZONE V-19 N	38.0	ARMCO STEEL CORP
8336223	F-04-065818	4224731497		102-4		MR5 A M K BASS 48 (ID PENDING)	KELSEY DEEP (21-B NW)	42.0	TRUNKLINE GAS CO
8336286	F-04-066870	4226130770		102-4		MR5 S K EAST 146-D (103914)	RITA NE (I-36)	675.0	ARMCO STEEL CORP
8336340	F-04-067068	4204731061		102-4		R J KLEBERG JR TR BARROSA PAST 24	PITA N W (L-20)	800.0	ARMCO STEEL CORP
8336337	F-04-067035	4226130777		102-4		R J KLEBERG JR TR STILLMAN 29-D	TORDILLA (I-67 N)	450.0	ARMCO STEEL CORP
8336287	F-04-066872	4226130736		103		R J KLEBERG JR TR STILLMAN 58	STILLMAN (SHALLOW)	200.0	ARMCO STEEL CORP
8336338	F-04-067036	4204730968		102-4		R J KLEBERG JR TR ZACH PAST ST 12	VIBORAS (K-50 W)	250.0	ARMCO STEEL CORP
8336221	F-8A-065775	4216532467		103		ROBERTSON CLEARFORK UNIT #4801	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8336259	F-04-066507	4248930635		103		SAUZ RANCH-MULATOS PASTURE 165	WILLAMAR WEST (MIOCEN	70.0	NATURAL GAS PIPEL
-FLAG-REDFERN OIL CO				RECEIVED:	05/09/83	JA: TX			
8336314	F-08-066986	4247532560		103		JOHN #1 #27737	RHODA WALKER (5900)	127.7	NORTHERN NATURAL
-FOREST OIL CORPORATION				RECEIVED:	05/09/83	JA: TX			
8336195	F-04-064846	4247932583		102-2	107-TF	OLMITOS RANCH INC #1	NICHOLSON (LOBO 1)	77.0	TRANSCONTINENTAL
-G M LEHNERTZ				RECEIVED:	05/09/83	JA: TX			
8336242	F-06-066040	4249900000		107-PE		HUDSON #1 ID NO 47748	COKE (GLOYD)	36.0	LONE STAR GAS CO
-GENERAL PRODUCTION CO INC				RECEIVED:	05/09/83	JA: TX			
8336336	F-03-067027	4205132366		102-2		JOHN PLASEK A #2	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
-GEORGE L ROUSSEAU				RECEIVED:	05/09/83	JA: TX			
8336222	F-03-065805	4205132352		102-4		FRED OWENS #1-A	HOOKER CREEK (NAVARRO	36.0	FERGUSON CROSSING
-GEOSOUTHERN ENERGY CORP				RECEIVED:	05/09/83	JA: TX			
8336129	F-03-058972	4214931344		102-2	-103	MISS KATIE #1	GIDDINGS (EDWARDS GAS	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED:	05/09/83	JA: TX			
8336139	F-06-060418	4215900000		103		T E HEWETT #2	NEW HOPE (ELLEDGE)	29.0	TEXAS UTILITIES F
-GHR ENERGY CORP				RECEIVED:	05/09/83	JA: TX			
8336151	F-04-061634	4250531558		102-4		ALFONSO #3	CHARCO (9900)	500.0	NATURAL GAS PIPEL
8336165	F-04-063243	4247933401		102-4	107-TF	CATTLE CO #1 7-B	BARNSLEY (LOBO 10,900	450.0	TRANSCONTINENTAL
8336188	F-04-064409	4247933467		102-4	107-TF	LUNDELL #18	GATO CREEK (9800)	450.0	NATURAL GAS PIPEL
8336164	F-04-063237	4247933428		102-4	107-TF	MARTIN-VOLZ GU #1	VOLZ (LOBO)	500.0	NATURAL GAS PIPEL
8336152	F-04-061636	4250531509		102-4	107-TF	MCASKILL #9	MCASKILL (LOBO 11,300	900.0	NATURAL GAS PIPEL
8336190	F-04-064541	4247933440		102-4	107-TF	ROTTERSMAN #4	ROTTERSMAN (9020)	500.0	NATURAL GAS PIPEL
-GRACE PETROLEUM CORPORATION				RECEIVED:	05/09/83	JA: TX			
8336124	F-05-056391	4228930464		102-4	107-TF	SAVAGE GAS UNIT #2	BEAR GRASS	0.0	DELHI GAS PIPELIN
-GULF OIL CORPORATION				RECEIVED:	05/09/83	JA: TX			
8336310	F-03-066980	4204130571		102-2		HOWARD T WINKLER UNIT 1 WELL #1	KURTEN (BUDA)	266.0	
8336274	F-08-066834	4247532755		103		HUTCHINGS STOCK ASSN #1214	WAGON WHEEL (PENN)	307.0	CABOT CORP
8336131	F-10-059222	4239300000		108-ER		JOHN HAGGARD #22	QUINDUNO	0.0	NATURAL GAS PIPEL
8336312	F-03-066982	4204130363		103		JONES ENHANCED RECOVERY UNIT #3	KURTEN (WOODBINE)	15.0	PRODUCERS GAS CO
8336313	F-03-066984	4204130514		103		PATCH UNIT 1 WELL #1	KURTEN (AUSTIN CHALK)	30.0	PRODUCERS GAS CO
8336200	F-09-065134	4218130846		108		ROBERT H JOHNSON #1	N E SOUTHMAYD/SIMPSON	4.0	LONE STAR GAS CO
8336183	F-10-064181	4221131529		103		TEAGUE #2	S E CANADIAN (DOUGLAS	480.0	WESTAR TRANSMISSI
8336273	F-08-066833	4238931323		103		TXL "BM" (NCT-B) #2	JESS BURNER (DELAWARE	37.0	CONOCO INC
8336311	F-08-066981	4238931334		103		TXL BM (NCT-B) #5	JESS BURNER (DELAWARE	20.0	CONOCO INC
8336309	F-08-066979	4238931354		103		TXL BM (NCT-B) #8	JESS BURNER (DELAWARE	38.0	CONOCO INC
8336328	F-08-067014	4210330116		108		W N WADDELL #1030	DUNE	0.4	
8336329	F-08-067015	4210330136		108		W N WADDELL #1038	DUNE	0.5	
8336352	F-08-067073	4210330264		108		W N WADDELL #1073	DUNE	0.5	GULF OIL CORPORAT
8336353	F-08-067074	4210332149		108		W N WADDELL #1112	DUNE	0.6	GULF OIL CORPORAT
8336354	F-08-067075	4210332161		108		W N WADDELL #1114	DUNE	0.8	GULF OIL CORPORAT
8336355	F-08-067076	4210332150		108		W N WADDELL #1116	DUNE	1.1	GULF OIL CORPORAT
8336341	F-08-067043	4210301103		108		W N WADDELL #246	DUNE	0.3	
8336342	F-08-067044	4210301110		108		W N WADDELL #253	DUNE	0.3	
8336343	F-08-067045	4210301125		108		W N WADDELL #268	DUNE	1.1	
8336344	F-08-067046	4210301137		108		W N WADDELL #280	DUNE	0.8	
8336345	F-08-067047	4210301157		108		W N WADDELL #300	DUNE	0.9	GULF OIL CORPORAT
8336346	F-08-067048	4210301520		108		W N WADDELL #384	DUNE	0.4	GULF OIL CORPORAT
8336347	F-08-067049	4210301244		108		W N WADDELL #400	DUNE	0.9	GULF OIL CORPORAT

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8336348	F-08-067050	4210302804		108		W N WADDELL #554	DUNE	1.9	GULF OIL CORPORAT
8336323	F-08-067009	4210301404		108		W N WADDELL #570	DUNE	0.3	GULF OIL CORP
8336324	F-08-067010	4210301453		108		W N WADDELL #621	DUNE	0.7	GULF OIL CORP
8336325	F-08-067011	4210301490		108		W N WADDELL #658	DUNE	0.4	
8336326	F-08-067012	4210301559		108		W N WADDELL #704	DUNE	1.6	
8336327	F-08-067013	4210310878		108		W N WADDELL #928	DUNE	0.6	
-HANLEY PETROLEUM INC				RECEIVED:		05/09/83 JA: TX			
8336265	F-08-066798	4217331353		103		T X L "AA" (06400) #1	SPRABERRY (TREND AREA	11.0	PHILLIPS PETROLEU
8336266	F-08-066799	4217331341		103		T X L "AB" (06401) #1	SPRABERRY (TREND AREA	11.0	PHILLIPS PETROLEU
-HGI CORP				RECEIVED:		05/09/83 JA: TX			
8336181	F-03-064131	4208931320		102-4		W N LEHRER #1	WILDCAT	72.0	HOUSTON PIPE LINE
-HILTY INTERESTS INC				RECEIVED:		05/09/83 JA: TX			
8336228	F-02-065933	4239733262		102-4		SANGER HEIRS #2 API #42 297 33262	CLOETER (1700) (PROPO	100.0	INTRASTATE GATHER
-HNG OIL COMPANY				RECEIVED:		05/09/83 JA: TX			
8336176	F-7C-063731	4243500000		103	107-TF	KELLY "126" #5	SAWYER (CANYON)	250.0	INTRATEX GAS CO
8336197	F-7C-064888	4243500000		103	107-TF	REED "101" #5	SAWYER (CANYON)	180.0	INTRATEX GAS CO
8336193	F-04-064775	4250530518		103		SULLIVAN-HEIN #2	LA PERLA (WILCOX ELEV	55.0	HOUSTON PIPE LINE
8336163	F-08-063232	4237132994		102-2	103	TREES "65" #1	WILDCAT	150.0	INTRATEX GAS CO
8336220	F-7C-065767	4243532030		103		WALLACE "64" #2	SAWYER (WOLFCAMP)	7.3	INTRATEX GAS CO
-HUMBLE EXPLORATION CO INC				RECEIVED:		05/09/83 JA: TX			
8336224	F-01-065896	4217731183		102-4	103	JENILYN #1	PEACH CREEK (AUSTIN C	0.0	
-INTERNATIONAL OIL & GAS CORP				RECEIVED:		05/09/83 JA: TX			
8336191	F-7C-064636	4210534191		102-4		PARKER "18" #1	DUDLEY EAST (DEVONIAN	0.0	INTRASTATE GATHER
-J-O'B OPERATING CO & ENTERPRISE RES				RECEIVED:		05/09/83 JA: TX			
8336262	F-06-066697	4234700000		102-4		T M PETERSON #1R-T ID #103888	NACONICHE CREEK	989.0	UNITED GAS PIPE L
8336263	F-06-066698	4234700000		102-4		T M PETERSON 1R-C ID #103955	NACONICHE CREEK	957.0	UNITED GAS PIPE L
-JADE ENTERPRISES INC				RECEIVED:		05/09/83 JA: TX			
8336204	F-10-065198	4206500000		103		WYATT #2	PANHANDLE CARSON	128.0	GETTY OIL CO
-JOHN H YOUNG INC				RECEIVED:		05/09/83 JA: TX			
8336121	F-03-055568	4214900000		102-2		HACKEBEIL 1-B	GIDDINGS (EDWARDS GAS	60.2	CLAJON GAS CO
-K P EXPLORATION INC				RECEIVED:		05/09/83 JA: TX			
8336127	F-04-058485	4213135779		102-4		K P EXPLORATION INC HUBBERD #2	HERBST WILCOX (LEEDY	0.0	ESPERANZA PIPELIN
-K-B EXPLORATION CO				RECEIVED:		05/09/83 JA: TX			
8336126	F-03-057929	4208931308		102-4		GEORGE J MILLER EXTATE #2-C	FONDREN (YEGUA 4800)	600.0	SEAGULL PIPELINE
-KEAHEY EXPLORATION INC				RECEIVED:		05/09/83 JA: TX			
8336166	F-02-063316	4217500000		103		DUDERSTADT-FROMME UNIT #1	BRANDT (REKLAW)	0.0	UNITED GAS PIPELI
-KELLEY & KERR DRILLING LTD				RECEIVED:		05/09/83 JA: TX			
8336158	F-04-062662	4200730718		102-4		OCKER BROTHERS #3	NORTH BURGENTINE LAKE	200.0	HOUSTON PIPE LINE
-KILROY CO OF TEXAS				RECEIVED:		05/09/83 JA: TX			
8336153	F-04-061914	4250531254		102-4		JUAN G BENAVIDES #A-2	LOPENO S W (WILCOX 73	73.0	TRANSCONTINENTAL
8336146	F-04-060947	4250531569		102-4		JUAN G BENAVIDES #4	LOPENO S W (WILCOX 73	365.0	TRANSCONTINENTAL
8336145	F-03-060777	4270330246		102-4		STATE TRACT 485-L #4-L	MATAGORDA ISLAND BLOC	657.0	VALLEY PIPELINES
8336144	F-03-060776	4270330246		102-4		STATE TRACT 485-L #4-U	MATAGORDA ISLAND BLOC	1095.0	VALLEY PIPELINES
-L & B OIL CO INC				RECEIVED:		05/09/83 JA: TX			
8336116	F-02-053867	4217531191		108		W D DOBBINS #1	ANGEL CITY (WILCOX 80	13.0	TEXAS EASTERN TRA
-LANDMARK EXPLORATION INC				RECEIVED:		05/09/83 JA: TX			
8336132	F-03-060024	4205131833		102-2		LORRAINE BOWERS #1	CALDWELL (AUSTIN CHAL	100.0	CLAJON GAS CO
-MAC EXPLORATION & DRILLING CORP				RECEIVED:		05/09/83 JA: TX			
8336244	F-7B-066060	4204933177		102-4		LOLA HILL #3	FROG (FRY)	4.0	LONE STAR GAS CO
-MAGNUM RESOURCES INC				RECEIVED:		05/09/83 JA: TX			
8336264	F-09-066758	4250336309		103		NESBITT F-1 RRC #22813	SCHULZ & BRANNAN (STR	36.0	SUN GAS TRANSMISS
-MANN PETROLEUM CORP				RECEIVED:		05/09/83 JA: TX			
8336133	F-10-060257	4217931039		103		J B BOWERS #8 (ID #000326)	PANHANDLE GRAY	62.0	PHILLIPS PETROLEU
-MCZ INC				RECEIVED:		05/09/83 JA: TX			
8336115	F-03-053176	4204130694		102-2		WHEELER OIL UNIT I #1-L	KURTEN (GEORGETOWN)	400.0	FERGUSON CROSSING
-MELTON THOMAS C				RECEIVED:		05/09/83 JA: TX			
8336295	F-7B-066930	4213334597		102-4		K D BROOKS #1	BARTON (CADDO LOWER)	57.0	SOUTHWESTERN GAS
-MID-AMERICA PETROLEUM INC				RECEIVED:		05/09/83 JA: TX			
8336284	F-7C-066868	4238332165		103		EVANS #3	SPRABERRY (TREND AREA	11.0	NORTHERN NATURAL
8336285	F-7C-066869	4238332257		103		TURNER C #4	SPRABERRY (TREND AREA	11.0	NORTHERN NATURAL
-MIN-TEX EXPLORATION CORP				RECEIVED:		05/09/83 JA: TX			
8336261	F-7B-066698	4236732387		102-4		BERKLEY-WATERS #2	MARMAC (MARBLE FALLS)	61.0	SOUTHWESTERN GAS
-MINERAL DEVELOPMENT INC				RECEIVED:		05/09/83 JA: TX			
8336230	F-08-065976	4237134042		103		# 20	PECOS VALLEY HIGH GRA	0.0	PERRY PIPELINE CO
8336231	F-08-065977	4237133978		103		MAGNOLIA TRIPOLEY #18	PECOS VALLEY HIGH GRA	7.7	PERRY PIPELINE CO
8336234	F-08-065982	4237134075		103		MAGNOLIA TRIPOLEY #21	PECOS VALLEY HIGH GRA	6.2	PERRY PIPELINE CO
8336232	F-08-065980	4237134073		103		MAGNOLIA TRIPOLEY #22	PECOS VALLEY HIGH GRA	5.5	PERRY PIPELINE CO
8336233	F-08-065981	4237134074		103		MAGNOLIA TRIPOLEY #23	PECOS VALLEY HIGH GRA	2.5	PERRY PIPELINE CO
8336235	F-08-065983	4237134072		103		MAGNOLIA TRIPOLEY #24	PECOS VALLEY HIGH GRA	0.0	PERRY PIPELINE CO
8336236	F-08-065984	4237134071		103		MAGNOLIA TRIPOLEY #25	PECOS VALLEY HIGH GRA	5.8	PERRY PIPELINE CO
8336229	F-08-065975	4237134070		103		MAGNOLIA TRIPOLEY #26	PECOS VALLEY HIGH GRA	5.1	PERRY PIPELINE CO
-MITCHELL ENERGY CORPORATION				RECEIVED:		05/09/83 JA: TX			
8336304	F-09-066955	4249700000		108		DEAVERS -A- #1 10214	ALVORD (CADDO CONGLOM	0.0	NATURAL GAS PIPEL
8336364	F-7B-067110	4236700000		108		GLADYS JACKSON #1 #078517	RENO (CONGL)	0.0	NATURAL GAS PIPEL
8336199	F-09-064995	4249700000		108		J D BRANNON #1 #030714	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8336365	F-09-067112	4223700000		108		M E FERRELL #1 16832	JACKSBORO S E (5270)	0.0	SOUTHWESTERN GAS
8336128	F-09-058557	4249700000		108-ER		STELLA YOUNG #1	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:		05/09/83 JA: TX			
8336276	F-08-066844	4246131975		103		HARDWICKE UNIVERSITY SEC 48 #13	MCELROY	0.0	PHILLIPS PETROLEU
8336205	F-04-065247	4224931242		103		LA GLORIA GAS UNIT #99	LA GLORIA (LA GLORIA)	322.0	NATURAL GAS PIPEL
8336149	F-04-061396	4213134432		102-4		MAG-DUVAL RANCH SECTION 208-209 #64	WILDCAT	231.0	TENNESSEE GAS PIP
8336277	F-08-066845	4210333090		103		SAND HILLS TUBB UNIT #48	SAND HILLS (TUBB)	19.3	EL PASO NATURAL G
-MONTERREY PETROLEUM CORP				RECEIVED:		05/09/83 JA: TX			
8336148	F-04-061217	4247932355		102-2	107-TF	JOHN R BLOCKER 1854-4	GOLD RIVER NORTH (OLM	0.0	SEAGULL PIPELINE
-MOORE MCCORMACK OIL & GAS CORP				RECEIVED:		05/09/83 JA: TX			
8336142	F-06-060613	4200131246		102-4		BEACH #1	TENNESSEE COLONY S W	70.0	CHAPARRAL GAS PIP
-MORROW RESOURCES INC				RECEIVED:		05/09/83 JA: TX			
8336169	F-7C-063422	4232730497		102-2	103	PFLUGER "D" #2	WILDCAT	0.0	SUN GAS CO
-MOSBACHER PRODUCTION CO				RECEIVED:		05/09/83 JA: TX			
8336360	F-03-067089	4248100000		108		E B MCCORMICK #1	LISSIE (WILCOX 9600')	24.0	TENNESSEE GAS PIP
-NORTH RIDGE CORP				RECEIVED:		05/09/83 JA: TX			
8336171	F-7B-063489	4213334431		102-4	103	J C HARRELL #1	RANGER (BLACK LIME WE	0.0	PRISM ENTERPRISES
-OAK BROOK ENERGY				RECEIVED:		05/09/83 JA: TX			
8336366	F-7C-067113	4238332410		103		SCOTT #2	JOHN SCOTT (GRAYBURG)	6.8	NEW ENERGY CO
-OAKWOOD RESOURCES INC				RECEIVED:		05/09/83 JA: TX			
8336279	F-10-066849	4219530822		103		A R HENDERSON 5-95	HANSFORD (KANSAS CITY	52.0	
-OWL PETROLEUM CO				RECEIVED:		05/09/83 JA: TX			
8336250	F-03-066259	4248132364		102-4		L A M KRAUSKOPF UNIT #1	BLACK OWL	1100.0	HOUSTON PIPE LINE
-PARKER & PARSLEY INC				RECEIVED:		05/09/83 JA: TX			
8336306	F-7C-066971	4238300000		103		UNIVERSITY #5	BLOCK 49 (2450)	0.0	J L DAVIS
8336305	F-7C-066970	4238300000		103		UNIVERSITY #6	BLOCK 49 (2450)	0.0	J L DAVIS
-PETRO PLEX OIL CO INC				RECEIVED:		05/09/83 JA: TX			
8336255	F-7C-066490	4238332295		103		SCOTT AA-5	JOHN SCOTT (GRAYBURG)	34.3	NEW ENERGY CO
8336256	F-7C-066493	4238332385		103		SCOTT AA-8	JOHN SCOTT (GRAYBURG)	25.5	NEW ENERGY CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PETRO-LEWIS CORPORATION				RECEIVED:	05/09/83	JA: TX			
8336302	F-06-066945	4245900000		107-PE		ARRINGTON #1	GILMER	93.6	WESTERN GAS CORP
8336303	F-06-066946	4245900000		107-PE		CLEMENS #2	GILMER	144.0	WESTERN GAS CORP
8336299	F-06-066942	4245900000		107-PE		LANDERS #1	GILMER	48.8	WESTERN GAS CORP
8336300	F-06-066943	4245900000		107-PE		LAUGHLIN #1	GILMER	30.0	WESTERN GAS CORP
8336298	F-06-066941	4245900000		107-PE		REYNOLDS J E #1	GILMER	138.0	WESTERN GAS CORP
8336301	F-06-066944	4245900000		107-PE		SNOW J E #1	GILMER	84.0	WESTERN GAS CORP
-PETRUS OPERATING CO INC				RECEIVED:	05/09/83	JA: TX			
8336159	F-05-062697	4216130753		102-4		CARPENTER #2	SUZANNE	0.0	
8336213	F-05-065633	4234933040		102-4		CARPENTER #5	INGRAM TRINITY (RODES	0.0	DELHI GAS PIPELIN
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	05/09/83	JA: TX			
8336308	F-7C-066976	4246101602		108		NO PEMBROOK SPRABERRY UNIT #8-02	SPRABERRY (TREND AREA	1.0	NORTHERN NATURAL
-PITCOCK INC				RECEIVED:	05/09/83	JA: TX			
8336237	F-09-065995	4223731959		108		UPTERGROVE #1 102765	JACK COUNTY REGULAR	0.0	LONE STAR GAS CO
8336238	F-09-065996	4223700000		108		WOODS #1 102764	JACK COUNTY REGULAR	0.0	LONE STAR GAS CO
-PITTS OIL CO & DALLAS PROD INC				RECEIVED:	05/09/83	JA: TX			
8336315	F-06-066989	4242330572		102-4		THOMPSON A #1 RRC LEAS #10925	CHAPEL HILL NE (TRAVI	51.0	TRIANGEL GAS PIPE
-PRECISION DRILLING CO INC				RECEIVED:	05/09/83	JA: TX			
8336368	F-7B-067121	4208333420		103		MRS EULA P WEAVER "A" 15445	COLEMAN COUNTY REGULA	12.0	LONE STAR GAS CO
-R LACY INC				RECEIVED:	05/09/83	JA: TX			
8336307	F-06-066974	4236500000		108		ELLA SMITH UNIT #1 WELL #5	CARTHAGE (JAMES LIME)	12.0	WESTERN GAS CORP
-RETAMCO INC				RECEIVED:	05/09/83	JA: TX			
8336254	F-09-066418	4247900000		107-TF		BRISCOE "E" #18	GOLD RIVER NORTH (OLM	273.2	DELHI GAS PIPELIN
-RICHEY & CO INC				RECEIVED:	05/09/83	JA: TX			
8336150	F-09-061475	4249732437		103		J SYLER #1	BOONSVILLE (BEND CONG	345.8	DELHI GAS PIPELIN
-RIDLEY OIL CORP				RECEIVED:	05/09/83	JA: TX			
8336363	F-06-067094	4242330639		102-4		SUNSHINE OIL UNIT #1	SUNSHINE (RODESSA)	180.8	SEMCO GAS INC
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	05/09/83	JA: TX			
8336206	F-02-065390	4229733232		102-4		BRYSCH GAS UNIT 2 WELL #3-U	GEORGE WEST WEST (WIL	500.0	UNITED TEXAS TRAN
-SANTA FE-ANDOVER OIL CO				RECEIVED:	05/09/83	JA: TX			
8336318	F-06-067000	4231530568		103	107-TF	CLAUDE WILLIAMS ESTATE GU #1	RODESSA (COTTON VALLE	5.0	NATURAL GAS PIPEL
8336317	F-06-066999	4231536570		103	107-TF	D.H.WELBORNE GAS UNIT #1	RODESSA (COTTON VALLE	180.0	NATURAL GAS PIPEL
8336319	F-06-067001	4231530571		103	107-TF	KING GAS UNIT #1	RODESSA (COTTON VALLE	31.0	NATURAL GAS PIPEL
8336320	F-06-067002	4231530572		103	107-TF	TORRENS GAS UNIT #1	RODESSA (COTTON VALLE	44.0	NATURAL GAS PIPEL
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	05/09/83	JA: TX			
8336160	F-03-062707	4205100000		102-2	103	JACKSON #1-A	BIG "A" TAYLOR	109.8	PERRY PIPELINE CO
-SAXON OIL COMPANY				RECEIVED:	05/09/83	JA: TX			
8336182	F-08-064166	4231700000		103		MAYNIE #1	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
8336210	F-7C-065478	4246100000		103		ROSS #1	SPRABERRY (TREND AREA	0.0	MOBIL PRODUCING T
-SCANDRILL INC				RECEIVED:	05/09/83	JA: TX			
8336174	F-09-063588	4250336461		102-4		CHENEY "B" #1	JOHNSON (800')	65.3	MID-STATES GAS CO
8336138	F-10-059219	4248330874		107-DP		LISTER #1		214.6	
8336143	F-10-060702	4248331074		102-4	103	REDDING "A" #1		211.7	EL PASO NATURAL G
-SHA-JAM CORP				RECEIVED:	05/09/83	JA: TX			
8336350	F-03-067059	4214931202		102-2		ENOLA GAY #1	GIDDINGS (AUSTIN CHAL	36.5	SOUTH CEN-TEX GAS
-SHELL OIL CO				RECEIVED:	05/09/83	JA: TX			
8336212	F-04-065568	4221531261		102-4	107-DP	HAMMAN RANCH #13	MONTE CHRISTO (WX580-	800.0	VALERO TRANSMISSI
-SIDWELL OIL & GAS INC				RECEIVED:	05/09/83	JA: TX			
8336247	F-10-066174	4217900000		103		JACKSON #2	PANHANDLE GRAY	43.8	PHILLIPS PETROLEU
-SO-TEX PETROLEUM, INC.				RECEIVED:	05/09/83	JA: TX			
8336187	F-7B-064213	4244131973		102-4		BURNS ZA #1	SO-TEX (FRY)	27.0	UNION TEXAS PETRO
-SOUTHLAND ROYALTY CO				RECEIVED:	05/09/83	JA: TX			
8336335	F-08-067021	4213534069		103		EDWARDS FIELD GRAYBURG UNIT #6-10	EDWARDS	5.0	PHILLIPS PETROLEU
8336334	F-08-067020	4213534068		103		EDWARDS FIELD GRAYBURG UNIT #6-11	EDWARDS	3.6	PHILLIPS PETROLEU
8336367	F-08-067119	4213534067		103		EDWARDS FIELD GRAYBURG UNIT #7-34	EDWARDS	4.3	PHILLIPS PETROLEU
8336333	F-08-067019	4213534066		103		EDWARDS FIELD GRAYBURG UNIT #7-35	EDWARDS	5.8	PHILLIPS PETROLEU
8336332	F-08-067018	4210333009		103		EDWARDS FIELD GRAYBURG UNIT #7-36	EDWARDS	5.5	PHILLIPS PETROLEU
8336331	F-08-067017	4210333010		103		EDWARDS FIELD GRAYBURG UNIT #7-37	EDWARDS	4.7	PHILLIPS PETROLEU
8336330	F-08-067016	4247532763		103		UNIVERSITY 16-12 D #6	WICKETT SOUTH	5.8	CABOT PIPELINE CO
-STEVE STAMPER				RECEIVED:	05/09/83	JA: TX			
8336292	F-09-066896	4223700000		103		BOAZ #10	BRYSON EAST	12.8	LONE STAR GAS CO
8336291	F-09-066894	4223700000		103		BOAZ #12	BRYSON EAST	10.2	LONE STAR GAS CO
-SUE-ANN OIL & GAS CO				RECEIVED:	05/09/83	JA: TX			
8336225	F-03-065923	4216730632		103		KAHLA UNIT #1	CAPLEN (FB-3 2)	110.0	WINNIE PIPELINE C
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	05/09/83	JA: TX			
8336281	F-8A-066864	4250132227		103		BENNETT RANCH UNIT #343	WASSON	8.0	SHELL OIL CO
8336280	F-8A-066862	4250132229		103		BENNETT RANCH UNIT #345	WASSON	3.0	SHELL OIL CO
8336271	F-8A-066831	4250132228		103		BENNETT RANCH UNIT #348	WASSON	15.0	SHELL OIL CO
8336272	F-8A-066832	4250132221		103		BENNETT RANCH UNIT #349	WASSON	35.0	SHELL OIL CO
8336283	F-04-066866	4226900000		108		SEELIGSON UNIT #40-361	SEELIGSON (ZONE 19B-0	12.0	TENNESSEE GAS PIP
8336226	F-8A-065925	4221933495		103		SOUTHEAST LEVELLAND UNIT #289	LEVELLAND	6.0	AMOCO PRODUCTION
8336227	F-8A-065926	4221933616		103		SOUTHEAST LEVELLAND UNIT #94A	LEVELLAND	4.0	AMOCO PRODUCTION
8336282	F-7B-066865	4236700000		108		T M CHRISTIAN UNIT #1	LAKE MINERAL WELLS (4	18.0	SOUTHWESTERN GAS
-SUNDANCE OIL CO				RECEIVED:	05/09/83	JA: TX			
8336118	F-05-053909	4229330534		103	107-TF	B W THOMPSON #1	FARRAR NORTH BOSSIER	61.3	DELHI GAS PIPELIN
-SUPERIOR DRILLING CO				RECEIVED:	05/09/83	JA: TX			
8336192	F-03-064706	4208931326		102-4	103	WINTERMANN #1	MOHAT WEST (8600')	95.0	TEJAS - SOUTHWEST
-SUPERIOR OIL CO				RECEIVED:	05/09/83	JA: TX			
8336157	F-04-062633	4221531287		102-4	103	F I JOHNSON #18	WILDCAT (UPPER)	0.0	
-TARTAN OIL & GAS				RECEIVED:	05/09/83	JA: TX			
8336147	F-03-061009	4248100000		102-4		A J WENDEL #3	WHARTON WEST (4230)	180.0	ESPERANZA TRANSMI
-TAYLOR GORDON				RECEIVED:	05/09/83	JA: TX			
8336322	F-10-067008	4234130895		103		GAYLA #1	PANHANDLE MOORE COUNT	126.0	DIAMOND SHAMROCK
-TENNECO OIL COMPANY				RECEIVED:	05/09/83	JA: TX			
8336248	F-08-066216	4230130334		107-DP		BRUNSON 15-1	BRUNSON RANCH	0.0	TENNESSEE GAS PIP
8336112	F-04-052213	4242731555		103		S W FARM & RANCH & ST OF TEXAS #1	SOUTH BOROSA	219.0	CHANNEL INDUSTRIE
-TENROC CORP				RECEIVED:	05/09/83	JA: TX			
8336113	F-03-052586	4205132085		102-2		LOCKHART #1	GIDDINGS (AUSTIN CHAL	900.0	PHILLIPS PETROLEU
-TEPCO ENGINEERING INC				RECEIVED:	05/09/83	JA: TX			
8336246	F-02-066172	4223900000		102-4	183	JOHN T VANCE #2	TEXANA NORTH (FRIO 61	460.0	HOUSTON PIPE LINE
-TEXACO INC				RECEIVED:	05/09/83	JA: TX			
8336125	F-04-057191	4242731684		103		GUERRA SHARE 305C #24	ROMA (WILDCAT)	33.0	TENNESSEE GAS PIP
8336172	F-08-063531	4232931101		102-4		JACWIL "B" #2	BRADFORD RANCH	0.0	
8336189	F-08-064430	4243131277		103		STERLING "D" FEE #5	CONGER (PENN)	38.0	VALERO TRANSMISSI
8336208	F-08-065418	4243131244		103		STERLING "N" FEE #6	CONGER (PENN)	0.0	VALERO TRANSMISSI
8336173	F-08-063535	4243131245		103		STERLING "O" FEE #5	CONGER (PENN)	0.0	VALERO TRANSMISSI
8336216	F-8A-065715	4216532487		103		WHARTON UNIT #108	HARRIS	44.5	PHILLIPS PETROLEU
8336218	F-8A-065717	4216532484		103		WHARTON UNIT #112	HARRIS	12.4	PHILLIPS PETROLEU
8336217	F-8A-065716	4216532482		103		WHARTON UNIT #114	HARRIS	6.5	PHILLIPS PETROLEU
-THE ARD DRILLING COMPANY INC				RECEIVED:	05/09/83	JA: TX			
8336267	F-8A-066800	4211500000		103		W E LOVE #1-R	JO-MILL (SPRABERRY)	10.9	
-THOMSON-MONTEITH				RECEIVED:	05/09/83	JA: TX			
8336278	F-08-066848	4232931122		103		WINDHAM 33 #2	PARKS (SPRABERRY)	18.9	MOBIL PROD TEXAS
-TIDWELL INVESTMENTS INC				RECEIVED:	05/09/83	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8336196	F-7B-064881	4213330358		102-4		COLLINS #1	WILDCAT	88.0	LONE STAR GAS CO
-TOM F MARSH INC				RECEIVED:		05/09/83 JA: TX			
8336156	F-10-062097	4248330729		108-ER		C ZYBACH #1-14	WILDCAT	0.0	COLORADO INTERSTA
-TOT RICHARDS DOZER INC				RECEIVED:		05/09/83 JA: TX			
8336184	F-7B-064193	4244733133		102-4		DARLA JANICE #1	RICHARDS RANCH (1830)	0.0	H S T GATHERING S
8336185	F-7B-064194	4244733175		102-4		DARLA JANICE #3	RICHARDS RANCH (1830)	0.0	H S T GATHERING S
8336186	F-7B-064195	4244733176		102-4		DARLA JANICE #4	RICHARDS RANCH (1830)	0.0	H S T GATHERING S
-TOT RICHARDS OIL CO				RECEIVED:		05/09/83 JA: TX			
8336207	F-7B-065395	4244733098		102-4		DEBBIE RICHARDS #1	FRED (CISCO)	64.0	H S T GATHERING C
-TRIAX OIL & GAS INC				RECEIVED:		05/09/83 JA: TX			
8336140	F-7B-060427	4208333138		102-4		HUNTER-FEE #3	CAMP COLORADO S (GUNS	0.0	SOUTHWESTERN GAS
8336155	F-7B-062094	4208333191		102-4		HUNTER-FEE #4	CAMP COLORADO S (GUNS	0.0	SOUTHWESTERN GAS
-UNION OIL COMPANY OF CALIF				RECEIVED:		05/09/83 JA: TX			
8336349	F-10-067057	4239300000		108		MARION OSBORNE #1-35	RED DEER (BROWN DOLOM	20.0	TRANSWESTERN PIPE
8336168	F-05-063369	4246730445		103		SWVLU #4407	VAN SOUTHWEST (LEWISV	4.0	UNITED GAS PIPELI
8336167	F-05-063368	4246730446		103		SWVLU #6808	VAN SOUTHWEST (LEWISV	0.0	UNITED GAS PIPELI
-UNION TEXAS PETROLEUM				RECEIVED:		05/09/83 JA: TX			
8336202	F-7C-065186	4223531977		102-2	103	SUGG 11 #2	ANDREW A (CANYON)	174.0	FARMLAND INDUSTRI
8336203	F-7C-065187	4223531978		102-2		SUGG 3 #2	MARY ROBIN (CANYON)	57.0	FARMLAND INDUSTRI
-VINSON EXPLORATION				RECEIVED:		05/09/83 JA: TX			
8336294	F-7C-066927	4218500000		102-4		UNIVERSITY 29-E #1	INGHAM (QUEEN)	91.0	SOUTHWESTERN GAS
-W D H OIL PROPERTIES INC				RECEIVED:		05/09/83 JA: TX			
8336321	F-7B-067006	4213333622		102-4		POWERS #1-A	WDH (MARBLE FALLS)	0.0	NORTHERN NATURAL
-W J WHITT				RECEIVED:		05/09/83 JA: TX			
8336275	F-7B-066839	4204933358		102-4		4-W RANCH "A" #16 (19316)	WHITT (CADDO MIDDLE)	22.0	EL PASO HYDROCARB
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:		05/09/83 JA: TX			
8336241	F-8B-066025	4210333034		103		W N WADDELL #1278	SAND HILLS (TUBB)	67.6	EL PASO NATURAL G
-WESTERN HILLS OIL & GAS CO INC				RECEIVED:		05/09/83 JA: TX			
8336219	F-7B-065765	4236732372		102-4		FAIN #2 (I D NUMBER APPLIED FOR)	H & R (BEND CONGL)	55.0	TEXAS UTILITIES F
-WILLIAM PERLMAN				RECEIVED:		05/09/83 JA: TX			
8336289	F-04-066885	4213100000		108		SOUTHLAND LIFE #18 - 014336	SOUTHLAND LIFE (TEDLI	1.8	TRANSCONTINENTAL
8336290	F-04-066886	4213100000		108		SOUTHLAND LIFE #42 I D #014332	SOUTHLAND LIFE (TEDLI	1.8	TRANSCONTINENTAL
8336288	F-04-066884	4213100000		108		SOUTHLAND LIFE #44 030986	(COLE LOWER)	1.8	TRANSCONTINENTAL
-WILLIAMS EXPLORATION COMPANY				RECEIVED:		05/09/83 JA: TX			
8336201	F-02-065143	4205700000		102-4		P H WELDER D #1L	KATIE WELDER (M-7)	14.6	SEAGULL PIPELINE
-WINN EXPLORATION/DULCE CO				RECEIVED:		05/09/83 JA: TX			
8336177	F-01-063896	4250731783		102-4		PRYOR RANCH #119-T	WINN-DULCE	0.0	NORTHERN NATURAL
8336249	F-01-066250	4250731839		102-4		PRYOR RANCH #135	WINN-DULCE	0.0	NORTHERN NATURAL
-WY-VEL CORP				RECEIVED:		05/09/83 JA: TX			
8336270	F-10-066824	4206531263		103		ARNOLD (04894) #2	PANHANDLE	13.5	GETTY OIL CO

[FR Doc. 83-14960 Filed 6-2-83; 8:45 am]

BILLING CODE 6717-01-C

federal register

Friday
June 3, 1983

Part VI

Department of Commerce

International Trade Administration

Conditions of Participation for Use of EDO Facilities; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

Conditions of Participation for Use of EDO Facilities

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Conditions of Participation for U.S. Catalog/Video Catalog Exhibitions.

SUMMARY: This notice sets forth Conditions of Participation for Use of EDO Facilities of the U.S. Department of Commerce.

DATE: These administrative procedures are effective June 1, 1983.

ADDRESSES: Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Hawes, Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, D.C. 20230, (202/377-0871).

SUPPLEMENTARY INFORMATION:

Conditions of Participation; Use of EDO Facilities

A. Use of EDO Facilities Defined

The Department of Commerce (USDOC) makes available to individual U.S. firms or associations of U.S. firms physical facilities at its overseas Export Development Offices (EDOs) for sales meetings, business/technical conferences, small product exhibitions or demonstrations, seminars, and other activities of a limited nature. Use of the facilities is limited to occasions when facilities are not required for regularly scheduled trade promotion events.

B. Criteria

Firms making use of EDO facilities must use the facilities to promote only products or services which in the judgement of the Department meet one of the following criteria:

1. Manufactured or produced in the United States.

2. If manufactured or produced outside of the United States, the product or service must be marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service.

C. Within Limits of Available Resources the Following Facilities and Services May Be Provided:

1. Use of facilities of a U.S. Export Development Office to the extent agreed upon in writing by the EDO Director and the Participant. In no instance shall the use of office space at the EDO exceed 5 days.

2. The following physical facilities or services to the extent available:

a. Display floor space, office space, in-stock furniture, audio-visual equipment, and display systems for booth construction and display purposes.

b. Normally available utilities for the operation of the equipment on display.

c. Free local telephone service. Long distance telephone and telex, if available, can be provided at Participant's expense.

d. Assistance in clearing through local customs authorities exhibit items consigned to the EDO.

e. Assistance to the Participant in making arrangements for repacking, loading, and shipping for storage or return to point of origin items consigned to the EDO.

f. Staff assistance, of a limited nature, to the Participant during regular EDO business hours.

3. As needed: marketing counsel, including identification of appropriate prospective customers, licensees, joint venture partners, distributors and agents, and assistance in evaluating their suitability; information regarding local trade practices; and assistance in development of the promotional strategy and/or physical staging of the promotional activity.

4. Assistance in obtaining interpreters, assistants, and/or secretarial services upon request by the Participant and at the Participant's expense.

D. As Conditions of the Use or Acceptance of Facilities or Services, the Participant Shall Agree to:

1. Make know to the EDO Director or designee its marketing objectives and, if requested, submit a promotion plan for review and approval. All costs connected with the implementation of the plan will be for the Participant's account.

2. Pay no later than 30 days in advance of any event a basic contribution set by the EDO Director for the use of the facilities.

3. Pay on the commencement date of the event the anticipated costs of all additional services arranged through the EDO for the account of the Participant, e.g., interpreters, audio-visual equipment rental, etc., and to pay any remaining balance for these additional services provided during the event at its conclusion.

4. If for any reason the Participant cancels its participation within 30 days of the opening of the event, the contribution will not be refunded. If the Participant's written cancellation is received by USDOC 30 days prior to the opening of the event, the only charges to the Participant will be those which have already been incurred by the EDO, as determined by the Director.

5. Submit to the EDO Director, upon request, a statement of planned expenses and revenue and records of actual expenses and revenue.

In addition to the conditions described in items 1–5 above, any participant making use of EDO facilities for exhibition purposes agrees to:

6. Obtain prior approval from the EDO Director or designee of the design of the Participant's exhibit and/or display, and of the product line or service.

7. Furnish in the Participant Agreement a listing of items the Participant plans to ship to the EDO.

8. If saleable equipment is displayed, provide a qualified company representative to be on duty at the exhibition. This representative shall be prepared and authorized to discuss product lines; to give price quotations on various bases as appropriate; to make sales and related arrangements; to provide instructions at the close of the exhibition for the disposition of the Participant's equipment; and to make immediate payment for all overseas expenses including handling and shipping costs from the point of entry to the exhibition site.

9. Mark and ship equipment consigned to the EDO according to shipping and marking instructions and carrier designations furnished by the EDO. U.S. carriers should be used wherever practicable. The Participant shall comply fully with all import and customs laws of the host country. The Participant shall provide any information requested by the EDO Director or designee and obtain any permits which may be required by the host country government for the importation/operation/exportation of items consigned to the EDO.

10. Obtain all export licenses required by the Department's Office of Export Administration, or by any other export licensing agency, e.g., the Nuclear Regulatory Commission, the U.S. Department of Energy, and the Offices of Munitions Control, U.S. Department of State, for demonstration or exhibit of equipment or any other items and for the disposition abroad of exhibited equipment following the Exhibition.

Information concerning export license requirements may be obtained from the Office of Export Administration, Exporter's Service Branch, Washington, D.C. (202) 377–4811, or from the nearest U.S. Department of Commerce District Office. Participant also agrees to obtain any permits necessary under host country law relevant to the operation of exhibit equipment.

11. a. Before the close of the Exhibition, pay all costs of shipment of exhibit and promotional items from point of origin to the entrance of the exhibition site, including inland freight, duties, if applicable, and other charges such as port handling, transfer, cartage, freight forwarding, customs brokerage, taxes and other fees and storage costs incurred before or after the Exhibition.

b. Re-export exhibit items within the time limitations set by the host country if not sold or otherwise disposed of, and pay all duties and taxes, customs and related charges which may be levied. The Participant shall comply fully with all import and customs laws of the host country.

c. Remove exhibit items from the Exhibition site after the close of the Exhibition within a time period to be determined by the Director of the U.S. Exhibition or designee. At or before the conclusion of the Exhibition, the Participant shall provide the Director of the U.S. Exhibition or designee, in writing, with one or more of the following instructions as to the disposition of the Participant's exhibit items:

Release at the Exhibit site to the custody of the Participant;

Place in storage for further disposition in accordance with Section D, 8 a and b above;

Release at the Exhibit site to a specified third party, e.g., the buyer, agent, freight forwarder, in accordance with Section D, 8 a and b above.

d. Pay all costs for shipping exhibit items from the exhibition site to the next destination. If the exhibit items are not to be returned to the United States at the conclusion of the Exhibition, the Participant shall comply with any restrictions on foreign disposition established by the Office of Export Administration or any other relevant export licensing agency. If the Participant fails to provide written disposition instructions at the close of the Exhibition, the Department may, at the Participant's expense, release the Participant's exhibit items to the freight forwarder servicing the Exhibition for appropriate disposition. Failure for the Participant to furnish such instructions shall release the Department from responsibility for any disposition of the Participant's equipment including all related expenses and necessary documentation.

E. Other Conditions

1. It is understood that subject to the Department's policies and regulations, the EDO Director is authorized to approve or disapprove any application for use of the EDO.

2. The amount of time that the Participant may utilize EDO facilities will be determiend by the EDO Director or designee.

3. While the Department of Commerce will make every effort to identify reliable contractors such as freight forwarders, customs brokers, designers, photographers, translators, etc., for the benefit of the Participant, the Participant waives all claims for liability against the U.S. Government for damage or loss to the Participant resulting from the use of the contractor.

4. The EDO Director or designee reserves the right to approve the selection of Participant's contractors and personnel working in the EDO.

5. It is agreed that the Department of Commerce or its contractors shall be absolved of any liability for any damage or loss resulting from or related to the failure of the Participant to comply with the provisions of these Conditions. If the Participant fails to fulfill any obligations under these Conditions, the Department of Commerce shall be released from its obligations, and the Participants contribution may be forfeited. In the event additional costs are incurred by the Department of Commerce as a result of the Participant's failure to comply with the provisions of these Conditions or the instructions provided therein, such additional costs, including all attorney fees, shall be paid by the Participant.

6. The Department of Commerce reserves the right to cancel an event at any time for the convenience of the Government. In the event of such cancellation, the Department of Commerce shall notify the Participant but shall incur no liability to the Participant for costs incurred by the Participant except the return of the Participant's contribution.

7. The Participant agrees to indemnify and hold harmless the U.S. Government, its agencies and instrumentalities, against all suits, actions, claims, costs or demands (including without limitation, those resulting from death, illness, personal injury and property loss or damage) to which the U.S. Government, its agencies and instrumentalities may be subject or put by reasons of loss of or damage or illness or injury (including death) to the property or person of any one other than U.S. Government, its agencies, instrumentalities and personnel, arising or resulting in whole or part from the Participant's use of the EDO facility including but not limited to acts done or performed by the Participant, its representatives or employees, and also including but not limited to the Department's performance or services for the Participant under the terms of this Conditions of Participation.

8. The Participant agrees, and it is incumbent upon the Participant, to be covered at its own expense for comprehensive all-risk insurance, including casualty, accident and liability insurance in amounts adequate to cover reasonable risk of liability for death, personal injury, illness, property loss or property damage relating to acts done or performed by the Participant, its representatives or employees. (In no event shall these liability coverage amounts be less than may be required for these purposes by the laws of the host country.)

9. The Participant also agrees to pay any supplementary costs occasioned by the use of the EDO after regular business hours; all costs for painting, refurbishing, electrical wiring, etc., of the EDO's display property, to meet Participant's requirements (**Note.**—*No change or modification will be made in any such display property or physical plan without prior approval of the EDO Director or designee. Should any changes be approved, the property must be returned to its original conditions by the Participant. Any damage to the facility or its property, other than that arising from normal wear and tear will be charged to the Participant. The Participant agrees to pay any charges beyond normal utility consumption as determined by the EDO Director if the consumption is excessive or the utility is required to be augmented or changed.*

10. For activities involving the promotion of goods or services, the Participant agrees to provide the EDO Director or designee at the end of the event with information on the results of

its participation (ITA–4075P or successor form). If the Participant requests that particular information be treated confidentially, the Department of Commerce will honor the request to the extent possible under applicable law. No report on results will be required in the case of firms using office space only.

11. The only obligations the Department of Commerce assumes are those expressly made herein or agreed to by an amendment in writing.

Official issuance date: June 1, 1983.

Brenda L. Ebeling,

Acting Director, Office of Event Management and Support Services.

[FR Doc. 83–14861 Filed 6–2–83; 8:45 am]

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federal register

Friday
June 3, 1983

Part VII

Department of Commerce

International Trade Administration

Conditions of Participation for U.S. Commercial Exhibitions (Solo or International Trade Fair); Notice

DEPARTMENT OF COMMERCE

International Trade Administration

Conditions of Participation for U.S. Commercial Exhibitions (Solo or International Trade Fair)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of conditions of participation for U.S. Commercial Exhibitions (Solo or International Trade Fair).

SUMMARY: This notice sets forth Conditions of Participation for U.S. Commercial Exhibitions (Solo or International Trade Fair) sponsored by the U.S. Department of Commerce.

DATE: These administrative procedures are effective June 1, 1983.

ADDRESS: Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Hawes, Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, D.C. 20230, (202/377-0871).

SUPPLEMENTARY INFORMATION:

Conditions of Participation; U.S. Commercial Exhibitions

(Solo or International Trade Fair)

A. U.S. Commercial Exhibition Defined

There are two types of U.S. Commercial Exhibitions:

Solo Fairs: overseas exhibitions sponsored, conducted and managed by the U.S. Department of Commerce (USDOC) for the benefit of U.S. Firms. Most solo fairs are vertically organized by product line.

International Trade Fairs: overseas exhibitions conducted and managed by a party other than the U.S. Government, at which the U.S. Department of Commerce sponsors a U.S. presence. International Trade Fairs may be either horizontal or vertical in terms of product theme.

B. Criteria

Firms that participate in a U.S. Commercial Exhibition (hereafter referred to as "Exhibition") must use the event to promote the sale of products or services which in the judgement of the Department meet one of the following criteria:

1. Manufactured or produced in the United States.

2. If manufactured or produced outside of the United States, the product or service must be marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service.

C. Policy on the Mixing of New and Used Equipment in a Single Event

The Department has found that the promotion of both new and used equipment at a single exhibition usually impairs the success of the event. Therefore, except where a contrary policy is announced at the time participation by private firms is first invited by the Department, the display or promotion of used equipment in events featuring new equipment, or *vice versa*, will not be permitted.

D. Within the Limits of Available Resources the Department of Commerce Agrees To—

1. Undertake an appropriate promotional campaign to attract to the Exhibition importers, distributors, agents, licensees, joint-venture partners, franchisees, buyers and end-users, including key government officials. This may incorporate press releases, brochures and directories, special trade and press showings, conferences, receptions and other publicity and promotional techniques as appropriate.

2. Provide exhibition space in accordance with booth size and contribution schedule.

3. Provide the following exhibition services:

a. Overall exhibition design and fabrication and individual display stand design and construction.

b. Enlargement and installation of two black and white graphics for each stand from Participant's photographs or artwork if material provided by the Participant is deemed suitable by the Director of the U.S. Exhibition or designee. The Department reserves the right to control the type of display and materials used by participants to ensure conformity with the Exhibition theme and to maintain overall design integrity. Additional graphics may be enlarged at the Participant's expense and displayed with the approval of the Director of the U.S. Exhibition or designee.

c. Installation of a display system and furnishings such as shelves, chairs and tables.

d. Mounting of standard Participant and agent/distributor identification signs.

e. Normal utilities and hookup services. (Utility requirements determined by the Director of the U.S. Exhibition or designee to be unusual will be charged to the Participant at cost.)

f. Interpreter assistance, if deemed necessary under local conditions by the Director of the U.S. Exhibition, for Participants not having representation in the country of the Exhibition.

g. Normal housekeeping and security services.

4. Provide marketing counseling and advice, including identification of prospective customers, licensees, joint-venture partners, distributors and agents, and assistance in evaluating their suitability; and background information on local trade and pricing practices and customs.

5. Provide the following transportation, loading and packing services:

a. Arrange, through the Department's Exhibits Transportation Unit or its agent, the scheduling of the shipment of the Participant's exhibit items to be shipped from the United States. U.S. carriers must be used whenever practicable. Further, arrange for the movement of the Participant's exhibit items from the point of entry in the host country to the Exhibition site (irrespective of shipment point of origin) on condition that the Participant has complied with all shipping and marking instructions and carrier designations provided by the Department or its agent.

b. Arrange and pay for unloading from transport vehicles and unpacking of Participant's equipment at the exhibition site, placement in the display area and storage of empty shipping cartons or crates during the Exhibition.

c. Arrange and pay for the repacking of exhibit items to be shipped from the Exhibition using inbound packing materials. If it is not practicable to use the original packing material, new packaging materials will be used, the cost of which shall be borne by the participant.

d. Arrange and pay for the loading of exhibit items onto a transport vehicle at the exhibition site.

These services are to be provided on the basis of the Participant's agreement hereunder that the U.S. Government shall be held harmless against breakage or other damage to the Participant's equipment that might occur in the course of the performance of these services. Accordingly, the Participant may wish to obtain insurance to cover its risk of loss due to breakage or other damage that might so occur.

The U.S. Department of Commerce may limit the amount of cost to be incurred by the Department in connection with the unloading, placement, hookup, dismantling, and loading of exhibition equipment. Should special equipment be required beyond

that normally used for handling, installation, or operation, the Director of the U.S. Exhibition or designee will obtain it if available; additional costs incurred shall be paid by the Participant. The Director of the U.S. Exhibition, at his or her discretion, may refuse to handle exceptionally large, delicate or complex equipment not identified on the Participation Agreement.

E. The Participant Agrees To—

1. Make a financial contribution to the U.S. Department of Commerce in an amount to be established for each Exhibition for use in funding all services provided to the Participant, including market development, operating and hospitality costs of the Exhibition, and other international trade promotional activities. A signed Participation Agreement (Form ITA 4008) is to be submitted with the contribution.

2. Furnish a listing of exhibit items with the Participation Agreement. Any item not so listed is shipped at the Participant's risk and may release the Department from any or all of its obligations under these Conditions of Participation.

3. Provide a qualified representative to be on duty at the Exhibition during business hours through the term of the Exhibition. This representative shall be prepared and authorized to discuss product lines; to give price quotations on various bases, as appropriate; to make sales and related arrangements; to provide instructions at the close of the Exhibition for the disposition of the Participant's exhibit items; to make immediate payment for all overseas expenses including handling and shipping costs from the port of entry to the exhibition site, as well as such payments to the Department as are necessary to cover unusual expenses chargeable to the Participant under Section E hereof. This person should be designated and his or her name and address furnished to the Department at the earliest possible date. This person should arrive at the Exhibition site a sufficient number of days in advance of the Exhibition opening date to insure that the Participant's exhibit equipment is properly set up for demonstration and to gain familiarity with the market. At a minimum, the representative should be present two days prior to opening to also attend such functions as press previews and exhibitors' briefings.

4. Mark and ship equipment according to instructions to be furnished by the Department or its agent.

5. When directed by the Department, to document, pack, and ship catalogs, brochures, sales literature, and other expendable items separately from exhibit equipment.

6. Obtain:

a. All export licenses required by the Department's Office of Export Administration, or by any other export licensing agency, e.g., the Nuclear Regulatory Commission, the U.S. Department of Energy, and the Office of Munitions Control, U.S. Department of State, for demonstration or exhibit equipment and for the disposition abroad of exhibited equipment or any other items following the exhibition. Information concerning export license requirements may be obtained from the Office of Export Administration, Exporters' Service Branch, Washington, D.C. (202) 377–4811, or from the nearest U.S. Department of Commerce District Office.

b. Any permits necessary under host country law relevant to the operation of exhibit equipment. (While this remains the responsibility of the Participant, the Department will endeavor to ensure that Participants are advised of any such requirements.)

7.a. Before the close of the Exhibition, pay all costs of shipment of exhibit and promotional items from point of origin to the entrance of the exhibition site, including inland freight, duties, if applicable, and other charges such as port handling, transfer, cartage, freight forwarding, customs brokerage, taxes and other fees.

b. Pay any storage costs incurred before or after the Exhibition.

c. Re-export exhibit items within the time limitations set by the host country if not sold or otherwise disposed of, and pay all duties and taxes, customs and related charges which may be levied. The Participant shall comply fully with all import and customs laws of the host country.

8. Arrange for removal of exhibit items from the Exhibition site after the close of the Exhibition within a time period to be determined by the Director of the U.S. Exhibition or designee. At or before the conclusion of the Exhibition, the Participant shall provide the Director of the U.S. Exhibition or designee, in writing, with one or more of the following instructions as to the disposition of the Participant's exhibit items:

a. Release at the Exhibit site to the custody of the Participant.

b. Place in storage for further disposition in accordance with Section E, 8a, above.

c. Release at the Exhibit site to a specified third party, e.g., the buyer, freight forwarder, in accordance with Section E, 8 a and b, above.

9. Pay all costs for shipping exhibit items from the exhibition site to the next destination. If the exhibit items are not to be returned to the United States at the conclusion of the Exhibition, the Participant shall comply with any restrictions on foreign disposition established by the Office of Export Administration or any other relevant export licensing agency. If the Participant fails to provide written disposition instructions at the close of the Exhibition, the Department may, at the Participant's expense, release the Participant's exhibit items to the freight forwarder servicing the Exhibition for appropriate disposition. Failure of the Participant to furnish such instructions shall release the Department from responsibility for any disposition of the Participant's equipment including all related expenses and necessary documentation.

10. Execute a new Participation Agreement if the Participant's exhibit items are to be displayed at another Commerce-sponsored overseas exhibition. The Participant will be responsible for paying all costs involved in shipping the items to the subsequent site.

11. The Participant agrees to indemnify and hold harmless the U.S. Government, its agencies and instrumentalities, against all suits, actions, claims, costs or demands (including without limitation, those resulting from death, illness, personal injury and property loss or damage) to which the U.S. Government, its agencies and instrumentalities may be subject or put by reasons of loss of or damage of illness or injury (including death) to the property or person of any one other than the U.S. Government, its agencies, instrumentalities and personnel, arising or resulting in whole or part from the Participant's participation in the Exhibition, including but not limited to acts done or performed by the Participant, its representatives or employees, and also including but not limited to the Department's performance of services for the Participant under the terms of these Conditions of Participation.

The Participant agrees, and it is incumbent upon the Participant, to be covered at its own expense for comprehensive all-risk insurance, including casualty, accident and liability insurance in amounts adequate to cover reasonable risk of liability for death, personal injury, illness, property loss or property damage relating to acts done or performed by the Participant, its representatives or employees, and its participant otherwise in the Exhibition,

which participation includes the Department's performance of exhibition services for the Participant. (In no event shall these liability coverage amounts be less than may be required for these purposes by the laws of the host country.)

12. Provide detailed and accurate information as to the technical specification of the exhibits equipment on Product Characteristics Form (ITA–426P).

13. Provide promotional information on the Marketing Data Form (ITA–466P) and supply publicity materials in accordance with instructions furnished by the Department.

14. Provide the Director of the U.S. Exhibition or designee at the end of the Exhibition with information on the results of its participation on Exhibitor and Mission Member Report Form (ITA–4075P) or successor forms. In addition, the Participant may be requested to report business activity resulting from participation in the Exhibition on a followup questionnaire provided by the Department 12 months after the close of the Exhibition. Information provided by the Participant will be used for program evaluation purposes only. If the Participant requests that particular information be treated confidentially, the Department will honor the request to the extent possible under applicable law.

F. Other Conditions

1. The Director of the U.S. Exhibition or designee has complete authority to assign space, determine articles and methods to be used for display of items, determine location of the Participant and representation identification in booths, and has overall authority concerning matters directly relating to the U.S. Exhibition and its participants.

2. While the Department makes every effort to insure that marketing information furnished to exhibitors is reliable and up-to-date, it assumes no responsibility for any errors or omissions therein. Although the Department will make every effort to facilitate a successful exhibition, it is understood and agreed that the Department does not guarantee in any way the success of any Participant in the Exhibition. The only contractural obligations the Department assumes are those expressly made herein or mutually agreed to by an amendment in writing.

3. If, for any reason, the Participant cancels participation in the Exhibition, its financial contribution will be refunded only if written notice is received by the Department 90 days before the opening of the Exhibition. Any such notice should be addressed to the attention of the Department's Industry Officer with whom the Participant has been dealing. The Department, at its sole discretion, and upon its determination that it would be consistent with the proper operation of its exhibition program, may allow a partial or full refund of the financial contribution.

4. It is agreed that the Department or its contractors shall be absolved of liability for any damage or loss resulting from or related to the failure of the Participant to comply with the provisions of these Conditions of Participation. If the Participant fails to fulfill any of its obligations under these Conditions of Participation, the Participant's contribution may be forfeited. In the event additional costs are incurred by the Department as a result of the Participant's failure to comply with the provisions of the Conditions of Participation or instructions provided therein, such additional costs, including all attorney fees, shall be paid by the Participant.

5. While the Department will make every effort to select reliable contractors such as freight forwarders, customs brokers, designers, photographers, translators, etc., for the benefit of the Participant, is assumes no responsibility or liability for the acts of any contractor selected.

6. The Department reserves the right to cancel the Exhibition or the participation of any Participant at any time for the convenience of the Government. In the event of such cancellation, the Department shall notify the Participant but shall incur no liability to the Participant for costs incurred by the Participant except the return of the Participant's contribution.

7. Not more than five companies will be allowed to share a single booth under one Participation Agreement and one contribution. The Department will determine the number of firms permitted, up to five per booth, taking into consideration the items to be displayed. The Department will not be obligated to promote or prepare complimentary graphics or stand identification for more than one company.

8. It is understood that all applications for participation in the U.S. Exhibition are subject of approval by the Department.

Official Issuance Date: June 1, 1983.

Brenda L. Ebeling,

Acting Director, Office of Event Management and Support Services.

[FR Doc. 83-14862 Filed 6-2-83; 8:45 am]

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federal register

Friday
June 3, 1983

Part VIII

Department of Commerce

International Trade Administration

Conditions of Participation for U.S. Trade and Seminar Missions; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

Conditions of Participation for U.S. Trade and Seminar Missions

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Conditions of Participation for U.S. Trade and Seminar Missions.

SUMMARY: This notice sets forth Conditions of Participation for U.S. Trade and Seminar Missions sponsored by the U.S. Department of Commerce.

DATES: These administrative procedures are effective June 1, 1983.

ADDRESSES: Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Ave., N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Hawes, Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Washington, D.C. 20230, (202/377-0871).

SUPPLEMENTARY INFORMATION:

Conditions of Participation; Trade and Seminar Missions

A. Trade and Seminar Missions Defined

Trade Missions: overseas events planned, organized and led by Department of Commerce officers which bring groups of U.S. businesspersons into contact with foreign buyers, agents, distributors, licensees, franchisers or joint-venture partners.

Seminar missions: overseas events planned, and organized by the Department of Commerce, which promote the sale of sophisticated products or services through technical seminars presented by participants to potential foreign buyers, agents, distributors, licensees, franchisees or joint-venture partners, and chaired by an industry expert or Commerce official.

B. Criteria

Firms that participate in a Trade or Seminar Mission must use the mission to promote only products or services which in the judgement of the Department, meet one of the following criteria:

1. Manufactured or produced in the United States.

2. If manufactured or produced outside of the United States, the product or service must be marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service.

The Mission will be composed of the representatives of a limited number of companies of which one will be designated Chairperson. Spouses are not to accompany Mission members except when the spouse is an active member of the participating firm. Each representative must be a director, officer or employee of the participating company or of the Export Management Company designated by the Participant.

C. Within Limits of Available Resources the U.S. Department of Commerce Agrees to:

1. Select a product or service category and an overseas itinerary which offer potential for export development. Selection will be based upon market research and consultation with the U.S. Foreign Service posts in the countries selected to be visited and with key trade associations and companies in the industry to be promoted.

2. Provide to each Mission member available market research relevant to the products and services to be promoted for all countries to be visited.

3. Where appropriate, or upon request, conduct a general briefing for Mission members prior to departure from the United States regarding commercial and economic conditions in the countries to be visited. If a briefing in the United States is not practicable, the briefing will be held at the first overseas stop on the Mission's itinerary. An in-depth briefing by U.S. Commercial Officers at Foreign Service posts will be conducted in each country visited.

4. Arrange a schedule of business appointments with key prospects for the goods or services of Mission members.

5. Provide information for distribution overseas describing the Mission participants, their companies, goods or services and, where appropriate, their marketing objectives. Where appropriate, this material will be in the language of the country visited.

6. Provide a Mission headquarters in each foreign location, as necessary, where individual business appointments can be scheduled and other Mission business transacted.

7. Host official receptions and/or other hospitality events, where appropriate, at or in conjunction with the U.S. Foreign Service posts to provide Mission members with the opportunity to meet key local government officials and business leaders.

8. Provide transportation schedules for members to book appropriate flights.

9. Obtain confirmed hotel reservations for Mission members in advance of each stop.

10. Provide clerical staff and interpreters as needed to assist Mission members. Each post's commercial staff will provide administrative and logistical support as needed by the Mission or arrange for outside logistical support.

11. Provide a U.S. Government official or appropriate private sector representative having extensive knowledge of the Mission theme to serve as Mission Director (Seminar Chairperson in the case of Seminar Mission).

For Seminar Mission only, the Department agrees, in addition to the above, to:

12. Provide a qualified Department of Commerce Officer to coordinate logisitics and administration.

13. Provide a suitable seminar location, including simultaneous translation equipment, if available, interpreters, and audiovisual equipment, as necessary.

D. The Participant Agrees to:

1. Make a financial contribution to the U.S. Department of Commerce in an amount to be established for the Mission for use in funding all services provided to the Participant, including market development, operating and hospitality costs of the Mission, and other international trade promotional activities. A signed Participation Agreement (Form ITA-4008) is to be submitted with the contribution.

2. Furnish detailed descriptive company and product/service information sufficiently in advance of the mission to allow for compilation and/or printing, and advance distribution.

3. Obtain information from the Department's Office of Export Administration, and/or from other licensing agencies, e.g., Nuclear Regulatory Commission, Department of Energy, and Office of Munitions Control, U.S. Department of State as to whether existing laws or regulations might impede or prevent the Participant from marketing its products or services or releasing U.S.-origin technical data in any of the countries to be visited by the Mission. If problems arise in obtaining this information, the Department will provide such assistance or facilitation as may be necessary and appropriate.

4. Promote its individual business interests, e.g., direct sales, licensing agreements; or agent/distributors arrangements.

5. Participate in scheduled briefings by the Department of Commerce and other agencies including the Foreign Service posts.

6. Keep all business appointments which have been arranged, and adhere

to the Mission program and its complete itinerary.

7. Contribute information for the Mission report and provide the results achieved on the Exhibitor and Mission Member Report Form (ITA–4075P) or successor document. If the participant requests particular information to be treated confidentially, the Department of Commerce will honor the request to the extent possible under applicable law.

8. Travel between the United States and abroad an American carriers, whenever practicable.

9. Pay representative's travel, hotel and daily living expenses.

10. Obtain entry permit visas and/or other travel documentation where necessary prior to the Mission's departure from the U.S.

11. Participants' representatives travel at their own risk. It is recommended that they be covered by adequate insurance. The company, on behalf of itself and any of its officers, employees or agents, agrees to save the U.S. Government harmless from liability for any illness, injury, loss of life, or damage or loss of property occasioned by or connected with participation in the Mission.

12. For *Trade Missions only*, The Participant agrees, to provide at its expense a qualified company executive who will participate in all Mission activities. This person shall be authorized to discuss product lines or services, to give price quotations on various bases, as appropriate, and to negotiate sales and related arrangements. The representatives should be designated at the earliest possible date and his or her name furnished to the Department of Commerce. The representative must carry a valid passport, and be a director, officer or employee of the participating U.S. company (the Participant), a subsidiary, or an Export Management Company designated by the Participant. If a participant has an agent or distributor in a country visited by the Mission, the agent or distributor may accompany the member on appointments functions and is encouraged to do so.

13. *For Seminar Mission only*, the Participant agrees to provide at its expense a qualified company executive who will participate in all Mission activities and present in each city visited a state-of-the-art or problem-solving paper that is not oriented to any particular company. The paper should be of a type that tends to demonstrate some aspect of the expertise, unique capabilities or activities of U.S. industry. To permit timely review of the paper for simultaneous interpretation preparation, where necessary, and to enable printing of the Mission brochure for the advance publicity of the mission, a copy of the seminar presentation paper and all other documentation must be submitted a designated number of days before Mission departure for review and approval by the Seminar Chairperson. All seminar papers must be approved in advance by the Department and/or the Seminar Chairperson. The Participant's representative must carry a valid passport, and be a director, officer or employee of the participating company (the Participant), a subsidiary, or an Export Management Company designated by the Participant.

E. Other Conditions

1. If, for any reason, the participating company cancels its participation, its financial contribution will not be refunded unless written notice of cancellation is received by the Department of Commerce at least 60 days before the departure of the Mission, unless a replacement is found.

2. The Department may cancel a Mission or the participation of any company for the convenience of the Government. In the event of such cancellation, any contribution made will be refunded.

3. It is understood that all applications for participation in Missions are subject to approval by the Department of Commerce.

Official issuance date: June 1, 1983.

Brenda L. Ebeling,

Acting Director, Office of Event Management and Support Services.

[FR Doc. 83-14863 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-25-M

federal register

Friday
June 3, 1983

Part IX

Department of Commerce

International Trade Administration

Conditions of Participation for U.S. Catalog/Video Catalog Exhibitions; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

Conditions of Participation for U.S. Catalog/Video Catalog Exhibitions

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of conditions of participation for U.S. catalog/video catalog exhibitions.

SUMMARY: This notice sets forth Conditions of Participation for U.S. Catalog/Video Catalog Exhibitions sponsored by the U.S. Department of Commerce.

DATE: These administrative procedures are effective June 1, 1983.

ADDRESSES: Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Hawes, Office of Event Management and Support Services, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave., N.W.,-Washington, D.C. 20230, (202/377-0871).

SUPPLEMENTARY INFORMATION:

Conditions of Participation; U.S. Catalog/Video Catalog Exhibition

A. Catalog and Video Catalog Exhibition Defined

Catalog Exhibition: overseas theme-oriented exhibition which displays catalogs of U.S. companies, primarily at U.S. Embassies and Consulates.

Video Catalog Exhibition: overseas theme-oriented exhibition which combines the display of U.S. firms' catalogs with video-taped presentations of participating firms, primarily at U.S. Embassies and Consulates.

B. Criteria

Firms which participate in a Catalog Exhibition or a Video Catalog Exhibition must promote through the exhibition products or services that meet one of the following criteria:

1. Manufactured or produced in the United States;

2. If manufactured or produced outside of the United States, the product or service must be marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of value of the finished good or service.

C. Within Limits of Available Resources the U.S. Department of Commerce Agrees To—

1. Provide publicity and promotional support to attract to the exhibition potential importers, distributors, agents, buyers and end-users of the products or services featured in the exhibition.

2. Staff the exhibition with an Industry Technical Representative (ITR) who will assist visitors in finding products, services, or applications of interest to them and who will prepare a brief summary report for exhibitors and for the Department.

3. Provide management staff to mount and operate the Exhibition.

4. Provide space for the Exhibition.

5. Provide each Participant, following the close of the exhibition, with the names of those firms or individuals identified as having specific interest in the Participant's products or services and a copy of the final report prepared by the ITR.

6. Subsequent to the exhibition, place the catalogs with U.S. Foreign Service post commercial libraries, trade associations or other suitable institutions, or use them in additional promotional events, where appropriate, in order to provide continuing market exposure.

Note.—In addition to the services described in items 1–6 above, the Department of Commerce will provide the following services to participants in *video catalog exhibitions.*

7. Produce a Video Tape Recording (VTR), in sound and color, up to seven minutes long, demonstrating the features of not more than two products of the participating company, including a brief narrated introduction and a close with thematic music.

8. Display the VTR, supported by the participating company's catalogs, at a Video Catalog Exhibition (VCE) in a country or countries determined by the Department.

9. Explore opportunities to utilize the VTR in other markets. If such opportunities are found, the Participant will be contacted to obtain its approval for participation. Some opportunities may require no further funding; others might involve charges for language translation, an Industry Technical Representative, or other items. The Participant is under no obligation to participate in any presentations except those referred to in item 8 above, which is covered by the *current* contribution.

D. The Participant Agrees To—

1. Make a financial contribution to the U.S. Department of Commerce in an amount to be established for each Exhibition for use in funding all services provided to the Participant, including market development, operating and hospitality costs of the Mission, and other international trade promotion activities. Contribution of VCE participants will also cover costs of VTR production. A signed Participation Agreement (Form ITA 4008) is to be submitted with the contribution.

2. Reply promptly to any business inquiries generated by participation.

3. Furnish the required number of catalogs and other requested information on exhibitor's firm, its products and participation objectives.

4. Ship catalogs and sales literature according to shipping and marketing instructions furnished by the Department.

5. When requested by the Department, contribute information on sales results and agency agreements concluded or under negotiation. If the Participant requests particular information to be treated confidentially, the Department will honor the request to the extent possible under applicable law.

6. *Video Catalog Exhibition Participants Only*—In the event a VTR is produced live at a trade exhibition in the United States, provide a suitable person or persons to demonstrate the selected piece(s) of equipment at a time designated by the Department.

E. Other Conditions

1. The Department assumes no liability for any damage or loss resulting from or related to the failure of the Participant to comply with the provisions of these Conditions of Participation. If the exhibition is cancelled or rescheduled, or the Participant's materials do not arrive in time for production of the VTR, or the exhibitor's literature does not arrive overseas in time for display, the Participant waives all claims for liability against the U.S. Government for damages or loss to the Participant.

2. While the Department will make every effort to select reliable contractors for services such as VTR production, translation, construction, promotion, and printing, the Participant waives any claim against the U.S. Government for the acts of any contractor.

3. If, for any reason, the Participant cancels its participation, its full financial contribution *will not be refunded unless:*

Catalog Exhibition Only—written notice of cancellation is received by the Department at least 21 days before the date of the event.

Video Catalog Exhibition Only—written notice of cancellation is received by the Department prior to the production of the Participant's segment of the VTR. If a cancellation is received after a Participant's VTR has been produced, the Participant will be given a

copy of its VTR, but no refund will be made.

4. The U.S. Department of Commerce may cancel an exhibition or the participation of any company for the convenience of the Government. In the event such a cancellation occurs:

Catalog Exhibitors Only—Any contribution made by the Participant will be refunded.

Video Catalog Exhibition Only—In the event such a cancellation occurs *prior* to the production of the VTR, any contribution made by the Participant will be refunded. *If the VTR has already been produced,* the Particpant will be provided with a copy of its VTR, and that part of the Participant's contribution that would have been used for the exhibition and promotion will be refunded.

5. All applications for participation in the Exhibition are subject to approval by the Department.

6. While the Department will make every effort to facilitate a successful Exhibition, it is understood and agreed that the Department does not guarantee in any way the success of the Exhibitor or the sales efforts of any Participant. The only contractual obligations the Department assumes are those expressly made herein or mutually agreed to an amendment in writing.

Official Issuance Date: June 1, 1983.

Brenda L. Ebeling,

Acting Director, Office of Event Management and Support Services.

[FR Doc. 83-14864 Filed 6-2-83; 8:45 am]

BILLING CODE 3510-25-M

federal register

Friday
June 3, 1983

Part X

Department of Health and Human Services

Food and Drug Administration

Memorandum of Understanding With the Animal and Plant Health Inspection Service and the National Institutes of Health; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225-83-8400]

Memorandum of Understanding With the Animal and Plant Health Inspection Service and The National Institutes of Health

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Animal and Plant Health Inspection Service and the National Institutes of Health. The purpose of the agreement is to maintain and enhance agency effectiveness while avoiding duplication of efforts to achieve required standards for the care and use of laboratory animals. The agreement sets forth procedures of reciprocal cooperation which will assist each agency in meeting its responsibilities in promoting proper laboratory animal care and welfare.

EFFECTIVE DATE: The agreement was effective April 11, 1983.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fisher Lane, Rockville, MD 20857, 301-443-1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

MEMORANDUM OF UNDERSTANDING

AMONG

THE ANIMAL AND PLANT HEALTH INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, AND

THE FOOD AND DRUG ADMINISTRATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND

THE NATIONAL INSTITUTES OF HEALTH, U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,

RELATING TO LABORATORY ANIMAL CARE AND WELFARE

I. Purpose

The participating agencies share a common concern for the care and welfare of laboratory animals used in research and testing. This agreement sets forth procedures of reciprocal cooperation which will assist each agency in meeting its responsibilities in promoting proper laboratory animal care and welfare. Implementation of this agreement is intended to maintain and enhance agency effectiveness while avoiding duplicaton of efforts to achieve required standards for the care and use of laboratory animals.

II. Background

The Animal and Plant Health Inspection Service, USDA

Each participating agency operates under its own authority for fostering proper animal care and welfare procedure. Primary responsibility is assigned to the U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) as specified in the Animal Welfare Act and its implementing regulations (9 CFR Parts 1, 2 and 3). The USDA regulations establish standards for the humane treatment of laboratory animals and a registration procedure for identifying institutions that breed, sell, transport, hold and use such animals. Adherence to these standards is achieved primarily through voluntary compliance, although formal regulatory actions may be taken in cases of flagrant and serious noncompliance. These actions may range from the confiscation of suffering animals to the issuance of "cease and desist" orders. Compliance with the USDA regulations is monitored by an active inspection program that provides for periodic inspections by veterinary medical officers or suitably trained paraprofessionals.

Food and Drug Administration, HHS

The Food and Drug Administration (FDA) is also involved in ensuring proper procedures for the care and use of laboratory animals. The source statute is the Federal Food, Drug, and Cosmetic Act as implemented by the Good Laboratory Practice Regulations (21 CFR Part 58). These regulations establish standards for the proper conduct of nonclinical laboratory studies that include animals. Adherence to the regulations sought through voluntary compliance has been found to be effective in a majority of cases. Serious noncompliance is dealt with by procedures ranging from study rejection to laboratory disqualification. Compliance is assessed through an active program of periodic inspections carried out by trained field inspectors.

National Institutes of Health, HHS

The National Institutes of Health (NIH) implements the Animal Welfare Policy of the Public Health Service (PHS Manual Chapter 1-43 and NIH Manual Issuance 4206 and 6000-3-4.58).

Each institution which receives PHS support for research involving warm blooded laboratory animals is required to submit an acceptable assurance to NIH which commits the institution to actively promote compliance with 12 basic principles for humane care and use of laboratory animals, and with the recommendations set forth in the *Guide for the Care and Use of Laboratory Animals*. Compliance is achieved by means of (a) Review and approval of assurances; (b) site visits to institutions in response to allegations of noncompliance; (c) a program of randomly selected site visits to institutions which utilize laboratory animals—for purposes of gathering information and promoting education; and (d) a nationwide education program relating to the care and use of laboratory animals.

In addition, where NIH scientific review groups conduct on-site visits to institutions to review proposed or on-going research projects, they are encouraged to evaluate the adequacy of the care and use of laboratory animals. Finally, all scientific review groups that review research applications for scientific merit are expected to evaluate projects for compliance with the principles stated in the NIH policy when the use of laboratory animals is proposed. Clarification of responsibilities and procedures at both the institutional and NIH levels has been set fourth by the Extramural Program Management Committee Task Force 2 on Laboratory Animals. Voluntary correction of unacceptable practices is the preferred method of achieving adherence to the policy, but possible sanctions for continued noncompliance range from the suspension or termination of support of a specific project or projects of an individual investigator to withdrawal of approval of the institution's assurance, without which the institution is ineligible to receive support for research involving laboratory animals.

Shared Concerns

Although there are necessary operational differences among the animal welfare programs of the cooperating agencies, it is clear that the agencies share a concern for the care and use of laboratory animals. Common program features include evidence of concern for the welfare of laboratory animals, the promulgation and application of established standards or policies related to animal care, the maintenance of a registry/inventory of institutions and facilities subject to agency policies and regulations, the periodic conduct of routine and directed inspections or site visits, the actions designed to promote voluntary compliance, and the authority to apply a range of sanctions when the need arises.

Interagency cooperation as to common efforts provides an excellent opportunity to achieve program benefits and facilitates program operations. By sharing a perspective on acceptable standards of laboratory animal care, the agencies present a consistent approach to the regulated entities intended to foster positive compliance attitudes.

III. Substance of Agreement

The participating agencies agree to share information of mutual concern and interest about animal care and welfare programs. To facilitate the implementation of this agreement, the cooperating agencies each agree to designate a liaison officer to serve on a standing committee that will meet at a frequency of no less than once per year. Matters for consideration are to include a review of each agency's participation in this agreement and an assessment of progress made so that necessary modifications can be made. As appropriate, the committee will also function to deal with urgent issues and specific cases of serious noncompliance.

Specifically, the participating agencies agree to:

(1) Share information contained in the registry/inventory/listing of establishments that fall under the purview of the cooperating agencies;

(2) Send to one another, each quarter, a listing of establishments that have been inspected or site visited. This listing is to be used in order to avoid redundant evaluations of the same entities;

(3) Provide to each other information on significant adverse findings concerning animal care and welfare revealed by insections or site visits and on followup actions taken;

(4) Inform each other of evidence of serious noncompliance with required standards or policies for care and use of laboratory animals (including defective assurances of compliance with PHS policies) in establishments that fall under the auhority of the cooperating agencies;

(5) Request from each other comments and advice on regulatory or policy proposals involving animal care and welfare under consideration by any of the cooperating agencies; and

(6) Provide each other resource persons for scientific seminars, speeches and workshops related to animal care

IV. Liaison Officers

For the Animal and Plant Health Inspection Service:
Chief Staff Veterinarian, currently Arnett Matchett, D.V.M., M.S.
Animal and Plant Health Inspection Service
U.S. Department of Agriculture, 6505 Belcrest Road, Hyattsville, Maryland 20782 301–436–7835

For the Food and Drug Administration:
Staff Scientist, currently Paul D. Lepore, Ph.D.
Bioresearch Monitoring Staff, Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–2390.

For the National Institutes of Health:
Director, currently Charles R. McCarthy, Ph.D.
Office for Protection from Research Risks, OD
Westwood Building, Room 3A18 (after February 1983 Building 31, Room 4B09
National Institutes of Health, Bethesda, Maryland 20205, 301–496–7005.

V. Period of Agreement

This agreement becomes effective on the date of last signature and continues indefinitely. It may be modified by mutual written consent of the three parties. The agreement may be terminated by any party upon a ninety (90) day advance written notice to the other parties.

VI. Authorizing Officials

For the Animal and Plant Health Inspection Service: James O. Lee, Jr., B.S., Acting Administrator.

For the Food and Drug Administration: Arthur H. Hayes, Jr., M.D. Commissioner.

For the National Institutes of Health: James B. Wyngaarden, M.D., Director.

Approved and accepted for the Animal and Plant Health Inspection Service, U.S. Department of Agriculture:

By: James O. Lee, Jr., M.S.
Title: Acting Administrator, APHIS
Date: April 11, 1983

Approved and accepted for the Food and Drug Administration, U.S. Department of Health and Human Services

By: Arthur Hull Hayes, Jr., M.D.
Title: Commissioner of Food and Drugs
Date: March 22, 1983

Approved and accepted for the National Institutes of Health, U.S. Department of Health and Human Services:

By: James B. Wyngaarden, M.D.
Title: Director, NIH
Date: February 3, 1983

Effective date. This memorandum of understanding became effective April 11, 1983.

Dated: May 17, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs

[FR Doc. 83-14696 Filed 6-2-83; 8:45 am]
BILLING CODE 4160-01-M

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Federal Register

Vol. 48, No. 108

Friday, June 3, 1983

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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
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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.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing June 1, 1983

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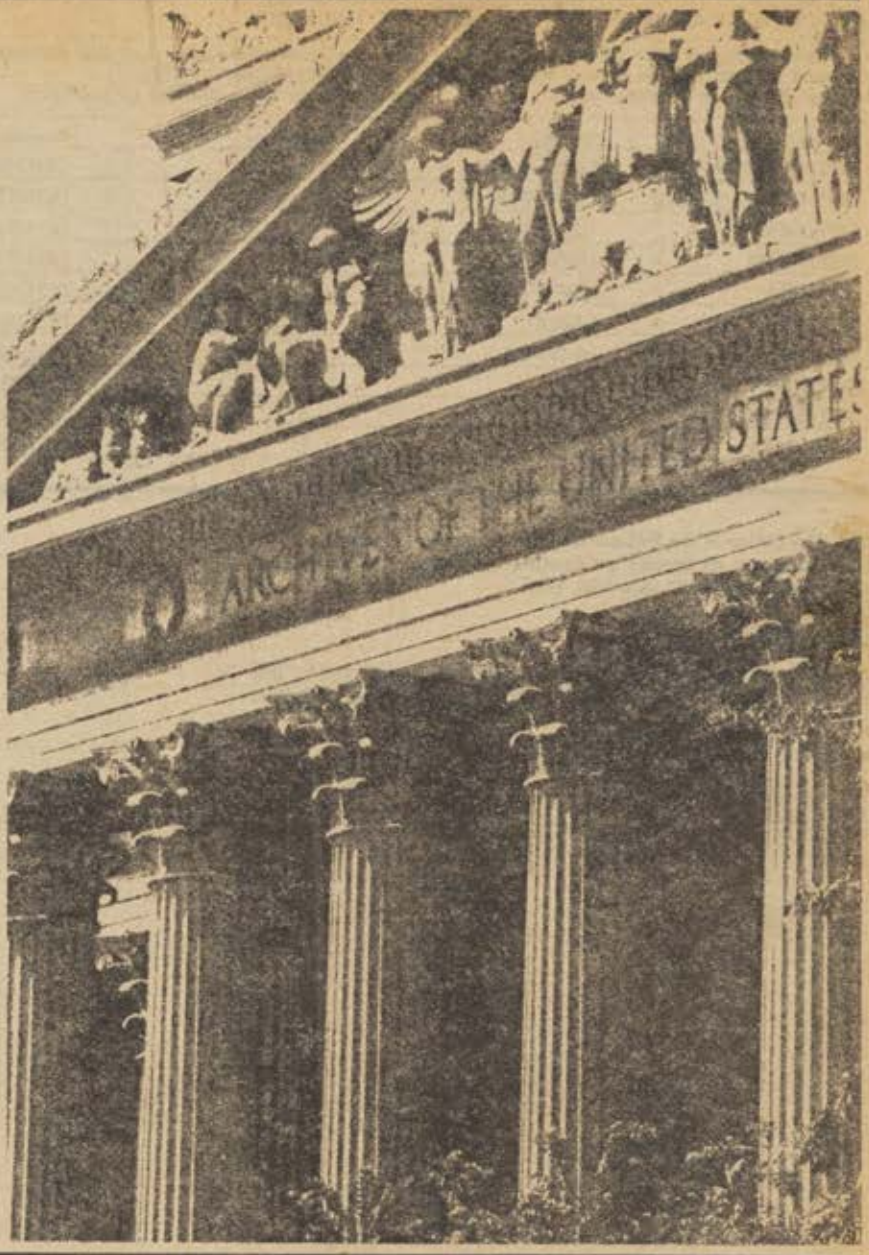
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