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6-17-83
Vol. 48 No. 118
Pages 27715-28068

Federal Register

Friday
June 17, 1983

Selected Subjects

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Federal Emergency Management Agency

Animal Drugs
Food and Drug Administration

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Agriculture Department

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Consumer Product Safety Commission

Customs Duties and Inspection
Customs Service

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Food and Nutrition Service

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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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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegations of Authority by the Secretary of Agriculture and General Officers of the Department; Protection of Farmland

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority of the Department of Agriculture to assign responsibilities for implementing section 1544 of the Farmland Protection Policy Act.

EFFECTIVE DATE: June 17, 1983.

FOR FURTHER INFORMATION CONTACT: Howard D. Tankersley, Director, Land Use Staff, Soil Conservation Service, Room 6117 South Building, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202) 382-1855.

SUPPLEMENTARY INFORMATION: The Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq.*, established a national policy to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to non-agricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with State, unit of local government, and private programs and policies to protect farmland.

USDA is designated as the agency primarily responsible for implementing the national policy. The Secretary has delegated the authority for implementing the Act to the Assistant Secretary for Natural Resources and Environment, who in turn has redelegated it to Chief of the Soil Conservation Service. However, implementation of section 1544 of the Act (7 U.S.C. 4205), is a more appropriate function of the Assistant Secretary for Science and Education. Therefore, the authority for implementation of section 1544 is being delegated to the Assistant Secretary for Science and Education and redelegated to the Administrator of the Extension Service and the Director of the National Agricultural Library.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.19 is amended by revising paragraph (f)(2) to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.

* * * * *

(f) * * *

(2) Evaluate and coordinate land use policy and administer responsibilities and functions assigned under the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*), except as otherwise delegated to the Assistant Secretary for Science and Education in § 2.30(a)(75).

* * * * *

3. Section 2.30 is amended by adding a new paragraph (a)(75) to read as follows:

§ 2.30 Delegations of authority to the Assistant Secretary for Science and Education.

* * * * *

(a) * * *

(75) design, implement, and distribute in cooperation with the cooperative extension services of the States, educational programs and materials emphasizing the importance of productive farmland, and designate a farmland information center, pursuant to section 1544 of the Farmland Protection Policy Act (7 U.S.C. 4205).

* * * * *

Subpart G—Delegations of Authority by the Assistant Secretary for Natural Resources and Environment

4. Section 2.62 is amended by revising paragraph (a)(2) to read as follows:

§ 2.62 Chief, Soil Conservation Service.

(a) * * *

(2) Participate in evaluating and coordinating land use policy and provide national leadership in implementing the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*), except as otherwise delegated to the Administrator, Extension Service in § 2.108(a)(22), and the Director, National Agricultural Library in § 2.109(a)(15).

* * * * *

5. The heading for Subpart N is revised to read as follows:

Subpart N—Delegations of Authority by the Assistant Secretary for Science and Education

6. Section 2.108 is amended by adding a new paragraph (a)(22) to read as follows:

§ 2.108 Administrator, Extension Service.

(a) * * *

(22) Design, implement, and distribute in cooperation with the cooperative extension services of the States, educational programs and materials emphasizing the importance of

productive farmland pursuant to section 1544(a) of the Farmland Protection Policy Act (7 U.S.C. 4205(a)).

7. Section 2.109 is amended by adding a new paragraph (a)(15) to read as follows:

§ 2.109 Director, National Agricultural Library.

(a) * * *

(15) Administer the National Agricultural Library to include the farmland information center pursuant to section 1544(b) of the Farmland Protection Policy Act (7 U.S.C. 4205(b)).

For Subpart C.

Dated: June 6, 1983.

John R. Block,

Secretary of Agriculture.

For Subpart G.

Dated: June 6, 1983.

John B. Crowell, Jr.,

Assistant Secretary for Natural Resources and Environment.

For Subpart N.

Dated: June 6, 1983.

Orville G. Bentley,

Assistant Secretary for Science and Education

[FR Doc. 83-16323 Filed 6-16-83; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 416; Lemon Reg. 415, Amt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period June 19–25, 1983, and increases the quantity of lemons that may be shipped during the period June 12–18, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective June 19, 1983, and the amendment is effective for the period June 12–18, 1983.

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

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

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the 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 June 14, 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 weeks. The committee reports the demand for lemons continues very active.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are 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 at an open meeting, and the amendment relieves restrictions on the handling of lemons. 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]

1. Section 910.716 is added as follows:

§ 910.716 Lemon regulation 416.

The quantity of lemons grown in California and Arizona which may be handled during the period June 19, 1983, through June 25, 1983, is established at 350,000 cartons.

2. Section 910.715 Lemon Regulation 415 (48 FR 26757) is revised to read as follows:

§ 910.715 Lemon regulation 415.

The quantity of lemons grown in California and Arizona which may be handled during the period June 12, 1983, through June 18, 1983, is established at 355,000 cartons.

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

Dated: June 16, 1983.

D. S. Kuryloski,

Deputy Director Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-16518 Filed 6-16-83; 1:26 pm]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 250

National Commodity Processing System for Processing USDA Donated Foods

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations of the Food Distribution Program (7 CFR Parts 250 and 251) by establishing additional authority and procedures for offering manufactured food items to eligible recipient agencies at a substantially reduced price. This process is designated "The National Commodity Processing (NCP) System." Regulations exist for processors to convert commodities into various end products under processing agreements with State distributing agencies, subdistributing agencies and recipient agencies. This interim rule permits the Food and Nutrition Service (FNS) to enter directly into processing agreements with processors to convert commodities specifically designated by the Secretary of Agriculture into various end products desired by recipient agencies. Under these agreements processors are permitted to market such end products nationwide to any recipient agency eligible to receive the specified commodity used as an ingredient. By establishing the NCP System, the Department will increase the number of eligible recipient agencies receiving the benefits of commodity

assistance through processing agreements. Quantities of food items available for the NCP System will be specified by the Secretary of Agriculture.

DATES: To be assured of consideration, comments must be received by September 15, 1983. This rule is effective July 18, 1983.

ADDRESS: Comments should be sent to: Gwena Kay Tibbits, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302. Comments in response to these rules may be inspected at 3101 Park Center Drive, Room 506, Alexandria, Virginia during normal business hours (8:30 a.m. to 5:00 p.m., Mondays through Fridays).

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Administration Branch (703) 756-3660.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this interim final rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Classification

FNS has determined that this action meets none of the criteria listed in the definition of "major rule" in Executive Order 12291. The anticipated effect of these interim amendments will be that schools, institutions and any other outlets eligible to receive donated foods can receive additional and more varied end products costing less than equivalent commercial products. The amendments will result in increased processing activities, thereby enhancing competition, employment, innovation and productivity.

This action has also been reviewed with regard to the requirements of Pub. L. 96-354. Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this rule will not have a significant economic impact on a substantial number of small entities. This action will increase the availability of USDA commodities to eligible recipient agencies. The eligible recipient agencies include all outlets eligible for commodities under Pub. L. 98-8.

For reasons set forth above, and in response to the Congressional directive to encourage processing agreements contained in Title II of Pub. L. 98-8, it has been determined that public prior comment on the new program is contrary to the public interest. Therefore, this regulation is being issued as an interim regulation. However, because the Department believes that the program may be improved as a result of comments by the public, a 90 day period for the receipt of comments is being provided.

Background

7 CFR Part 250, "Donation of Foods for Use in the United States, Its Territories and Possessions and Areas Under Its Jurisdiction," provides for the donation and distribution of commodities to eligible recipient agencies under several different statutes, incuding provisions of Section 416 of the Agriculture Act of 1949, as amended. Under this part, a distribution program is administered by FNS. FNS enters into agreements with State agencies for the distribution of donated foods to eligible recipient agencies and recipients. Among the functions which may be performed by State agencies is that of arranging with private industry for the processing of donated foods received from the Department. FNS has encouraged State agencies to participate in processing activities and has provided technical assistance to the agencies to assure that processing activities are conducted in a manner which will maintain maximum accountability for the donated foods.

The Secretary, under his discretionary authority, has directed FNS to implement a national commodity processing agreement program. These regulations introduce an independent distribution alternative which relies on private industry for the development of systems for the distribution of end products containing designated USDA surplus commodities to eligible recipient agencies. In accordance with Title II of Public Law 98-8, this program will encourage the consumption of designated donated foods by making them available to all eligible outlets in further processed forms through NCP agreements. This is in addition to the processing program currently administered by State agencies. It is not the intent of FNS to replace State processing agreements.

Purpose of the National Commodity Processing (NCP) System

The NCP System establishes additional authority and procedures for the conversion of some USDA donated foods (commodities) into various end products by commercial facilities (processors). These regulations permit FNS to enter directly into processing agreements with processors to convert commodities designated by the Secretary into various end products desired by recipient agencies. Under these agreements processors are permitted to market such end products nationwide to any recipient agency eligible to receive the donated ingredient. By establishing the NCP System, the Department increases the number of recipient agencies receiving the benefits of commodity assistance through processing agreements.

Operation of the Program

The distribution of surplus commodities will be performed by transfer of title to the commodities from the Commodity Credit Corporation (CCC) to FNS and shipment of the commodities to participating food processors. FNS is designated as the distributing agency. FNS will enter into agreements with food processors who process the commodities and distribute the end products to eligible recipient agencies. FNS will furnish each State agency with a supply of data information cards with a request that it provides one to each known eligible recipient agency in the State. Recipient agencies will be asked to complete the information card and submit it to FNS. FNS will make available to food processors its most recent listing of eligible recipient agencies that submitted in information card. This enables processors to communicate with such institutions in an effort to develop a market for their processed goods. Processors will be charged a fee for the listing which is commensurate with the Department's policy on user fees.

The Secretary will designate those commodities which will be eligible for distribution under the NCP System. Commodities so designated will be transferred from CCC to FNS upon the request of FNS for specific amounts of such commodities. FNS will request such transfer of commodities only when it has received and approved requests from eligible private businesses for the delivery of specified quantities along with proof of marketability (e.g., copies of written "intent to purchase" from recipient agencies). The Department will pay costs for delivering the commodities to any appropriate location in the United States for use by the recipient processor. The title to these commodities transfers to FNS upon their acceptance by the processor, and remains with FNS until the finished product is accepted by an eligible recipient agency.

Processors will be considered to be agents of FNS for the purposes of this program. Processors must apply for and receive approval from FNS in order to participate in the program. Any food processor who can manufacture commodities into a finished product is

eligible to apply for approval. FNS expects to accept or reject such applications on the basis of factors such as financial responsibility, the ability of the applicant to meet the requirements of the regulations and its agreement with FNS, the ability of the applicant to distribute processed products to eligible recipient agencies, and a satisfactory record of integrity, business ethics and performance.

Food processors may request any reasonable quantity of any eligible commodity for which there are copies of a written intent to purchase from eligible recipient agencies be placed with them for processing and distribution to eligible recipient agencies. Processors may substitute commercially purchased foods of equal or better grade which they acquire on the open market for donated foods. However, they are prohibited from disposing of any donated commodities directly in commercial channels. Food processors are required to keep adequate records of their activities in order to show at all times the status of the donated commodities they have received. Processors are also required to submit monthly reports of the receipt and disposition of donated commodities not more than 30 days after the end of each month and to provide a bond or an irrevocable letter of credit to assure performance. Processors may distribute the processed commodities either directly or through local distributors to eligible recipient agencies. The processor is, however, responsible for insuring that the appropriate quantity of the donated commodity reaches eligible recipient agencies in processed form.

The Secretary, under his discretionary authority, has decided to operate this Program only for the period of time commencing with the effective date of these regulations through June 30, 1985. At that time the necessity and effectiveness of the Program will be assessed to determine feasibility for its renewal. However, this program is viewed as ending June 30, 1985. A provision to settle processor inventory accounts at that time is contained in the agreement.

Yield Factors

The Department believes that it is necessary to establish a 100 percent yield factor which processors must meet for the NCP System. A yield factor is that percentage of a donated commodity which must be contained in the processed product for the processor to meet its responsibilities under this program. It is necessary to do this in order to set an equitable standard of performance so as to insure that no food processor enjoys unjust enrichment as a result of involvement in this program. Although yield factors can vary by commodity and processed end product, a 100 percent yield return will be requested for any agreement between FNS and a processor. A 100 percent yield factor is defined in such a way that if, for example, 100 pounds of cheddar cheese are delivered to a food processor, 100 pounds of cheddar cheese must appear in the processed end product.

In an effort to maintain consistency between the State processing program and the NCP System, the Department will be soliciting comments on requiring 100 percent yield factors for the State processing program.

Method of Computing Price To Be Paid by Eligible Recipient Agencies

The agreement between FNS and a processor will establish the method of computing the price to be paid by eligible recipient agencies for a particular processed product. With respect to commodity products, FNS proposes to require the processor to either (1) reduce the market price of a processed end product purchased by an eligible recipient agency by the value of the donated commodity contained in the product, or (2) refund to the recipient agency the value of the donated commodity contained in the end product. The value of the donated commodity contained in the end product will be computed by multiplying the pounds of donated commodity contained in a case of end product by the per pound value of the donated commodity at the time of sale to the eligible recipient. The per pound value of the donated commodity products will be established by FNS at the beginning of each federal fiscal year and will reflect the price support lelvel for that year and the price at which CCC has announced it will purchase that commodity product under the price support program.

This value will change during the fiscal year only if there are significant changes in the price support level or the purchase price for commodity products under the price support program. When appropriate, agreements with processors will provide for adjustment of established value of donated commodity products to reflect the CCC cost of delivery.

The value of the donated food may appear as a credit on the billing invoice, as a reduction in the normal product price, or be paid as a refund. Other methods may also be utilized with the approval of FNS. Processors will be required to maintain billing invoices, cancelled checks and other documentation of paid refunds, and any other such records to substantiate that the value of donated commodities or substituted commercial products contained in the end product was received as a discount or refund by the eligible recipient agencies.

Termination of Processing Agreements

The agreement will establish the manner in which it will be terminated. When agreements are terminated at the request of the processor, or at FNS's request, because there has been noncompliance on the part of the processor with the terms or conditions of the agreement, or if any right of FNS is threatened or jeopardized by the processor, the processor must pay FNS an amount equal to the CCC unrestricted sales price, the cost to CCC of replacement on the date the agreement is terminated, or the value of the commodities as set forth in the agreement, whichever is highest, for the inventory, plus any expenses incurred by FNS.

When agreements are terminated at FNS's request where there has been no fault or negligence on the part of the processor, the processor must pay FNS an amount equal to the CCC unrestricted sales price, the cost to CCC of replacement on the the date the agreement is terminated, or the value of the commodities as set forth in the agreement, whichever is highest, for the inventory, unless FNS and the processor mutually agree on another value.

Pricing Factors

The agreement must establish the method by which the processor would sell end products to recipient agencies. When recipient agencies are to purchase end products directly from the processor, the agreement must include the processor's established free on board (F.O.B.) plant price schedule for quantity purchases of specified units of end products and a written assurance that the price of each unit of end product purchased by eligible recipient agencies will be discounted by the stated value of the donated foods contained therein or that a refund equal to the value of the donated foods will be paid to the recipient agency upon proof of purchase by such eligible recipient agency.

When a processor transfers end products to one or more distributors for distribution to recipient agencies, such distribution may be under either a discount or refund system. FNS may permit the use of any other system under which the NCP processor can demonstrate and ensure proper

accountability, provided that such NCP processor has received written approval from FNS for using the system prior to its implementation.

When end products are sold to recipient agencies under a refund system, the processor should encourage the recipient agencies to submit refund applications provided to them by such processor within 30 days of receipt of the processed end products. In no event may such applications be submitted by schools or other recipient agencies later than 60 days after the agreement termination date. The recipient agency must forward the completed refund application directly to the processor.

Not later than 30 days after receipt of the refund application by the processor, the processor would make a payment to the recipient agency equal to the stated value of the donated food contained in the purchased end products covered by the application.

Under the refund system, inventory reductions would be made by the NCP processor only after payment of the refund to the eligible recipient agency has been made and documented.

When end products are sold to recipient agencies through a distributor under a system utilizing a discount, processors would invoice the recipient agencies directly for the end products purchased. The distributor would bill the recipient agency for the storage, materials handling and delivery of the end products. The processor would maintain delivery and billing invoices to substantiate the quantity of end product delivered and the net case price to be charged.

Maintenance of Records

For commodity products, the regulations require participating processors to maintain complete and accurate records of the receipt, disposal and inventory of donated foods including end products processed from donated foods. If the value of the donated commodity products is other than the FNS established value, the processor must maintain copies of invoices to substantiate the value used for agreement purposes. Processors are also required to keep formulae, recipes, daily or batch production records, loadout sheets, bills of lading, and other processing and shipping records to substantiate the use of the donated foods and their subsequent redelivery to an eligible recipient agency.

The processor must document that sales reported on the monthly performance reports were made only to eligible recipient agencies and that the normal price of the product was reduced or a refund payment made for the agreed amount established by the agreement.

All pertinent records must be made available for inspection and review upon request by FNS, its representatives and the General Accounting Office (GAO). All records must be retained for a period of three years from the close of the Federal fiscal year to which they pertain. Longer retention may be required for resolution of an audit or of any litigation.

Inventory Levels

FNS is responsible for monitoring inventories of commodities of NCP System processors to ensure that the quantity of commodities for which the processors is accountable is an acceptable cost-efficient level. In no event will FNS allow more than a six-month supply based on the processor's average monthly usage, unless a higher level had been specifically approved by FNS on the basis of a written justification or proof of marketability submitted by the processor.

Applicability of Current Provisions

Many of the current provisions of 7 CFR Part 250 will be applicable to NCP System food processors. To the extent that the current provisions are applicable, the new § 250.16 references them.

List of Subjects in 7 CFR Part 250

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs—social programs, Infants and children, Price support programs, Reporting requirements, School breakfast and lunch programs, Surplus agricultural commodities.

PART 250—FOOD DISTRIBUTION PROGRAM

Accordingly, Part 250 of the regulations is amended as follows:

1. In § 250.3, the definition of "Distributing agencies" is revised to read as follows:

§ 250.3 Definitions.

* * * * *

"Distributing agencies" means State, Federal or private agencies which enter into agreements with the Department for the distribution of donated foods to eligible recipient agencies and recipients, and the Food and Nutrition Service of the Department when it accepts title to commodities from the Commodity Credit Corporation (CCC) for distribution to eligible recipient agencies pursuant to the National Commodity Processing System. A distributing agency may also be a recipient agency.

* * * * *

§ 250.15 [Amended]

2. The heading of § 250.15 is revised to read State Processing of Donated Foods.

3. A new § 250.16 is added to read as follows:

§ 250.16 National Commodity Processing (NCP) System.

(a) *Purpose.*—This section provides a program under which the Food and Nutrition Service (FNS) and private processors of food may enter into agreements under which the processor will process and distribute designated surplus agricultural commodities to eligible recipient agencies. The intent of the program is to encourage private industry, acting in cooperation with FNS, to develop new markets in which surplus agricultural commodities may be utilized. It is expected that the processors will use their marketing abilities to encourage eligible recipient agencies to participate in the program. There are set forth in this section the terms and conditions under which FNS may enter into agreements with commercial facilities for processing commodities designated by the Secretary of Agriculture. Minimum requirements to be included in such agreements, as well as other requirements which NCP processors must meet, are also prescribed.

(b) *Applicability of Other Sections.*—The following sections or portions of this Part 250 and Part 251 are applicable to the NCP System and must be followed by NCP processors:

(1) Section 250.1 *General Purpose and Scope;*

(2) Section 250.2 *Administration;*

(3) Section 250.3 *Definitions,* to the extent they are not inconsistent with the purposes of this NCP System program;

(4) Section 250.8 *Eligible Recipient Agencies.* All eligible recipient agencies listed in this part may participate in the NCP System program to the extent of their eligibility to receive the foods involved in the NCP System.

(5) Section 251.3 *Definitions.* All additional eligible recipient agencies listed in this part are eligible to participate in the NCP System program to the extent of their eligibility to receive the donated foods designated by the Secretary.

(c) *Role of FNS.*—FNS shall act as the distributing agency under the NCP System for the distribution of surplus agricultural commodities to participating processors. Upon the request of FNS, CCC shall transfer specified amounts of

commodities. FNS shall request the transfer of title of such commodities in quantities which are sufficient to meet the proven needs of NCP System processors. The title to these commodities shall transfer to FNS upon their acceptance by the processor. FNS shall retain title to such commodities until they—

(1) Are distributed to eligible recipient agencies in processed form at which time the recipient agency shall take title;

(2) Are disposed of because they are damaged or out-of-condition or,

(3) Title is transferred to a NCP System processor upon termination of the agreement.

(d) *Application by Processors to Participate.*—Food processors are eligible to apply for participation in the NCP System. Such applications may be filed with FNS at any time on an FNS-approved form. FNS will accept or reject the application of each individual food processor within 30 days from the date of receipt thereof, except that FNS may at its discretion extend such period for approval if it needs more information in order to make its determination. In determining whether to accept or reject an application, FNS shall take into consideration at least the following matters: the financial responsibility of the applicant; the ability of the applicant to meet the terms and conditions of the regulations and the agreement which it must enter into with FNS; the ability of the applicant to distribute processed products to eligible recipient agencies; and a satisfactory record of integrity, business ethics and performance.

(e) *Agreement Arrangements Between FNS and Participating Food Processors.*—(1) Upon its approval of an application for participation in the NCP System, FNS shall enter into an agreement with the applicant food processor. This agreement will have a termination date of the last day of June which next occurs regardless of when the agreement is entered. All agreements under the NCP Program will terminate on June 30, 1985, as the operation of the Program expires on that date.

(2) The agreement shall include at least the following:

(i) A description of each end product to be processed and the quantities of each donated commodity and other ingredients which are needed to yield a specific number of units of each end product. The Administrator of FNS may waive the requirement to list other ingredients upon written request and justification from the processor.

(ii) The value per pound of each donated food to be processed as determined by FNS.

(iii) The method by which the processor will establish the price to be charged to eligible recipient agencies for processed products. The stated method must insure that the price of the processed product is reduced by the value of the donated commodity contained in the product.

(iv) The method by which the processor will sell processed products to recipient agencies. If the method chosen by a processor allows recipient agencies to purchase directly from the processor, the agreement must include the processor's free on board (F.O.B.) plant price schedule for quantity purchases of processed products.

(v) Provisions that the processor shall fully account for all donated foods delivered into its possession and shall furnish to FNS prior to the delivery of any donated foods for processing, a performance bond or an irrevocable letter of credit in an amount acceptable to FNS and proof of marketability in the form of a written intent to purchase from recipient agencies for various end products.

(vi) Yield factor specifying that 100 percent of the donated commodities must be returned in the processed end products distributed to eligible recipient agencies.

(vii) Provisions that the processor may substitute for donated commodities like quantities of commercial foods of equal or better quality, if FNS determines that such substitution is appropriate and provided that the substitution is not made solely for the purpose of selling or disposing of the donated commodity in commercial channels for profit. Also, the processor must demonstrate to the satisfaction of FNS that he continues to acquire, on the commercial market, amounts of substitutable products consistent with the level of his non-NCP production.

(viii) Provisions for the disposition of damaged or out-of-condition commodities.

(ix) Provisions for a system of records to be maintained by the food processor and monthly reports to be submitted to FNS by the processor. Such records shall be maintained and reports submitted with respect to, but not limited to, the receipt, disposal, and inventory of donated commodities, to include instances when commercial foods have been substituted for donated commodities.

(x) A provision that FNS may request Federal acceptance service grading and review of processing activities and that the processor will be bound by the terms and conditions with respect thereto.

(xi) A provision that the processor will indemnify and save FNS and the recipient agency free and harmless from any claims, damages, judgments, expenses, attorney's fees, and compensation arising out of physical injury, death, and/or property damage sustained or alleged to have been sustained in whole or in part by any and all persons whatsoever as a result of or arising out of any act or omission of the processor, his/her agents or employees, or caused or resulting from any deleterious substance, including bacteria, in any of the products produced from donated commodities.

(xii) A provision establishing the manner in which either party may terminate the agreement prior to the expiration date, and a provision requiring payment for commodities which have not been distributed to recipient agencies at the time of such termination shall be made by the food processor to FNS in accordance with the terms of the agreement.

(xiii) A statement that the food processor agrees to comply fully with the provisions of the agreement and all relevant Federal regulations.

(xiv) A provision that title to the donated commodities shall pass to FNS upon acceptance by the processor and that title to the donated commodities will remain with FNS until the processed end products are actually delivered to eligible agencies and accounted for by the processor in the monthly performance report.

(f) *Operation of the Program.*—(1) When NCP System processors request from FNS surplus agricultural commodities, FNS shall determine whether the quantities ordered are consistent with processor's submitted proof of marketability and its evaluation of the ability of the participating food processor to carry out the purposes of the NCP System program. If it determines the quantities are appropriate, FNS shall request from CCC appropriate quantities of the commodity for transfer of title to FNS and delivery to a mutually agreed upon location to be used by the NCP System processor. The processor, upon receipt of the commodity, may with FNS approval substitute such commodity with stocks of equal or better quality purchased on the open market but must at all times keep adequate records of the receipt and disposition of the donated commodities. The food processor shall act as the agent of FNS for the purpose of processing and distributing to eligible recipient agencies an end product derived from the commodities it receives.

(2) The food processor may sell to eligible recipient agencies, directly or

otherwise, processed products utilizing the donated commodities, in accordance with these regulations and the agreement between FNS and the processor.

(g) *Inventory controls.*—FNS shall monitor the inventory of each food processor to ensure that the quantity of donated commodities for which a processor is accountable is at the lowest cost-efficient level. In no event shall a processor hold in inventory more than a six-month supply based on its average monthly usage in this program, unless a higher level has been specifically approved by FNS on the basis of a written justification submitted by the processor or proof of marketability. Under no circumstances should the amount of commodities requested by the processor be more than the processor's ability to accept and store at any one time. FNS shall make no further distribution to a processor whose inventory exceeds these limits until such time as the inventory is reduced.

(h) *Recipient agency records.*—Each recipient agency shall maintain accurate and complete records with respect to the receipt, disposal, and inventory of donated commodities, including end products processed from donated commodities, and with respect to any funds which arise from the operation of the distribution program. Each recipient agency shall be required to keep accurate and complete records showing the data and method used to determine the number of eligible persons served by that agency.

(Section 416—Agricultural Act of 1949, 7 U.S.C. 1431)

Dated: June 14, 1983.

Mary C. Jarratt,

Assistant Secretary, Food and Consumer Services.

[FR Doc. 83-16354 Filed 6-16-83; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket Nos. 76N-0366 and 82N-0378]

Provisional Listing of D&C Red No. 6 and D&C Red No. 7; Postponement of Closing Date

Correction

In FR Doc. 83-14260, beginning on page 24061, in the issue of Tuesday, May 31, 1983, in the third column, in the fourth line from the bottom "U.S.C. note" should read "U.S.C. 376 note".

BILLING CODE 1505-01-M

21 CFR Part 178

[Docket No. 82F-0386]

Indirect Food Additives; Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of hydrogen peroxide solution as a sterilizing agent for polyethylene food-contact surfaces to include packaging commercially sterile alcoholic foods. This action is in response to a petition filed by Brik Pak Inc.

DATES: Effective June 17, 1983; objections by July 18, 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: Blondell Anderson, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C. St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 14, 1983 (48 FR 1823), FDA announced that a petition (FAP 3B3687) had been filed by Brik Pak Inc., 4885 Alpha Rd., Dallas, TX 75234, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of hydrogen peroxide as a sterilizing agent for polyethylene food-contact surfaces to include packaging commercially sterile alcoholic foods.

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

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above), between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic 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), § 178.1005 is amended by revising paragraph (e)(2) to read as follows:

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

§ 178.1005 Hydrogen peroxide solution.

* * * * *

(e) * * *

(2) The polyethylene shall be used in articles for packaging commercially sterile foods only of the types identified in § 176.170(c) of this chapter, table 1, under categories I, II, III, IV-B, V, and VI.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 18, 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 17, 1983.

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

Dated: June 2, 1983.

Richard J. Ronk,

Acting Director for Bureau of Foods.

[FR Doc. 83-16136 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 444, 448, and 455

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

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

Correction

In FR Doc. 83-12845, beginning on page 21563, in the issue of Friday, May 13, 1983, on page 21564, in the first column, in the first complete paragraph, in the sixth line, "5110" should read "5.10".

BILLING CODE 1505-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Ralston-Purina Co. providing for use of 50-gram-per-pound lincomycin premixes in making 2.5- and 8-gram-per-pound lincomycin intermediate premixes. The intermediate premixes are subsequently used in swine feeds for treatment and/or control of dysentery and for reduction in the severity of swine mycoplasmal pneumonia.

EFFECTIVE DATE: June 17, 1983.

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

SUPPLEMENTARY INFORMATION: Ralston-Purina Co., Checkerboard Square, St. Louis, MO 63188, filed NADA 132-574 which provides for use of a 50-gram-per-pound lincomycin premix to make 2.5- and 8-gram-per-pound lincomycin intermediate premixes for subsequent incorporation into complete swine feeds. The feeds are used for control and/or treatment of swine dysentery and for reduction in severity of swine mycoplasmal pneumonia, as provided in § 558.325(f)(2) (21 CFR 558.325(f)(2)). The basis of approval of this NADA is discussed in the freedom of information (FOI) summary. Based on the data and information submitted, the NADA 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 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.325 is amended by adding new paragraph (b)(13) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.325 Lincomycin.

* * * * *

(b) * * *

(13) Premix levels of 2.5 and 8 grams per pound have been granted to No. 017800 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2) of this section.

* * * * *

Effective date. June 17, 1983.

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

Dated: June 3, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-15975 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Virginiamycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Mac-Page, Inc., providing for use a 50-percent virginiamycin premix to manufacture a 10-gram per pound (2.2 percent) intermediate premix. The intermediate premix is subsequently used to make a finished swine feed used for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: June 17, 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: Mac-Page, Inc., Rt. 2, 1600 South Wilson Ave., Dunn, NC 28334, is sponsor of new animal drug application (NADA) 133-839 filed in its behalf by SmithKline Animal Health Products, Division of SmithKline Beckman Corp., Philadelphia, PA. The NADA provides for use of SmithKline's 50 percent virginiamycin premix to make a 10-gram per pound intermediate premix subsequently used to make finished swine feeds used as in 21 CFR 558.635(f)(1) (iv) and (v). The basis of this approval is discussed in the freedom of information (FOI) summaries for SmithKline's NADA's 91-467 and 91-513. Based on that data and information, the NADA 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. See

FOI summaries for SmithKline's NADA's 91–467 and 91–513.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.635 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.635 *Virginiamycin* in paragraph (b)(2) by adding in numerical sequence the additional sponsor, "047427."

Effective date: June 17, 1983.

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

Dated: May 3, 1983.

Lester M. Crawford

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-15978 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 868

[Docket No. 83N-0194]

Opportunity To Request Change in Classification of Continuous Ventilator

AGENCY: Food and Drug Administration.

ACTION: Notice; final rule-related.

SUMMARY: The Food and Drug Administration (FDA) is issuing this notice to allow interested persons an opportunity to submit a request for a change in the classification of the continuous ventilator based on new information relevant to the classification of the device. If FDA receives no request for a change in classification or if FDA receives a request but denies it, the agency will proceed to develop a performance standard for this device. FDA also is announcing its intent to publish in the Federal Register in the near future additional notices of this type for several other generic types of devices.

DATE: Requests shall be submitted on or before July 5, 1983.

ADDRESS: Requests shall be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James J. McCue, Jr., National Center for Devices and Radiological Health (HFK–310), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7182.

SUPPLEMENTARY INFORMATION: Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA is required to classify each medical device into one of three regulatory categories: class I (general controls); class II (performance standards); or class III (premarket approval).

In the Federal Register of July 16, 1982 (47 FR 31130), FDA published a regulation (21 CFR 868.5895) classifying the continuous ventilator into class II. In the preamble to the proposal to classify this device, FDA explains why the device should be subject to performance standards, summarizes the data upon which the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel (an FDA advisory committee) based its classification recommendation, and identifies risks to health presented by the device (see the Federal Register of November 2, 1979; 44 FR 63409).

Opportunity To Request Reclassification

Before establishing a performance standard for a device classified into class III, FDA is required under section 514(b) of the act and Part 860 of the regulations governing medical device classification procedures (21 CFR Part 860) to allow interested persons an opportunity to request under section 513(e) of the act (21 U.S.C. 360c(e)) reclassification of the device into class I or class III. Section 514(b)(1) of the act requires that a proceeding for the development of a performance standard for a device be initiated by FDA publishing in the Federal Register a notice of opportunity to submit to the agency, within 15 days of the date of publication of the notice, a request for a change in the classification of the device based on new information relevant to its clsssification. Accordingly, FDA is publishing this notice of an opportunity to request by July 5, 1983 reclassification of the continuous ventilator. Section 860.132 provides that any such request is to be in the form of a reclassification petition containing the information required by section 513(e) of the act and § 860.123 of the regulations and shall set forth new information relevant to the classification of the continuous ventilator. The legal standard governing reclassification under section 513(e) of the act and § 860.123 is discussed in detail in FDA's proposals to reclassify daily wear spherical contact lenses consisting of rigid gas permeable plastic materials and daily wear optically spherical (soft) contact lenses from class III into class II (47 FR 53402, 53411; November 26, 1982). The agency advises that to assure timely filing of any such petition, any request should be submitted in accordance with the procedures described below instead of those provided in § 860.123(b).

Section 514(b)(2) of the act provides that if FDA received a timely request for a change in the classification of a device, FDA shall within 60 days of publication of the notice either deny the request or give notice of the agency's intent to initiate such a change under section 513(e) of the act. Accordingly, if FDA receives a timely request to change the classification of the continuous ventilator, FDA will consult with the Anesthesiology Device Section of the Respiratory and Nervous System Devices Panel and will, by August 16, 1983 publish in the Federal Register an order denying the request or a notice of intent to initiate a proceeding under section 513(e) of the act and § 860.130 to reclassify the device.

If FDA determines that the device will remain classified in class II, FDA will continue the procedure by which a performance standard for the device may be established, as provided in Subpart B of 21 CFR Part 861.

FDA advises that it will soon publish in the Federal Register notices of this type to allow interested persons an opportunity to submit a request for a change in the classification of several other generic types of devices as the first step in proceedings to establish performance standards. These devices are:

1. Vascular graft prosthesis of 6 millimeters and greater diameter (21 CFR 870.3460).
2. Cardiac monitor (including cardiotachometer and rate alarm) (21 CFR 870.2300).
3. Ventilator tubing (21 CFR 868.5975).
4. Breathing frequency monitor (21 CFR 868.2375).
5. Central nervous system fluid hunt and components (21 CFR 882.5550).
6. Toxoplasma gondii serological reagents (21 CFR 866.3780).
7. Rheumatoid factor immunological test system (21 CFR 866.5775).
8. Calibrator for hemoglobin or hematocrit measurement (21 CFR 864.8165).

9. Antimicrobial susceptibility test disc (21 CFR 866.1620).

10. Immunoglobulins A, G, M, D, and E immunological test system (21 CFR 866.5510).

The agency has determined pursuant to § 25.24(b)(9) (21 CFR 25.24(b)(9)) (proposed December 11, 1979; 44 FR 71742) that publication of notices in the **Federal Register** under section 514(b) of the act does not individually or cumulatively have a significant impact on the human environment. Further, the agency has determined pursuant to proposed § 25.24(b)(13) and (20), respectively, that issuance of a standard for a class II device or reclassification of a device would not have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required for this notice or subsequent actions that may be taken in response to it.

FDA certifies that this notice does not require 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). FDA will consider the economic consequences of reclassifying this device if a petition for reclassification is received and granted. If the device is not reclassified, FDA will consider the economic consequences of the development of a performance standard when the provisions of the standard are known. Until such time, the economic consequences cannot be determined.

Interested person may, on or before July 5, 1983, submit to the Dockets Management Branch (address above) written requests to change the classification of the continuous ventilator. 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 brackets 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.

List of Subjects in 21 CFR Part 868

Medical devices.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

Dated: June 15, 1983.

[FR Doc. 83-16396 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

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

Correction

In FR Doc. 83-14772 beginning on page 25126 in the issue of Friday, June 3, 1983, make the following corrections:

1. On page 25135, column two, number "20.", line one, "FDR" should read "FDA."

2. On page 25135, column three, number "80.", line three, "Salmonellea/Microsome Test" should read "Salmonella/Microsome Test."

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Amendment G-62]

Federal Property Management Regulations; Changes in Legal Citations and Correspondence Symbols

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule amends citations of law and correspondence symbols and mail address appearing in the Federal Property Management Regulations (FPMR) relating to the Office of Transportation Audits. This is necessary because of the codification of Title 31, United States Code (U.S.C.), into positive law and the recent reorganization and relocation of the Office of Transportation Audits. This rule makes no substantive changes in the FPMR.

EFFECTIVE DATE: June 17, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Claims Branch, Office of Transportation Audits (202-786-3014).

SUPPLEMENTARY INFORMATION: Section 1 of Pub. L. 97-258, September 13, 1982, 96 Stat. 877, revised, codified and enacted certain general and permanent laws of the United States relating to money and finance as Title 31, U.S.C., entitled "Money and Finance."

The purpose of the codification is to restate without substantive change previously adopted provisions of law and to replace them with code

provisions (Section 4(a) of Pub. L. 97–258, 96 Stat. 1067).

Consequently, upon enactment of Title 31, U.S.C., all provisions of law restated in the codification were repealed (Section 5 of Pub. L. 97–258, 96 Stat. 1068). However, any order, rule or regulations in effect under any law repealed by Pub. L. 97–258, continues in effect under the corresponding provision of Title 31, U.S.C. (Section 4(c) of Pub. L. 97–258, 96 Stat. 1067).

Since the FPMR issued by GSA appearing in Title 41 of the CFR were adopted under authority of provisions of law the substance of which have been carried forward into Title 31, U.S.C., it is necessary to amend the FPMR to change legal references and citations to the appropriate corresponding section of Title 31, U.S.C.

In December 1982, the Office of Transportation Audits moved from the Chester A. Arthur Building, 425 I Street, NW., Washington, DC 20406, to the General Services Building, 18th and F Streets, NW., Washington, DC 20405. There was a realignment of the organization concurrent with the move that resulted in changes of the mail address and the correspondence symbols. To provide users of the FPMR with current information to enable mail to reach this office expeditiously, it is necessary to amend the FPMR.

GSA has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. Accordingly, a regulatory impact analysis is not required. Because the amendments made by this rule are technical and do not make substantive changes, GSA finds that a general notice of proposed rulemaking and public procedure thereon, and a delayed effective date are unnecessary. Because no notice of proposed rulemaking is required, this rule is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 6001 et seq.).

List of Subjects in 41 CFR Part 101–41

Air carrier, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation.

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

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

	Section	Old Citation	New Citation
101–	41.001	31 USC 244	31 USC 3726
	41.002(a)	31 USC 244	31 USC 3726
	(b)	31 USC 244	31 USC 3726
	41.100	31 USC 244	31 USC 3726
	41.101	31 USC 244	31 USC 3726
		31 USC 82g	31 USC 3322
			31 USC 3528
	41.101(a)	31 USC 244	31 USC 3726
	41.101(b)(3)	31 USC 41	31 USC 702
		31 USC 65	31 USC 3511
	41.401(a)	31 USC 244	31 USC 3726
	41.401(c)	31 USC 82g	31 USC 3322
			31 USC 3528
	41.402-1	31 USC 244(c)	31 USC 3726(c)
	41.402-1(a)	31 USC 203	31 USC 3727
	41.501(a)	31 USC 244	31 USC 3726
	41.501(b)	49 USC 16(3)(1), 304a(8), 908(f)(5), and 1006a(8)	49 USC 11706
	41.506(a)	31 USC 951	31 USC 3701
		31 USC 952	31 USC 3711
		31 USC 953	Remove
	41.602(a)	31 USC 244	31 USC 3726
	41.602(b)(4)	31 USC 244	31 USC 3726
	41.602(c)	31 USC 244	31 USC 3726
	41.603-2(c)	49 USC 66	31 USC 3726
	41.701(b)	31 USC 244	31 USC 3726
	41.800	31 USC 244	31 USC 3726

BILLING CODE 6820-34-M

Section	Old Correspondence Symbols/ Address	New Correspondence Symbols/ Address
101-41.003	(TA), 20406	(BW), 20405
41.004(a)	(TACP), 20406	(BWCP), 20405
41.102(e)	Chester A. Arthur Building, 425 I Street, N.W.; (TA), 20406	GS Building, 18th and F Sts., N.W.; (BW), 20405
41.202-5(a)	Assistant Commissioner for Transportation Audits, (TA)	Director, Office of Transportation Audits (BW)
41.202-5(b)	Assistant Commissioner for Transportation Audits, (TA)	Director, Office of Transportation Audits, (BW)
41.204-1	(TAD), 20406	(BWA), 20405
41.204-2	(TAD), 20406	(BWA), 20405
41.205-1(a)(2)	(TT)	(FT)
41.205-2(a)(1)	(TT)	(FT)
41.206(c)	(TADS), 20406	(BWAA/C), 20405
41.210-1a(c)	(BWAB)	(BWCPG)
41.210-4	(BWAB)	(BWCPG)
41.211-3(b)	(TACA), 20406	(BWCA), 20405
41.211-4	(TADS), 20406	(BWAA/C), 20405
41.211-5(b)	(TACA), 20406	(BWCA), 20405
41.211-5(c)	(TADS)	(BWAA/C)
41.303-4	(TADS), 20406	(BWAA/C), 20405
41.304-2(b)(1)	(TACP), 20406	(BWCP), 20405
41.304-2(e)(2)	(TACA)	(BWCA)
41.305-2(c)	(TADS)	(BWAA/C)
	(TADS), 20406	(BWAA/C), 20405
41.305-5	(TADS)	(BWAA/C)
41.307-5	(TADS)	(BWAA/C)
41.311	(TADS), 20406	(BWAA/C), 20405
41.313-1(b)	(TA), 20406	(BW), 20405
41.314-1	(TAD), 20406	(BWA), 20405
41.314-2	(TAD)	(BWA)
41.502(a)(1)	(TADS), 20406	(BWAA/C), 20405
41.502(b)(2)	(TACA), 20406	(BWCA), 20405
41.503	(TACA), 20406	(BWCA), 20405
41.506(c)	(TADS), 20406	(BWAA/C), 20405
41.603-2(b)	(TA)	(BW)
41.603-4(a)	(TACA), 20406	(BWCA), 20405
41.603-4(b)-Table	(TAD)	(BWA)
	3. (TACA), 20406	3. (BWCA), 20405
	4. (TA), 20406	4. (BW), 20405
41.604-1	(TA)	(BW)
41.604-1(c)	(TADS)	(BWAA/C)
41.604-2(c)	(TACA), 20406	(BWCA), 20405
101-41.604-2(d)	(TACA)	(BWCA)
41.605-2(b)	(TACA)	(BWCA)
41.605-2(c)	(TACA)	(BWCA)
41.605-2(c)(1)	(TACA)	(BWCA)
41.605-2(d)	(TACA)	(BWCA)
41.700(a)	(TA), 20406	(BW), 20405
41.802(b)	(TAD), 20406	(BWA), 20405
41.803(a)	(TADS)	(BWAA/C)
41.805-1(b)	(TADS)	(BWAA/C)
41.806-3	(TADS)	(BWAA/C)
41.807-2(a)	(TADS), 20406	(BWAA/C), 20405
41.807-2(d)	(TADS), 20406	(BWAA/C), 20405
41.808-1	(TACA), 20406	(BWCA), 20405

[31 U.S.C. 952, 31 U.S.C 3726 and 40 U.S.C. 486(c)]

Dated: May 24, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-16267 Filed 6-16-83; 8:45 am]

BILLING CODE 6820-34-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This document makes a correction to a final rule of a list of communities eligible for the sale of flood insurance under the National Flood Insurance Program, published May 13, 1983, Vol. 48, No. 94, FR 21583. The effective dates in the fifth and sixth columns should be corrected for the Village of Swanton, Franklin County, Vermont.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street, SW., Donohoe Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The effective regular program date in the fifth column should be corrected to March 16, 1983. In the sixth column the hazards area identified date should be November 26, 1976. All records should be corrected as indicated for the Village of Swanton, Vermont.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: June 10, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-16258 Filed 6-16-83; 8:45 am]

BILLING CODE 6718-03-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

45 CFR Part 1180

Grants to Museums

AGENCY: Institute of Museum Services.

ACTION: Final regulations.

SUMMARY: The Institute of Museum Services issues final regulations governing a program of Federal financial assistance in the form of grants to museums. The regulations implement the Museum Services Act. They state eligibility conditions, application requirements, funding criteria and other rules for the administration of the grants program.

EFFECTIVE DATE: June 17, 1983.

FOR FURTHER INFORMATION CONTACT: Sara E. Traut, Special Assistant to the Director, Institute of Museum Services, Room 510, 1100 Pennsylvania Ave., N.W., Washington, D.C. 20506. (786–0536)

SUPPLEMENTARY INFORMATION:

1. General Background

The Museum Services Act ("the Act"), which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended on December 4, 1980.

The purpose of the Act is stated in Section 202 as follows:

> It is the purpose of [the Museum Services Act] to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens, of the curatorial, educational and cultural resources of the United States, and of the general public. In addition to the members appointed by the President, the following serve as members of the Board: the Chairman of the National Endowment for the Arts, the Chairman of the Endowment for the Humanities, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Secretary of Education. The Board has the responsibility for establishing the general policies of the Institute.

The Director of the Institute is appointed by the President with the advice and consent of the Senate. The Director has responsibility for the general administration of the Institute and is authorized, subject to the policy direction of the Board, to make grants under the Act to museums.

IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation) Pub. L. 97–100, December 23, 1981; Pub. L. 97–394, December 30, 1982).

The Act lists a number of illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public. Other activities are designed to aid museums in developing and maintaining professionally trained staff; carrying out certain conservation activities; developing and carrying out specialized museum programs for specific segments of the public; and cooperating with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan.

Public Law 97–394, the Interior Department and Related Agencies Appropriation Act, 1982, appropriates $10,800,000 for IMS for Fiscal Year 1983. Public Law 97–257, the Supplemental Appropriations Act, 1982, makes available through Fiscal Year 1983 $720,000 appropriated for the IMS in Fiscal Year 1982. Accompanying report language indicates that at least $645,000 of this amount is intended for Special Project Grants. Sen. Rept. No. 97–516, 97th Cong. 2d Sess. 117 (1982).

2. Need for Regulations

Certain rules are needed for the proper administration of a federally funded grant program. These rules relate to such matters as the types of institutions eligible to apply for grants, the types of assistance available, the information which must be put in applications, and the criteria used to

judge competitive applications, among others.

Rules governing the award of grants by IMS were published in the **Federal Register** in 1978 following a period of public comment under the procedures in 5 U.S.C Section 553 and were codified in the Code of Federal Regulations (CFR). These regulations were revised on August 11, 1980, again following a period of public comment, and were last codified in 34 CFR Part 64 (1981). In view of the transfer of IMS as an independent agency to the National Foundation on the Arts and the Humanities effected by Public Law 979–100 in December of 1981 and reiterated in Public Law 97–394, it is appropriate that these regulations be transferred to that part of the Code of Federal Regulations that contains the regulations of the National Foundation on the Arts and the Humanities.

Moreover, as a result of the transfer of IMS to the National Foundation, certain administrative regulations of the Education Department are no longer pertinent and therefore should no longer legally be applicable to IMS grants. It is therefore necessary and appropriate that IMS regulations be adopted in a revised and simplified form appropriate to its needs and functions as an independent agency.

Accordingly, at its meetings of October 23, and December 3, 1982, the National Museum Services Board extensively considered revisions in these regulations and adopted them for publication in the **Federal Register** as proposed regulations. The proposed regulations were set forth in the form of a new Part 1180 of Subchapter E of Chapter XI of the Title 45 CFR. Public comment on these regulations was invited by the notice of proposed rulemaking published on December 21, 1982 at 47 FR 56871.

Public Comment and Responses

The December 21 notice of proposed rulemaking summarized the changes proposed in the previously published regulations of the Institute (34 CFR Part 64). This summary is not repeated here and reference is made to the summary in the December 21 publication (47 FR 56872–874).

Approximately 100 individual letters of comment were received on the proposed regulations. All comments received prior to the Board meeting of March 18, 1983, were distributed to members of the Board. These comments were considered by the Board prior to and at that meeting. The Board has carefully considered these comments and has found them extremely helpful in reaching its conclusions regarding the final regulations. A number of changes have been made in the regulations to reflect suggestions of commenters. In addition, clarifying language is added to other sections as a result of comments. The Appendix summarizes the comments, the Institute's responses to the comments, and the revisions made in the regulations by the Board in light of its review of the comments. The Appendix also contains a number of clarifications designed to respond to comments and concerns.

As revised, the final regulations, which have been approved by the National Museum Services Board, are set forth below.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Director certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

To the extent that these regulations affect States and State agencies they will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act.

These regulations will affect certain museums receiving Federal financial assistance under the Museum Services Act. However, the regulations will not have a significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations impose minimal requirements to ensure the proper expenditure of grant funds.

All information collection, record keeping and reporting requirements contained in the following regulations have been approved by the Office of Management and Budget under OMB approval number 3137–0001.

List of Subjects in 45 CFR Part 1180

Museums, National boards.

(Catalog of Federal Domestic Assistance No. 45.301, Museum Services Program)

Dated: June 14, 1983.

Lilla Tower,

Director, Institute of Museum Services.

Dated: June 14, 1983.

C. Douglas Dillon,

Chairman, National Museum Services Board.

By a separate notice in the **Federal Register** the Education Department will remove Part 64 of Title 34 of the Code of Federal Regulations.

The Institute of Museum Services adds a new Subchapter E consisting of Part 1180 to Chapter XI of Title 45 of the Code of Federal Regulations to read as follows:

SUBCHAPTER E—INSTITUTE OF MUSEUM SERVICES

PART 1180—GRANTS REGULATIONS

Subpart A— General Operating Support and Special Project Support

Sec.
1180.1 Purpose of museum services program.
1180.2 Scope of this document.
1180.3 Definition of museum.
1180.4 Other definitions.
1180.5 Eligibility and burden of proof—Who may apply.
1180.6 Related institutions.
1180.7 General Operating Support.
1180.8 Special Project Support.
1180.9 Likely size of grants and allocation of funds among activities.
1180.10 Allowable costs.
1180.11 Basic requirements which a museum must meet to be considered for funding.
1180.12 How applications are judged: priorities.
1180.13 Criteria for evaluation of applications for General Operating Support.
1180.14 Criteria for evaluation of applications for Special Project Support.
1180.15 Duration of grant.
1180.16 IMS share of the cost of a proposal.
1180.17 Reports.

Subpart B—General Application, Selection and Award Procedures

Applications

1180.30 Publication of an application notice; content of the notice.
1180.31 Information in the application notice.
1180.32 Deadline date for applications.
1180.33 Applicants must meet procedural rules.
1180.34 Number of copies.
1180.35 Special Project grant; group applications.

Selection and Award Procedures

1180.36 Rejection of an application.
1180.37 Rejection for technical deficiency—appeal; reconsideration; waiver.
1180.38 How grants are processed.
1180.39 Applications not selected for funding.
1180.40 How the Institute makes a Special Project grant.
1180.41 The cost analysis; basis for Special Project grant amount.
1180.42 The notification of grant award.
1180.43 Effect of the grant.

Subpart C—General Conditions Which Must Be Met by a Grantee

Nondiscrimination

1180.44 Federal statutes and regulations on nondiscrimination.

Sec.
1180.45 Use of consultants in Special Projects.

Evaluation

1180.46 Evaluation by the grantee.
1180.47 Federal evaluation—cooperation by a grantee.

Publications and Copyrights

1180.48 General conditions on publications.
1180.49 Copyright policy for grantees.
1180.50 Definition of "Special Project materials."

General Administrative Responsibilities

1180.51 Compliance with statutes, regulations, and its approved grant application.
1180.52 The grantee administers or supervises the grant.
1180.53 Fiscal control and fund accounting procedures.
1180.54 Obligation of funds during the grant period.
1180.55 Prohibition of subgrants.

Records

1180.56 Records related to grant funds.
1180.57 Records related to compliance.
1180.58 Records related to Special Project performance.
1180.59 Applicability.

Authority: Museum Services Act (20 U.S.C. 961–68), as amended, and Pub. L. 97–100, 95 Stat. 1414; Pub. L. 97–394, 96 Stat. 1966.

Subpart A—General Operating Support and Special Project Support

§ 1180.1 Purpose of museum services program.

The purpose of this program of Federal financial assistance is to ease the financial burden borne by museums as a result of their increasing use by the public and to encourage and assist them to carry out their educational and conservation roles as well as other functions and to modernize their methods and facilities.

§ 1180.2 Scope of this document.

This document establishes rules for the award of grants to museums from funds appropriated under the Museum Services Act including rules governing the eligibility of applicant institutions, the type of assistance which may be provided, requirements which applicants must meet and criteria to be used in judging applications.

§ 1180.3 Definition of museum.

For the purpose of this part:

(a) "Museum means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff:

(1) Owns or uses tangible objects, either animate or inanimate;

(2) Cares for these objects; and

(3) Exhibits them to the general public on a regular basis.

(i) An institution which exhibits objects to the general public for at least 120 days a year shall be deemed to meet this requirement.

(ii) An institution which exhibits objects by appointment may meet this requirement if it can establish, in light of the facts under all the relevant circumstances, that this method of exhibition does not unreasonably restrict the accessibility of the institution's exhibits to the general public.

(b) "Museum" includes (but is not limited to) the following institutions if they satisfy the provisions of this section:

(1) Aquariums and zoological parks;

(2) Botanical gardens and arboretums;

(3) Nature Centers;

(4) Museums relating to art, history (including historic buildings), natural history, science and technology; and

(5) Planetariums.

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, or the fulltime equivalent, whether paid or unpaid primarily engaged in the acquisition, care, or exhibition to the public of objects owned or used by the institution.

(d) An institution does not exhibit objects to the general public for the purposes of this section if the display or use of the objects is secondary to its overall purpose.

(e) For the purpose of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.

§ 1180.4 Other definitions.

The following other definitions apply in this document:

"Act" means the Museum Services Act, Title II of the Arts, Humanities and Cultural Affairs Act of 1976, Pub. L. 94–462 (20 U.S.C. 961–968).

"Board" means the National Museum Services Board established under Section 204 of the Act.

"Collection" includes objects owned, used or loaned by a museum as well as those literary, archival and documentary resources specifically required for the study and interpretation of these objects.

"Foundation" means the National Foundation on the Arts and the Humanities.

"Director" means the Director of the Institute of Museum Services.

"Grantee" means the recipient of a grant under the Act.

"Institute" means the Institute of Museum Services ("IMS") established under Section 203 of the Act.

"Museum services" means services provided by a museum, primarily exhibiting objects to the general public, and including but not limited to preserving and maintaining its collections, and providing educational and other programs to the public through the use of its collections and other resources.

§ 1180.5 Eligibility and burden of proof—Who may apply.

(a) A museum located in the fifty States of the Union, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, Guam, or the District of Columbia may apply for a grant under the Act.

(b) No museum is eligible to apply for funding available under the Act unless it has provided museum services including exhibiting objects to the general public on a regular basis for at least two years prior to application.

(c) A public or private nonprofit agency which is responsible for the operation of a museum may, if necessary, apply on behalf of the museum.

(d) A museum operated by a department or agency of the Federal Government is not eligible to apply.

(e) A museum is ineligible to apply for or receiving funding in any year for both Special Project and General Operating Support.

(f) Beginning with Fiscal Year 1983, a museum is ineligible to receive funding for more than three years in any succeeding quinquennium.

(g) A museum is ineligible to apply for or receive funds available under the Act (for General Operating or Special Project support) if it has received, or has been awarded a grant under which it will receive, from any other agency of the United States, Challenge Grant funds in the same Fiscal Year (in which funds would be received under a grant from IMS). For the purposes of the preceding sentence "Challenge Grant funds" means funds paid under any grant awarded by any agency pursuant to a program such as the Challenge Grant programs authorized by sections 5(l) and 7(h) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 954(l) and 956(h)).

(h) An applicant has the burden of establishing that it is eligible for assistance under these regulations.

§ 1180.6 Related institutions.

(a) If two or more institutions are under the common control of one agency or institution or are otherwise organizationally related and apply for assistance under the Act, the Director determines under all the relevant circumstances whether they are separate museums for the purposes of establishing eligibility for assistance under these regulations. See §§ 1180.5 and 1180.9.

(b) IMS regards the following factors, among others, as showing that a related institution is a separate museum:

(1) The institution has its own governing body;

(2) The institution has budgetary autonomy; and

(3) The institution has administrative autonomy.

§ 1180.7 General Operating Support.

In order to maintain, increase or improve museum services, a museum may apply for a grant under the Act to meet administrative, staff and operating costs, except as otherwise provided in these regulations.

§ 1180.8 Special Project Support.

(a) In order to increase or improve museum services through exemplary projects which are additional to its operating program, a museum may apply for a grant to:

(1) Provide a General, Unique, Model or Financial Benefit to museums as set forth in § 1180.14 (e), (f), (g), or (h);

(2) Develop and maintain professionally trained or otherwise experienced staff to meet its needs;

(3) Obtain expert assistance to carry out its functions or provide expert assistance to other museums;

(4) Conserve artifacts, objects, plants and animals;

(5) Develop and carry out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions;

(6) Develop and carry out educational programs, including cooperative education projects between museums and school boards, schools or other public or private nonprofit educational institutions.

(7) Cooperate with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan.

(b) By notice published in the **Federal Register** and applicable to a particular fiscal year, IMS may limit the types of activities to be funded under this section.

§ 1180.9 Likely size of grants and allocation of funds among activities.

(a) In view of limited funds, it is anticipated that no museum will receive more than $50,000 under the Act for fiscal year 1983 and that most museums which are funded will receive a smaller amount. For future fiscal years, a different figure may be specified by notice published in the **Federal Register.**

(b) The Director, subject to the policy direction of the Board, determines the percent of the funds available under the Act for grants in any fiscal year which shall be reserved for § 1180.7 General Operating Support grants.

§ 1180.10 Allowable costs.

(a) Determination of costs allowable under a grant is made in accordance with government-wide cost principles in applicable OMB circulars. (OMB circular A-21 (educational institutions) February 26, 1979, published in 44 FR 12368 (March 6, 1979); OMB circular A-87 (State and local governments) January 15, 1981 published in 46 FR 9548 (January 28, 1981); and OMB circular A-122 (Nonprofit organizations) June 27, 1980, published in 45 FR 46022 (July 8, 1980)).

(b) No costs shall be allowed for the purchase of any object to be included in the collection of a museum, except library, literary, or archival material specifically required for a designated activity under a grant under the Act.

§ 1180.11 Basic requirements which a museum must meet to be considered for funding.

(a) *Application.* To apply for a grant, a museum must submit the designated application form containing the information requested in the form. Failure to submit the information required by the application at the time of filing can subject an applicant to rejection of the application without consideration on its merits.

(b) *IRS letter.* A museum applying as a private, nonprofit institution must submit a copy of the letter from the Internal Revenue Service indicating the applicant's eligibility for nonprofit status under the applicable provision of the Internal Revenue Code of 1954, as amended.

(c) *Financial statements.*—(1) Each applicant museum must submit, with its application at the time of filing, *its* financial statements for the two fiscal years immediately preceding the fiscal year for which application is made or, if not available, for the second and third immediately preceding years. Each financial statement must include a statement of financial operations and if applicable, a balance sheet. Examples of a financial statement and a balance sheet may be found in the Museum Accounting Guidelines of the Association of Science-Technology Centers (1976) or in the Museum Accounting Handbook of the American Association of Museums (1978).

(2) Every applicant which has previously received an IMS award must submit its audited financial statement for the last fiscal year immediately preceding the fiscal year in which application is made or the immediately preceding fiscal year, prepared by an individual or organization meeting the qualifications of the Comptroller General of the United States for individuals or organizations conducting Government audits. Reference is made to GAO, *Standards for Audit of Governmental Organizations, Programs and Functions* (1981 revision). The individual or organization performing the audit must certify that the financial statement of the museum presents fairly the financial position and the results of financial operations in accordance with generally accepted accounting principles, or, in the case of a museum which uses cash basis accounting, presents fairly revenues collected and expenditures made in accordance with generally accepted auditing standards.

(3) If a museum is part of an organization such as a university, State or municipality and does not receive audits separate from those of the organization of which it is a part, it may submit its financial statement as drawn from and containing only audited figures of the organization of which the museum is a part. This financial statement, so prepared, must present fairly the financial position and the results of financial operations of the museum, and must clearly indicate that it has been so prepared and the Director *may*, upon written request filed at the time of the application, waive the requirement of a separate audit and proceed to process the application on its merits. Where the organization is not audited on an annual basis, the financial statement may be drawn from the most recent audited figures of the organization.

(d) *Long-range plans.* Each applicant museum must include long-range plans for program and financial development.

(e) *Maintenance of effort.* Each museum applicant msut be able to show that it has maintained a continuing and successful fiscal effort of its own for the provision of funds for museum services. An applicant complies with this requirement if its aggregate expenditures for museum services (exclusive of Federal assistance) for the grant period are at least equal to those

expenditures for the equivalent preceding period. Any applicant unable to furnish proof of the successful discharge of this requirement may be held ineligible to apply for funding.

(f) *Special Project grant; schedule of completion.* An application for a Special Project grant shall establish a schedule for completing the project. An application shall describe when, during the term of the grant, the applicant plans to complete each objective or phase of the project.

§ 1180.12 How applications are judged; priorities.

(a) To select grantees and determine the amount of their awards, IMS rates competitive applications under the applicable criteria stated in §§ 1180.13 and 1180.14. Normally, these applications are first evaluated by readers, panels of experts or both. Final determinations as to the award of grants are made by the Director after review by the Board.

(b) In the case of Special Project applications, priority is given to applications for (1) projects involving innovative fund raising and financial development activities, and (2) projects involving innovative cooperative endeavors among groups of museums.

(c) To achieve diversity in the distribution of assistance, the Institute may consider the location, size and discipline of the applicant in addition to the criteria in §§ 1180.13 and 1180.14.

§ 1180.13 Criteria for evaluation of applications for General Operating Support.

The following criteria apply to the evaluation of all applications for General Operating Support. In applying these criteria, the total operation of the applicant museum is assessed, including the museum's operation as it would be if the General Operating Support is granted. This assessment is based primarily on the information supplied in the museum's application.

(a) *Museum services.* Are the applicant's museum services of high quality? IMS considers factors such as:

(1) The quality of the museum's educational and interpretive services and their relevance to the collections and audience including the special constituencies which the museum serves;

(2) The quality of the museum's physical facilities and the manner in which space is allocated to various museum activities; and

(3) The qualifications of the professional staff (both full-time and part-time; paid and volunteer) and the quality of the opportunities for professional staff development and in-service training afforded by the museum.

(b) *Collections and exhibits.* Are the museum's collections and exhibits of high quality and significance? IMS takes into account such factors as:

(1) The intrinsic value of the collections and exhibits;

(2) The significance of the museum's collections to the community; and

(3) The quality of the care and conservation of the collections; the quality of exhibit designs.

(c) *Accessibility.* How accessible to the general public are the museum's services, collections and exhibits? IMS considers such factors as:

(1) The percentage of the museum's collections on view to the general public on a regular basis; the extent of the museum's regular program for outreach, loans, and other means of exhibiting its collections to the public;

(2) The annual schedule of open hours for the museum; and

(3) The appropriateness of this schedule to the museum's audience.

(d) *Population served.* To what extent does the museum serve a general public which otherwise would have limited access to the type of museum services which it provides or to museum services of any type? To what extent does the public seek access to the museum's services? IMS considers such factors as:

(1) The characteristics of the audience and the community which the museum serves;

(2) The availability of other museums (or types of museums) which serve this audience and this community; and

(3) The museum's annual attendance by calendar quarters.

(e) *Financial Management.* What is the quality of the financial management of the museum? In how many of the last five years has the museum shown an excess of revenues over expenditures? IMS considers such factors as:

(1) The financial condition of the museum as reflected in its financial statements;

(2) The quality of the museum's plans for remedying any financial weaknesses in the museum's operations; and

(3) The qualifications of the museum staff assigned to financial management activities.

(f) *Long-range plans.* What is the quality of the museum's long-range plans for financial and program development? What are the museum's plans for the expenditure of the grant funds? IMS considers such factors as:

(1) The quality of the museum's long-range plans; how the museum proposes to implement them; how practical are the steps the museum plans to take to implement them?

(2) The probability that the General Operating Support grant, if awarded, will assist the museum in carrying out its long-range plans;

(3) In what manner will this grant, if awarded, contribute to maintaining, increasing or improving the museum's services?

(g) *Community commitment.* How committed to the museum are its users and supporters? Does the museum have a substantial base of non-Federal support? Does it have a strong volunteer program? IMS considers such factors as:

(1) The quality and extent of the financial support that the museum receives from the private sector and other non-Federal sources and the extent to which this support is stable, broad-based and indicative of continuing community commitment;

(2) The quality of the museum's volunteer program and its program of in-kind contributions and their importance to the museum's annual operations; and

(3) The commitment of its users to the museum as evidenced by such factors as participation in membership and docent programs, fund raising and other supportive activities.

(h) *Non-Federal support.* To what extent, if any, will the General Operating Support requested enable the museum to increase its base of State, local and private funding in the year for which assistance is requested and beyond?

(i) *Past use of IMS funds (when applicable).* Has the museum used its IMS funds effectively? How and in what amounts and in what manner have they been used?

§ 1180.14 Criteria for evaluation of applications for Special Project Support.

The following criteria apply to the evaluation of all applications for Special Project support:

(a) *Plan of operation.* What is the quality of the proposed project? In applying this criterion, IMS looks for information that shows:

(1) High quality in the design of the project; and

(2) An effective plan of management that ensures proper and efficient administration of the project.

(b) *Quality of key personnel.* What is the quality of the key personnel the applicant plans to use on the project? In applying this criterion, IMS looks for information that shows:

(1) The qualifications of the project director;

(2) The qualifications of each of the other key personnel used in the project; and

(3) The time that each person referred to above is obligated to commit to the project.

(c) *Budget and cost effectiveness.* Does the project have an adequate budget to achieve its purpose? In applying this criterion, IMS looks for information that shows:

(1) The budget for the project is adequate to support the project activities; and

(2) Costs are reasonable in relation to the objectives of the project.

(d) *Adequacy of resources.* Does the applicant plan to devote adequate resources to the project?

(e) *General benefit.* To what extent will the project, if successful, be of general benefit to museums or address a problem which is general to a number of museums but has not been adequately addressed?

(f) *Unique benefit.* To what extent will the project provide a unique benefit to the general public?

(g) *Model or exemplary benefit.* To what extent does the project represent a model or exemplary approach and solution to the problem addressed?

(h) *Financial benefit; Private support; cost control.* Is the project likely to produce innovative methods for (1) increasing museums' base of private support and/or (2) limiting a museum's cost of operation?

(i) *Other support.* Does the applicant lack alternative sources of support for the project?

(j) *Dissemination.* Has the applicant made satisfactory provision for disseminating the results of the project to other museums and the general public through the media?

§ 1180.15 Duration of grant.

Grants under the Act normally permit the grantee to use the funds for a period of up to 12 months from the start of the grant period. The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated. If the grantee needs additional time to complete the grant, the grantee may apply for an extension of the grant period without additional funds. The Director may approve this extension at his or her discretion.

§ 1180.16 IMS share of the cost of a proposal.

(a) Section 206(c) of the Museum Services Act provides that grants under this section [Section 206] for any fiscal year may not exceed 50 per centum of the cost of the program for which the grant is made, except that no more than 20 per centum of the funds available under this section for any fiscal year may be available for grants in such fiscal year without regard to such limitation. In applying the exception in Section 206(c), priority will be given to Special Project grants.

(b) Subject to § 1180.9(a), IMS normally does not make grants for more than 10 percent (or $5,000 whichever is greater), of a museum's most recently completed fiscal year's actual operating budget. For future fiscal years a different figure may be specified by notice published in the **Federal Register**. An operating budget may be increased by an amount reflecting the reasonable and conservative value of volunteer services contributed in the most recently completed fiscal year.

(c) For a particular fiscal year, and for one or more programs, the Board may determine that an amount equal to the amount to be awarded (or a percentage thereof) to an applicant under the Act must consist of non-Federal funds contributed to the museum in excess of the non-Federal funds contributed to the museum for its immediately preceding fiscal year.

(d) A museum shall maintain a restricted account for funds received under the Act.

§ 1180.17 Reports.

In its final report a grantee shall briefly detail how the expenditure of the grant funds has satisfied the proposed use of the funds as stated in its General Operating Support application or has accomplished the proposal as set forth in its Special Project application and has served the purpose of the Act as reflected in the applicable evaluation criteria in § 1180.14.

Subpart B—General Application, Selection and Award Procedures Applications

§ 1180.30 Publication of an application notice; content of the notice.

Each fiscal year the Director publishes application notices in the **Federal Register** that explain what kind of assistance is available that fiscal year under the Act.

§ 1180.31 Information in the application notice.

(a) The application notice usually includes:

(1) How an applicant can get an application packet containing detailed information about the program including an application form;

(2) Where an applicant must send its application;

(3) The amount of funds available for grants;

(4) The approximate number of grants the Institute expects to make under the program;

(5) The expected cap on grant(s) that may be applied for;

(6) Any priorities established by the Institute for that year;

(7) A reference to the applicable regulations.

(b) [Reserved]

§ 1180.32 Deadline date for applications.

(a) The application notice sets deadline date for applications to be postmarked or hand delivered to the Institute. The applicant shall:

(1) Mail the application to the address specified in the application notice on or before the deadline date; or

(2) Hand deliver the application to the address specified in the application notice by 4:30 p.m. (Washington, D.C. time) on deadline date.

(b) An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director.

(c) If an application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not date cancelled by the U.S. Postal Service.

§ 1180.33 Applicants must meet procedural rules.

The Director is authorized to make a grant only to an eligible applicant that submits a complete application, including attachments, on or before the deadline.

§ 1180.34 Number of copies.

Each applicant shall submit an original and four copies of its application to the Institute.

§ 1180.35 Special Project grant; group applications.

(a) Eligible museums may apply as a group for a Special Project grant.

(b) If a group of museums applies for a Special Project grant, the members of the group shall either:

(1) Designate one member of the group to apply for the grant; or

(2) Establish a separate, eligible legal entity, consisting solely of the museum group, to apply for the grant.

(c) The members of the group, or entity, shall enter into an agreement that:

(1) Details the activities that each member of the group plans to perform; and

(2) Binds each member of the group to every statement and assurance made by the applicant in the application.

(d) The applicant shall submit the agreement together with its application.

(e) If the Director makes a grant to a group of eligible museums, the applicant for the group is the grantee and is legally responsible for:

(1) The use of all grant funds; and

(2) Ensuring that the project is carried out by the group in accordance with applicable Federal laws, regulations, and requirements.

(f) Each member of the group is legally responsible for:

(1) Carrying out the activities it agrees to perform; and

(2) Using the funds it receives under the agreement in accordance with applicable Federal laws, regulations, and requirements.

Selection and Award Procedures

§ 1180.36 Rejection of an application.

(a) The Director rejects an application if:

(1) The applicant is not eligible;

(2) The applicant fails to comply with procedural rules that govern the submission of the application;

(3) The application does not contain the information required;

(4) The application cannot be funded under the authorizing statute or implementing regulations.

(b) If the Director rejects an application under this section, the Director informs the applicant and explains why the application was rejected.

§ 1180.37 Rejection for technical deficiency-appeal; reconsideration; waiver.

(a) An applicant whose application is rejected because of technical deficiency may appeal such rejection in writing to the Director within 10 days of postmark of notice of rejection.

(b) If an application was rejected because material did not accompany the application, the Director shall reconsider the application upon receipt of material in a timely manner.

(c) As has always been the practice of IMS, the Director waives the requirement in these regulations of certain records under circumstances which would require such waivers where the regulations specifically provide for waiver. (See § 1180.51(b) (Pub. L. 97-394))

§ 1180.38 How grants are processed.

(a)(1) The Director may use one or more groups of experts or readers to evaluate eligible applications.

(2) Each group consists of three or more qualified persons.

(3) In each group there must be at least one person who is not an employee of the Federal Government.

(4) A person may not serve as a member of a group of experts or readers if the person is an employee of the Institute who is regularly involved in grants processing; however, the Director may sign a waiver for such person and that person may serve as a member of a group of experts or readers.

(b) When the director uses a group of experts or readers, the group of experts or readers uses the applicable evaluation criteria set forth in the Regulations to evaluate each application.

(c) After the groups of experts or readers have evaluated the applications, a rank ordering of the application is prepared. The rank ordering of the eligible applications is based solely on the evaluations of the applications by the groups of experts.

(d) Subject to § 1180.12, the Director, in consultation with the Board, then determines the order in which applications will be selected. The Director makes these determinations on the basis of the evaluation criteria and any priorities or other program requirements that have been published in the Federal Register. The Director may consider the following in making these determinations:

(1) The application.

(2) The rank ordering of the applications.

(3) Any other information relevant to applicable criteria, priorities, or any other applicable information or requirements. (Cross reference. See § 1180.12)

§ 1180.39 Applications not selected for funding.

If an application is not selected for funding, the Director informs the applicant.

§ 1180.40 How the Institute makes a Special Project grant.

The Director follows the procedures in §§ 1180.41–1180.42 to set the amount and determine the conditions of a Special Project grant.

§ 1180.41 The cost analysis; basis for Special Project grant amount.

(a) Before the Director sets the amount of a Special Project grant, a cost analysis of the project is made which involves an examination of:

(1) The cost data in the detailed budget for the project;

(2) Specific elements of costs; and

(3) The necessity, reasonableness, and allowability under applicable statutes and regulations.

(b) [Reserved]

§ 1180.42 The notification of grant award.

(a) The Director furnishes a notification of grant award to the grantee.

(b) The notification of grant award sets the amount of the grant and gives other information about the grant.

§ 1180.43 Effect of the grant.

The grant obligates both the Federal Government and the grantee to all of the requirements, regulations and statutes that apply to the grant.

Subpart C—General Conditions Which Must Be Met by a Grantee

Nondiscrimination

§ 1180.44 Federal statutes and regulations on nondiscrimination.

Each grantee shall comply with the following statutes:

Subject	Statute
Discrimination on the basis of race, color or national origin.	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 2000d-4).
Discrimination on the basis of sex.	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683).
Discrimination on the basis of handicap.	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).
Discrimination on the basis of age.	The Age Discrimination Act (42 U.S.C. 6101) *et seq.*

§ 1180.45 Use of consultants in Special Projects.

(a) Subject to Federal statutes and regulations, a Special Project grantee shall adhere to its general policies and practices when it hires, uses, and pays a consultant as part of the Special Project staff.

(b) The grantee may not use its grant to pay a consultant unless:

(1) There is a need in the project for the services of that consultant; and

(2) The grantee cannot meet that need through using an employee rather than a consultant.

Evaluation

§ 1180.46 Evaluation by the grantee.

A grantee shall evaluate at least semi-annually:

(a) The grantee's progress in achieving the objectives set forth in its approved application; and

(b) The contribution of the grant toward meeting the purposes of the Act.

§ 1180.47 Federal evaluation—cooperation by a grantee.

A grantee shall cooperate in any evaluation by the Director of the particular grant program in which grantee has participated.

Publications and Copyrights

§ 1180.48 General conditions on publications.

(a) *Content of materials.* Subject to any specific requirements that apply to its Special Project grant, a Special Project grantee may decide the format and content of Special Project materials that it publishes or arranges to have published.

(b) *Required Statement.* The grantee shall ensure that any publication that contains Special Project materials also contains the following statement:

The contents of this (insert type of publication, e.g., book, report, film) were developed in whole or in part under a grant from the Institute of Museum Services. However, the contents do not necessarily represent the policy of the Institute, and endorsement by the Federal Government should not be assumed.

§ 1180.49 Copyright policy for grantees.

A grantee may copyright Special Project materials in accordance with government-wide policy applicable to copyright of publications developed under Federal grants.

§ 1180.50 Definition of "Special Project materials."

As used in §§ 1180.48–1180.49, "Special Project materials" means a copy-rightable work developed in whole or in part with funds from a Special Project grant from the Institute.

General Administrative Responsibilities

§ 1180.51 Compliance with statutes, regulations, and its approved grant application.

(a) A grantee shall comply with applicable statutes, regulations, and the approved grant application, and shall use Federal funds in accordance therewith.

(b) No official, agent, or employee of the Institute may waive any regulation unless the regulation specifically provides for waiver.

(c) No act or failure to act by an official, agent, or employee of the Institute can affect the authority of the Director to enforce regulations.

(d) In any circumstance for which waiver is provided, the determination of the Director shall be final.

§ 1180.52 The grantee administers or supervises the grant.

A grantee shall directly administer or supervise the administration of the grant and be answerable therefor.

§ 1180.53 Fiscal control and fund accounting procedures.

A grantee shall exert fiscal control and employ fund accounting procedures that ensure proper disbursement of and accounting for Federal funds in accordance with OMB circulars A–102 and A–110.

§ 1180.54 Obligation of funds during the grant period.

A grantee may use grant funds for obligations it makes only during the grant period.

§ 1180.55 Prohibition of subgrants.

(a) A grantee may not make a subgrant.

(b) A grantee may contract for supplies, equipment, and services subject to § 1180.45(a).

Records

§ 1180.56 Records related to grant funds.

A grantee shall, in accordance with OMB circular A–102 and A–110, keep records that show accurately and in full:

(a) The amount of funds awarded under the grant;

(b) The exact uses of the funds;

(c) The total amount expended under the grant;

(d) The amount expended under the grant during the grant period provided from non-Federal sources; and

(e) Other records necessary to facilitate an effective audit.

§ 1180.57 Records related to compliance.

A grantee shall, in accordance with OMB circulars A–102 and A–110, keep accurate and full records to show its compliance with specific requirements set forth in the regulations and published notices, or contained in the grant award documents.

§ 1180.58 Records related to Special Project performance.

(a) A Special Project grantee shall keep records revealing progress and results under the grant.

(b) The grantee shall use the records under paragraph (a) of this section to:

(1) Determine progress in accomplishing Special Project objectives; and

(2) Revise those objectives, if necessary, and authorized under the grant.

§ 1180.59 Applicability.

(a) Subparts B and C (§§1180.30–1180.58) apply to General Operating Support and Special Project assistance, except as otherwise provided in these regulations.

(b) The Education Department General Administrative Regulations (34 CFR Parts 75–78) do not apply to the Institute of Museum Services.

Appendix—Summary of Comments, Responses, and Revisions

Subpart A—General Operating Support and Special Project Support

I. Section 1180.5—Eligibility and Burden of Proof

A. *Comments on Sections 1180.5(f) and 1180.5(g).* A great many comments were received with respect to § 1180.5 (Eligibility and burden of proof). The vast majority of these comments concerned two paragraphs in the proposed section:

—Section 1180.5(f) relating to a limitation on funding under the Act to three years in a quinquennium (five-year period).

—Section 1180.5(g) relating to a limitation on funding for recipients of assistance under a Challenge Grant program.

Comments on these two paragraphs are taken up below. Other comments on § 1180.5 are taken up in subsequent paragraphs of this appendix.

(1) *Section 1180.5(f)—Comments.* Section 1180.5(f) of the proposed regulations states: "Beginning with fiscal year 1983, a museum is ineligible to receive funding for more than three years in any succeeding quinquennium."

As stated in the preamble to the proposed regulations, it was the purpose of this provision to address concerns that the maximum number of museums share in limited resources and to avoid the possibility that museums receiving funds under the Act will become dependent on Federal support.

At the outset it should be stressed that, by the words of the regulation, this provision applies to the five-year period *beginning* with fiscal year 1983. Thus it is apparent that a museum which received more than three grants during the period 1978–1982 would *not* be disqualified in FY 1983.

The majority of the museums which commented on § 1180.5(f) objected to it. However, a number of comments, primarily from small museums, expressed support.

A number of the commenters objecting to § 1180.5(f) recognized its objective—to prevent dependence on

IMS funding and give other museums a better chance for first-time approval. However, these commenters suggested the provision might be inconsistent with the principle that IMS funding should be based on program quality rather than prior grant history. These commenters believed that the provision would reduce the emphasis on qualitative evaluative measures (criteria) inherent in prior IMS policies. If a museum's program and services merit continued support (as evidenced by its application), these commenters urged, then the museum should receive an IMS grant. Still other museums objected to what they regarded as the abritrary nature of the provision.

Certain comments embodied the view that the quinquennium provision was contrary to the intent of the Act, viewing that intent as designed to provide operating support on an annual basis to museums found worthy in the annual competitive process. In this connection, one commentor observed that IMS support was helpful to a museum in attracting private and other non-Federal support and that eliminating two out of the five years of funding would reduce this effect. Other commenters urged that, if maximizing the number of participating museums was the object, the maximum amount for which an award is normally granted should be reduced and more grants made.

A comment received from a national museum organization states as follows:

> The proposed rule against receiving funds for more than three out of five years is explained in the introductory section to the new regulations as a response to "congressional and other concerns that the maximum number of museums share in limited resources; and to avoid the possibility that museums receiving funds under the Act will become dependent on Federal support."
>
> Congressional concern about distributing IMS funds to a larger number of museums was expressed in the Senate Appropriations Committee report of July 23, 1981, concerning the fiscal year 1982 IMS funding. Language was included to limit support to one year. However, as a result of subsequent discussions, the House and Senate members specifically agreed to drop that language from the final appropriations bill, and the Conference Report of November 5, 1981, stated: "The Institute may. . . accept and fund applications from museums which have previously accepted IMS support."
>
> The question of disallowing grants to institutions that have previously received awards has arisen at both the arts and humanities endowments, and in both cases, national council and agency policy is that awards should go to the applicants with the best proposals, regardless of the number of times they have successfully competed in the past. [The writer] agrees with the endowments that eligibility should not be restricted in this way.
>
> Through fiscal year 1983, the number of museums that have received an IMS grant for five consecutive years is fewer than 40, less than one percent of the museum community. Only 100 museums have received support for four out of five years. This demonstrates the highly competitive nature of the IMS review process. It also demonstrates the unlikely occurrence of a museum becoming dependent on IMS support. As long as museums continue to apply each year for support, the Institute maintains a rigorous review system, and the National Museum Services Board restricts IMS support to a reasonable percentage of a museum's budget, the risk of dependence seems minimal, and the exclusion of 130 museums from the application process after three grants in a three- or four-year period seems extremely inequitable.

On the other hand, a number of museums supported the provision in § 1180.5(f) on the ground that it would open up the possibility of support for more museums, particularly museums which had not previously or frequently participated in IMS support.

A number of small local and regional art and history museums believe that:

> . . . it would be an effective policy for two reasons: First, four or five years is a responsible amount of time for a smaller institution to develop a particular project or reassess an ongoing program, and so a prior awareness of a limit to the funding period would encourage an active search for stable sources of local support, a process that would thereby increase the institution's involvement in the community. And second, a system of "on" and "off" funding could perhaps enable the IMS to reach more museums as the funds freed during the gap in one museum's funding cycle could be given to another.
>
> In short, we are advocating spreading the wealth around to the benefit of the entire museum community.

One commenter representing a science museum with a budget of under $500,000 indicated it was "totally in support of the proposed change," and observed that museums in this category were not eligible, realistically speaking, for NEH or NEA grants and that, as a practical matter, IMS was the only source of Federal financial support. This comment went on to point out that IMS support is very important to small science museums. However, this commenter pointed out, the museum had received IMS support only once, although it had supplied the IMS every year, one of the situations the new regulations are designed to alleviate.

This commenter expressed the view that an undue proportions of IMS grants go to the largest institutions and to a select group of other museums. Accordingly, the commenter urged, the proposed changes reflected in § 1180.5(f) would greatly aid in distributing the available funds to a larger number of truly needy and worthy institutions. The commenter therefore stated:

> I sincerely hope that the proposed changes will be adopted and they will correct the inequities of the granting system as they now exist. In my opinion, these changes are long overdue. The intent was never to provide an annual subsidy for any museum.

A comment from a historical museum in a small community expressed the hope that § 1180.5 would be enacted.

Another small museum observed in the same vein:

> I believe the new proposed regulations provide better opportunities for small museums, particularly ones which have never applied for IMS assistance, to get their fair share of the pie. By limiting successive grants to the same institution to no more than 3 within a five year period, you are freeing up funds for small or "first time" institutions to be favorably considered for grant assistance. You are also making it clear that *no institution, no matter how well run and financially sound, should depend on continuous government assistance.* I believe this measure will minimize the tendency among some of the larger museums to "get richer" while the small museums "get poorer" because they must compete year after year with repeat grantees. (Emphasis added)

One commenter critized the regulations because they would permit a museum to receive three grants in five years of up to $50,000, while some museums receive nothing. Implicit in this comment is the suggestion that the Board should have gone *further* in restricting the number of grants in a five-year period.

(2) *Section 1180.5(g)—Comments.* Section 1180.5(g) of the proposed regulations provides:

> A museum is ineligible to apply for or receive funds available under the Act (for General Operating Support or Special Project support) if it has received, or has been awarded a grant under which it will receive, from any other agency of the United States, Challenge Grant funds in the same Fiscal Year (in which funds would be received under a grant from IMS). For the purposes of the preceding sentence "Challenge Grant funds" means funds paid under any grant awarded by any agency pursuant to a program such as the Challenge Grant programs authorized by sections 5(1) and 7(h) of the National Foundation on the Arts and the Humanities Act of 1965, as amended. [20 U.S.C. 954(1) and 956(h).

As stated in the preamble of the proposed regulations, the prupose of this provision was as follows:

> The proposed regulations would add new provisions in [§ 1180.5(5)–(7)] which are designed to address congressional and other concerns that the maximum number of museums share in limited resources; to avoid the possibility that museums receiving funds under the Act will become dependent on

other Federal support; and to achieve coordination with activities of other Federal funding agencies, an objective set forth in the Museum Services Act. These provisions would render a museum ineligible to apply for both General Operating and Special Project support in a single year; would limit the eligibility of a museum for assistance under the Act to only three years in any succeeding five-year period (quinquennium); and would preclude a museum from applying for or receiving IMS assistance if it has received or will receive a Challenge Grant from another Federal agency in the same fiscal year.

It should be noted at the outset, that this provision does not prevent a museum from applying to IMS for GOS if it has not received or has not been awarded a grant under which it will receive a Challenge Grant for the same fiscal year.

IMS received many comments on this provision. The majority of the commenters *opposed* this provision. A number of commenters *supported* the provision on the ground that it might assist small museums.

B. *Responses to Comments on, and Considerations Underlying, Sections 1180.5(f) and 1180.5(g)*

(i) *Background.* Sections 204 and 206 of the Museum Services Act vest the Board with the responsibility for policy direction with respect to the making of IMS grants. Section 204(g) of the Museum Services Act, directs the Board to take steps to assure that the policies and purposes of the Institute are coordinated with other activities of the Federal Government including agencies furnishing support to museums. The relationship between General Operating Support furnished by IMS and Challenge Grant support furnished by NEA and NEH appears to the Board to be one subject which falls within the purview of these mandates. In addition, individual committees of the Congress have in the past encouraged the Institute to at least consider mechanisms that would allow the maximum number of museums to share in limited resources. As stated in the Senate committee report on the Fiscal Year 1982 appropriation act for the Institute:

> Approximately one-fifth of IMS grants have been awarded to museums which have previously received IMS support. In order to assist the maximum number of museums within limited resources, the Committee supports a policy of limiting support to a one year period.

Although these observations have not taken the form of legislation or formal directives in conference committee reports, their existence, taken together with other factors, has strongly suggested to the Board the need to consider possible methods for maximizing the reach of limited IMS resources, particularly because the concentration of grant awards may be even more pronounced than is generally recognized.

Under these circumstances, the Board proposed the eligibility requirements In §§ 1180.5(f) and 1180.5(g) as a means of facilitating the participation of a larger number of quality museums in IMS grant funding and, at the same time, reaching museums with programs of particular value and merit which would not otherwise be reached in view of limited resources. For the reasons stated below, the Board believes that the instant regulatory sections (f) and (g) represent a good faith effort to address these problems.

(ii) *Budget Constraints.* The Board recognizes that the Institute, along with all other governmental agencies and segments of society, faces the prospect of budget constraints necessitated by economic realities. The Board is therefore obliged to consider the best use of limited IMS funds available in light of realistic budget levels taking into account the reality of budget deficits and the needs to maximize the use of IMS resources, at whatever level, for the benefit of quality museums generally throughout the Nation. As one commenter observed, . . ."it is important that IMS support is available to a maximum number of institutions. The mechanism of limiting applications from one institution to three of any five consecutive years will be effective."

(iii) *Participation in Grant Awards.* Information available to the Board indicates that significant categories of museums are not sharing proportionately in the IMS General Operating Support program.

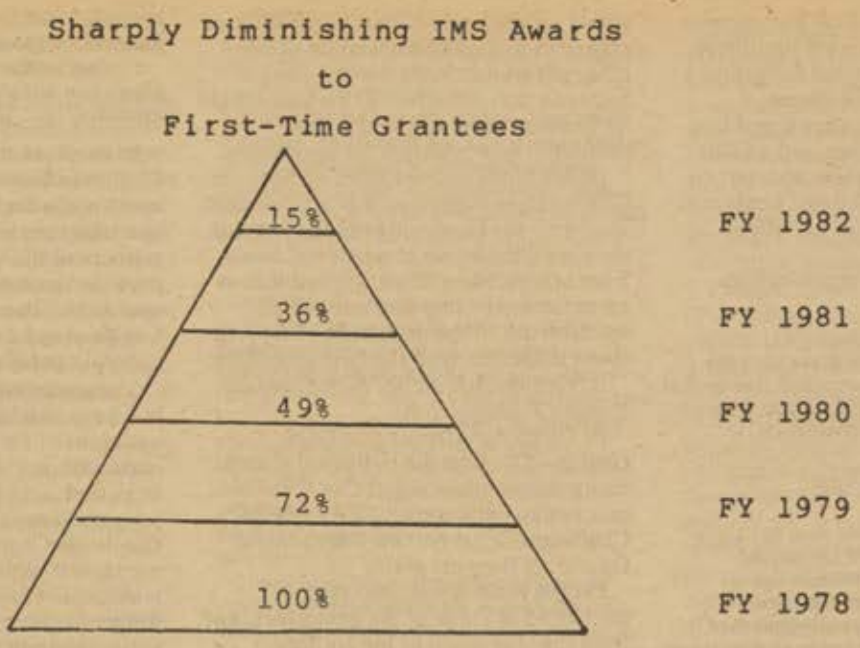
Accordingly, the Board is concerned that the regulations under which the Institution has been operating since the inception of the program were not achieving, and may well have been preventing, an equitable distribution of assistance. For example, *science museums* represented (in 1978–79) 44 percent of the annual attendance at the Nation's museums [1] but as late as Fiscal Year 1982 they were still receiving only 4 percent of the GOS grant awards which were made by IMS. See IMS Press Release, dated September 10, 1982. Zoos received 5% of the grants. Science museums, natural history museums, and zoos, among others, have no access or extremely limited access to Challenge Grants.

(iv) *Accessibility to IMS Funds by First-Time Grantees.* The Board is concerned that the IMS program may be becoming inaccessible to many quality museums—particularly small museums—which have not been previously funded. Approximately 108 museums received assistance in four out of the five years that the Institute has awarded grants and 40 museums received assistance in all five years. In Fiscal Year 1982, 372 of the 439 grantees, or 85 percent, were museums which had received a grant in a prior fiscal year. Only 67, or about 15 percent, were museums which were funded for the first time. In addition, IMS believes that a preponderance of museum applicants offer museum services which would merit funding, and a substantial number of museums *has either never received a grant or received only one grant* during the five-year period.

As the following chart makes clear, with each succeeding grant cycle a disturbing and sharply decreasing percentage of awards has been made to new IMS grantees, that is, grantees that have not previously been funded. In the absence of regulatory change, IMS grants will become virtually closed to new or first-time grantees and all but a statistically insignificant percentage of IMS grant funds will flow to a closed elite class of repeat grantees. This result, the closing off to new or first-time grantees of access to IMS grant funds, the Board has determined to avoid.

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[1] Hearings before the Subcommittee on Education, Arts, and Humanities, Senate Committee on Labor and Human Resources, 96th Cong. 1st Sess. (1979) (Reprint of Table showing number of employees, annual attendance and current operating expenses of museums in the United States, 1978–79).



These considerations, among others, prompted the Board to promulgate new regulations to address these very serious problems, specifically §§ 1180.5(f) and 1180.5(g).

In sum, the Board believes that IMS must serve those museums which represent the highest standard of excellence as measured by the published criteria. To this end, the proposed regulations, as well as prior regulations, have emphasized *quality* as the governing criterion in selection of grantees (see § 1180.13). At the same time, the Board feels that it has a clear obligation to reach out to museums which have excellent programs, but because of limitation of size and resources, may not score quite so well in the highly competitive peer review process. The purpose of the Museum Services Act is to serve "all types of museums," "museums of every kind,"—the spectrum of museums. Cong. Rec. H 3386 (Daily Ed., April 26, 1976 (Rep. Brademas); H.R. Rept. No. 94–1024, 94th Cong. 2nd Sess. 10 (1976)). Evidence that only a limited number of first-time grantees is being reached, with sparse representation among certain types of museums, convinces the Board that this mandate is not being met.

(v) *Significance of Increasing the "Cap".* The Board in the proposed regulations raised the maximum grant to $50,000, a step which a number of commenters approved. Without the changes recommended in §§ 1180.5(f) and 1180.5(g), however, this increase, taken with even a significant increase in funding, would tend to produce fewer grants, thus accentuating the tendency to reach fewer new grantees and fewer small museums, and would also *aggravate the inequities of past rigidity in the mix of museums.*

However, the operation of the quinquennium rule in concert with the Challenge Grant rule will produce the opposite result, to wit, the awarding of a larger number of grants to small and medium-size museums *and* a different mix of museums together with a greater number of new grantees.

For these reasons, the Board continues to believe that § 1180.5(f), taken with the increase in the cap, represents a reasonable approach. A museum which receives only one grant in the next quinquennium will tend to be better served than under the prior regulations, up through fiscal year 1982, because it would receive up to $50,000 where previously it could have received only up to $35,000. Similarly, a grantee which receives only three grants during the succeeding five-year period could receive up to $150,000 under the new regulations compared to $153,000 total for five grants in the prior five-year period, provided they have received the maximum grant every year. Without the quinquennium rule and the Challenge Grant rule, the grant award process would become even more exclusive, a fortiori *preclusive* and restrictive to first-time grantees.

In short, the grantee which is funded once or twice in a five-year period—frequently a small museum—would fare better under § 1180.5(f) while the position of grantees funded more frequently would be improved or preserved. Similarly, § 1180.5(g) would tend to open up greater opportunities for IMS funding for grantees which have little or no access to Challenge Grant funds (zoos, planetariums, aquariums, arboreta, science and technology centers, local historical societies and small history museums, natural history museums, children's museums, historic houses, etc.).

C. *Further Additional Comments on Section 1180.5(g) only.* Museums which *opposed* § 1180.5(g) did so by advancing four different viewpoints which can be grouped as follows:

(1) *Challenge Grants and GOS grants—Overlap.* Museums which commented on § 1180.5(g) maintained that an NEA or NEH Challenge Grant and an IMS General Operating Support grant are not duplicatory, but rather address different facets of a museum's operation. Commenters observed that a Challenge Grant and a GOS grant serve different purposes; Challenge Grants can aid a museum to increase endowment funding, garner new sources of private support for long-range capital planning and enhancement, carry out special long-range projects and the like, while a GOS grant supports current activities. One commenter indicated that its Challenge Grant had been used to create a development program and to establish a basis for an endowment fund and subsequent large increases in private funding.

Most commenters which had current Challenge Grants indicated that these grants were not being used for general operating support. Under these circumstances, commenters urged that the receipt of a Challenge and a GOS grant by the same museum was not an uncoordinated use of federal funds and the receipt of one should not affect receipt of the other.

A national museum organization stated:

> In the case of the challenge grant restriction, that it does not agree with the assumption made in the proposed change that IMS' (sic) general operating support grants in any way duplicate the endowments' challenge grants.

The comment continued:

> . . . the Arts Endowment does not allow challenge funds to be used for general operating expenses. The Humanities Endowment supports certain general operating expenses as a small element of some challenge grants, but only as they relate to the specific purposes of the challenge grant.
>
> The prohibition against receiving simultaneous support from more than one federal agency for distinctly different (sic) activities is without precedent in the federal government. The Institute's proposed regulation does not represent an improvement in the current structure of federal support; instead, it constitutes an arbitrary exclusion of a small but critical portion of the museum community from an important source of support. If the proposed rule is adopted, approximately 250 museums will be excluded from competing for IMS funds in the next one to three years. These institutions represent some of the most outstanding museums in the country with respect to the quality of their operations and service to the public.

(2) *Challenge Grants—Need for GOS.* Many commenters urged that a museum which has a Challenge Grant must devote all the resources it can to meeting the matching requirements of the grant. While this is happening, it was suggested, the receipt of a GOS grant from IMS is needed to help it meet operating requirements during this period.

(3) *Challenge Grants—Quality Museums.* Many commenters urged that § 1180.5(g) would have the effect of unfairly discriminating against or shutting out museums which have the highest quality programs and above-average management and of constituting a departure from the merit system of review. Such museums, it was urged, are most likely to be successful in obtaining both Challenge Grants and GOS grants and are therefore the institutions most likely to be adversely affected by the proposed § 1180.5(g). Commenters urged that funding decisions should be made solely on the basis of merit and without regard to receipt of assistance under other programs. Some commenters believed that the effect of the rule would be to serve museums which are relatively less qualified for assistance.

(4) *Multiple Federal Funding Sources.* Commenters suggested that a precedent would be set for closing off one funding source on the basis of receipt of funds from others. Museums regarded this as an unfortunate step and one which would work to the detriment of serving those museums with the best programs.

D. *Further Additional Responses on Section 1180.5(g) only.*

(i) *Challenge Grants and GOS Grants—Overlap.* As indicated above, many commenters urged that there was no overlap between an NEA or NEH Challenge Grant and an IMS General Operating Support grant.

On the other hand, information contained in some of the comments, and from the Chairman of the National Endowment for the Humanities, indicates that Challenge Grants may be used directly or indirectly to defray operating expenses. One comment stated that the Humanities Endowment supports certain general operating expenses as an element of some Challenge Grants, as they relate to the specific purposes of the Challenge Grant. A letter from the Chairman of the National Endowment for the Humanities describes the factual situation with respect to general operating support and Challenge Grants in general:

> Interestingly, perhaps ironically, the only Endowment grant program which does *not* (sic) include indirect cost reimbursement is the Challenge Grants Program. The reason is that *these awards provide general institutional support* and are designed to stimulate long-term capital development and fund-raising. Recipients use *Challenge funds for such needs as renovation, conservation, acquisitions, and endowments.* Because Challenge Grants develop capital resources, funds may indeed defray along-the-line-costs generally regarded as operating expenses. For example, an institution which in its entirety works within the humanities *may receive a Challenge Grant to establish a general operating endowment.* Annuities or interest generated by that endowment would support operating expenditures. In another instance, an institution doing work in areas in addition to the humanities may *develop a program endowment* which provides *income to support staff positions, continued maintenance, directorial salaries, and other general institutional costs.* Of course, for any Challenge Grant recipient, the growth of flexible capital may also allow that institution to release previously restricted funds for the support of general operations. My understanding is that this type of indirect support for operating expenses would pertain to any kind of institutional grant—for example, the Challenge Grants awarded by the Arts Endowment as well as ours.
>
> . . . *both NEH project and Challenge grants can and do support operating expenses.* . . . (Emphasis added)

In short, as the letter indicates, Challenge Grants can be awarded specifically for the provision of general operating support, e.g. "renovation, conservation." A Challenge Grant may provide "indirect support for operating expenses." In addition, Challenge Grants may be awarded to establish general operating endowments.

Moreover, where an endowment fund has been established with the partial assistance of a Challenge Grant, museums may and do use the income from that fund for general operating support. A museum which receives a Challenge Grant of $150,000 and matches it with $450,000 to establish an endowment fund can (at 8% interest) draw operating support of approximately $50,000 per year (exactly the maximum amount of money an applicant can receive in any one year under a GOS grant from IMS).

It is clear, under all of the foregoing circumstances, that the two programs are not unrelated. On the contrary, in both instances Federal funds provide general operating support, the difference being that the operating support from the Endowment will extend into perpetuity, while operating support is limited to only one year from IMS.

More importantly, both GOS and Challenge Grants have the effect of stimulating increased private support for recipient museums. Although GOS grants (unlike Challenge Grants) are not normally made for the express purpose of enhancing a museum's access to sources of non-federal support and no overt matching requirements have been imposed for this purpose, IMS has received many comments, including comments on the instant proposed regulations, § 1180.5(g), indicating that an important, if not the *most important*, benefit of a GOS grant for the recipient is its effect as evidence of the worth of the museum's program; it is said that this factor is of great value in enabling the recipient museum to obtain additional private and other non-federal support.

As one commenter stated:

> IMS grants have inspired other individuals and foundations to provide increased funding because we have used the IMS grant as a basic stamp of national approval to potential donors.

Another stated:

> Assistance of this type not only helps the museums directly, but also indicates to

individuals, foundations, and corporations that Washington recognizes our great need, and inspires these others to give, too.

The contribution of a Challenge Grant to increasing private support is more dramatic, but the effect of an IMS GOS grant can be identical and should not be discounted. It is not only incumbent upon the Board to provide for equity in the distribution of Federal funds, but it makes sense for the Board to try to reach museums which are not eligible for Challenge Grants or have limited access to them and which have previously received very limited support from IMS (or none at all) in order to expand (to new recipients, to a broader range of recipients, and to a different mix of recipients) this crucial *leverage* effect of IMS grants in engendering private support. To put it another way, to encourage the flow of private support funds, IMS believes that it is a better use of the taxpayers funds to award a GOS grant to an *otherwise Federally unfunded* museum than to a museum which currently receives Challenge Grant funds. Furthermore, the Board believes that it has an *undeniable responsibility to fund the largest practicable number and variety of museums nationwide, rather than* duplicating the funding of another Federal agency, or *continually supporting the same museums year in and year out,* when the source of funds is not only necessarily finite but drawn from a nationwide tax base and *should* in equity *be distributed broadly.* The Board is convinced that there are many new and different museums which could be reached without *in any way* impairing either the quality of IMS recipient museums or rewarding "mediocrity."

And this is achievable without "punishing" (sic, comment letters) museums which have traditionally been funded year in and year out. This is so because these latter museums will still be enabled under the regulations to receive approximately the same level of funding as in the previous quinquennium under the old regulations while at the same time making way for new and different museums to share in the taxpayers dollars.

A fortiori, the Challenge Grant preclusion would not significantly impair or disqualify any museum from IMS funding for more than 3 years in a 5-year period, maximum, and all could be eligible for IMS funding for the total 3 years under the succeeding quinquennium if they make their match with diligence and dispatch.

As stated by a commenter in support of § 1180.5(g):

I believe the same rationale holds for the restriction on receiving IMS and other federal grant assistance in the form of challenge grants in the same fiscal year.

There are many small and medium sized museums which have been seriously affected by the recent drops in attendance, rising costs and diminishing public funds. These institutions really need the boost that an IMS grant offers, even if allowed for [only] one year in five. The grant can enable these museums to adjust and polish their administrative, financial and collection-related programs and to work on long-range planning. While larger and well-endowed institutions can always find a good use for IMS grant funds, they are not as severely hurt without those funds and their programs are affected negligibly. A grant to a small institution can mean the difference between continuing quality programs or eliminating them; a large institution can usually pick up the slack from other sources. I speak from first hand experience.

I hope that the proposed regulations, if enacted, will provide more opportunity for the smaller institutions, particularly those in geographic areas where they are competing with large and leading institutions, to receive funding from IMS so they might continue to serve their publics.

(ii) *Challenge Grants—Need for GOS.* The National Museum Services Board recognizes that a museum with a Challenge Grant may find a General Operating Support grant very useful in carrying out regular operations while the institution is striving to meet Challenge Grant requirements. However, where budget constraints prevent other museums with worthwhile programs from being reached, it is questionable whether IMS funds should be used to complement another Federal (Challenge Grant) program, where the effect is to *preclude* funding for other quality institutions with no practicable source of Federal assistance.

(iii) *Other Considerations.* Since its inception, IMS regulations have stressed institutional quality as the major factor in funding determinations. This basic thrust remains unimpaired under the funding criteria in the proposed regulations. See § 1180.13. A strong, highly competitive institution can continue over the next five-year period to receive $150,000 in the aggregate under the proposed regulations, hardly a denial of participation or a "punishment", as some commenters suggest. (Indeed, a museum which succeeded *every year* of the last five years and received the maximum amount would only have received $153,000 under past regulations.)

At the same time, museums which have not previously participated may be reached thus maximizing the potential benefits of the IMS use of taxpayers' dollars to new museums and stimulating a broader mix of museum categories and disciplines. The Board does not believe that quality is so confined in the museum field that reaching a limited number of new participants in the next five years will compromise quality or succor the unworthy. Such a notion is inconsistent with the confidence which the Board reposes in the broad spectrum of eligible institutions in the Nation.

Finally, the Board does not agree that (§ 1180.5(g)) runs counter to the objective of encouraging private support for museums. The purpose and effect of both Sections 1180.5(f) and 1180.5(g), is to direct IMS funds to *more museums while providing for continued support for traditional grantees at previous levels.* In this way, the IMS funds can be maximized in their potential for leveraging private support and serve to provide that leverage for a greater number of museums and a larger spread of museum disciplines and sizes. When the stamp of approval is available 3 years in a quinquennium, and a museum receives that stamp through an IMS grant, as of old, the museum is in the same position as before to go out in that raiment and seek support.

E. *Statutory Issues—Sections 1180.5(f) and 1180.5(g).* Questions were raised in the comments as to whether proposed §§ 1180.5(f) and 1180.5(g) were consistent with the mandate in the Museum Services Act. The Board believes that they are.

The Act vests the Board with broad authority to provide policy direction regarding the making of grants. Museums Services Act, sections 204(f) and 206(a). Grants are made "subject to the policy direction of the Board." *Ibid.* Since the inception of the program, this function has been exercised through the development of regulations setting forth policies regarding eligibility criteria, and conditions relating the award of grants. The Board has considered and approved the development of all the Institute's regulations and their issuance after full public participation.

Neither the language in the Act, nor any emanations arising therefrom, nor the legislative history assures a particular group of grantees either continuous government assistance or guaranteed annual support. On the contrary, the legislative history of the Act indicates that it was a concern of the Congress that "all types of museums" share in the program. Cong. Rec. H 3386 (Daily Ed., April 26, 1976 (Rep. Brademas); H.R. Rept. No. 94–1024, 94th Cong. 2nd Sess. 10 (1976)). In light of this history, taken with its broad authority to set policy, as hereinbefore stated, it is both a proper concern of and

a required function of the Board to reevaluate a policy that appears to have the consequence of, or produce the result, that only 15 percent of the grantees funded in Fiscal Year 1982, for example, were first-time grantees. This concern was properly reflected in the modified policies in the instant regulation.

Finally, the Board recognizes, as did the Congress when it enacted the Museum Services Act, that the Board has the mandated duty to consider and develop policies, including policies regarding eligibility to determine how finite funds are to be distributed among a large pool of competing applicants. To carry out this task by regulation is not only clearly within the mandate of the Board, but it is *incumbent* upon it. It is *charged* with this obligation. In *Morton v. Ruiz*, 415 U.S. 199, 230–31 (1974) the Supreme Court determined that if there are only enough funds appropriated to provide meaningfully for less than the entire class of eligible beneficiaries, it would be *incumbent* upon the agency to develop an eligibility standard to deal with this problem, and the standard, if rational and proper, might leave some of the class otherwise encompassed by the appropriation without benefits; this, however, must be accomplished through resort to the *rulemaking* process under the Administrative Procedure Act.

F. *Summary—Sections 1180.5(f) and 1180.5(g).* The perspective of a member of the National Museum Services Board when first established was shared with the Board during its March 18 meeting. These views are set forth below as a summary of the Board's conclusions regarding §§ 1180.5(f) and 1180.5(g).

> Nor do we really accept the point of view that it has always been the intention that IMS would always give support to every museum that was found worthy in every successive year. Having been very heavily involved in the very early stages of trying to formulate a policy for IMS I can tell those of you who may not have been involved in those stages very clearly . . . that there was no such presumption whatsoever at the founding of IMS. The presumption at the founding of IMS was that the aim stated in the statute would be carried out. And those aims were basically to assist museums in their basic mission and to enhance their programs in education and conservation basically. The exact ways in which that was to be done were left entirely in the hands of the Board, as they had to be left in the hands of the Board. And the Board during its first few meetings evolved a philosophy of making grants for General Operating Support as the most effective way to assist museums on a continuing basis. We feel that by calling for pauses in this funding we are spreading it out in a way that will assure more equitability, will allow more first-time awardees to appear in . . . each cycle, and will assist museums in precisely the same way and in precisely the same degree financially that they have always been assisted.
>
> With respect to the Challenge Grants the argument is more complex. In my opinion, if anything, even more compelling. Congress has always taken the point of view that we, that IMS, and all other institutions involved in funding museums ought to avoid duplication . . . Every single [Congressional] hearing we have had during the past five years has been filled with questions of the extent to which we were duplicating the efforts of other agencies. In a time of fiscal constraint we have tried to avoid giving duplicate funding to the same agencies.
>
> A great deal has been made of the rather admittedly controversial point about whether Challenge Grants usually do support museums for their operating functions. The fact of the matter is that Challenge Grants often, perhaps usually do, help support museums for their operating functions. The basic philosophy implied in most successful Challenge Grants applications is that the museums by obtaining substantial financial help can go out on their own and seek further help in the community and that in some way guarantee their own future by doing that. This could be, for example, some Challenge Grants have been to build buildings which secure the financial position of the museum, solidify its conservation of its collections, enhance its educational program. Other Challenge Grants have been to stimulate the museum to raise endowment. Now, anyone who can't see the relationship between a museum raising $600,000 worth of endowment by means of a Challenge Grant and the same museum getting $35,000 a year in General Operating Support from IMS in my opinion is not looking at the situation squarely . . .
>
> But leaving aside the question of whether Challenge Grants really do provide operational support, there is a fiscal overlap for the institution that receives the Challenge Grant—if you receive very large sums of money from a Challenge Grant during any given year, you are going to be a lot better off than if you didn't receive those very large sums of money from a Challenge Grant and the amount of money you might receive from IMS during the same year is going to be proportionately much less important to you than it would be if you did not receive a Challenge Grant. Therefore, it is perfectly logical for IMS simply to opt out of those years in which institutions are getting substantial funding from Challenge Grants.
>
> Finally, there is the point . . . which we have often discussed in one form or another on the National Museum Services Board, and which is quite compelling, and that is simply the inequality of Challenge Grants. The Endowments have made sporadic efforts to scatter Challenge Grants around to institutions that might be regarded as less than central to their basic purposes, but in general in a time of constraint in which we are now . . . particularly the National Endowment for the Arts has pulled back the spread of Challenge Grants through the whole community of museums and the fact of the matter is, as anyone can see in the record, that something in excess of 85 percent, conservatively, of all Challenge Grants have gone to art museums, historical centers, or universities with humanities programs . . . Medium-size and smaller-sized museums, children's museums, state and local history museums, zoos, botanical gardens, arboretums and others simply have not had access to Challenge Grants—they are not likely to get access to Challenge Grants.
>
> By eliminating IMS General Operating Support funding to those museums which are receiving Challenge Grants during that given year, we are indeed doing something that we might well have done a long time ago in making some general operating support available to museums which are not fortunate enough to be in the narrow categories that the endowments serve and, therefore, are really serving on a more equitable basis the entire American museum community.

For the reason stated above, and all of them, proposed §§ 1180.5(f) and 1180.5(g) are retained in the final regulations.

G. *Comments and Responses on Other Provisions of Sections 1180.5(b) and 1180.5(e).*

(1) *Section 1180.5(b).* Section 1180.5(b) of the proposed regulations provides that no museum is eligible to apply for funding under the Act unless it has provided museum services, including exhibiting objects to the general public on a regular basis, for at least two years prior to application. A number of commenters expressed concern that the provision would rule out established museums which had provided museum services for many years but which had ceased exhibiting objects to the public for a two-year period *prior to application* or had not exhibited objects to the public for a two-year period prior to application because of the need to renovate or expand existing facilities or move into new facilities. A number of museums indicated that such an interpretation would preclude them from participating in the program.

The intent of § 1180.5(b), which clarifies and makes certain an analogous but murky provision, uncertain in its effect, in the previously published regulations, is to preclude from Federal funds applicant museums which have been operating for less than two years and thus have an unproven and inadequate basis of fiscal experience on which funding decisions can responsibly and reasonably be made. The provision was not intended to adversely affect museums which have a history of continued operation for more than two years, temporarily interrupted in order to renovate or expand facilities or by natural disaster, for example.

(2) *Section 1180.5(e).* A number of commenters objected to the provision of § 1180.5(e) which provides: "a museum

is ineligible to apply for or receive funding in any year for both Special Project and General Operating Support."

Commenters believed that a museum should be eligible to apply for both if its aggregate grants did not exceed the anticipated ceiling ($50,000).

The provision is designed to enable the maximum number of museums to participate in the IMS program, that is, to maximize the number of grants to different museums. It is believed that benefits accrue to a museum from an IMS grant whether General Operating Support or Special Project Support and that the limitation will serve to maximize the efficient use of, and broaden the benefit of, IMS resources. No change has been made.

II. Comments and Responses on Other Sections of the Regulations

A. *Comments on Section 1180.3.* One commenter observed that the definition of a "museum" in § 1180.3 was "quite appropriate."

(1) *Section 1180.3(a)(3)(i)—Comment and Response.* This section provides that an institution which exhibits to the general public for at least 120 days a year shall be deemed to meet the "regular basis" exhibition requirement of the statute and regulations.

One commenter regarded the requirement that a museum be open for at least 120 days (4 months), which interprets the statutory requirement that an institution exhibit objects on "a regular basis", as overly restrictive for seasonable museums. The commenter observed that some seasons may be so short that the number of days is prohibitive. If a number must be established, then a separate case should be made for this special class of museums. Another commenter thought that the revised § 1180.3 was a definite improvement and that "regular basis" should be defined explicitly.

Given limited funds and the need to provide administrative guidance, the Board believes that the minimum 120-day standard constitutes a reasonable threshold which is designed to both encompass and provide for eligibility for most seasonal museums. It was not clear in the past, either to museums in this category that IMS funding was available to them, or to the Board that they should be eligible. No change has been made.

(2) *Section 1180.3(d)—Comment and Response.* A question was raised as to the intent of § 1180.3(d). Section 1180.3(d) is not a new provision but merely carries forward a provision that has been in the IMS regulations since inception. The provision was included in the original 1978 regulations in somewhat different language. The purpose of this language was described in the explanation of the 1978 regulations, as follows: "This provision is designed to clarify the status, under the Act, of institutions which are organized for educational or esthetic purposes and may, in a literal sense, display objects in the course of their overall activities but which are not really museums and were never intended to be covered under the Act, as IMS understands it. For example, ordinarily a public library displays objects it owns to the public but that activity does not render the library a museum under the Act. Similarly, such display or exhibition of objects as may be incidental to theatrical, musical, or television productions or to the maintenace and operation of public parks and playgrounds, must normally be considered outside the ambit of the Act." (43 FR 45171 (Sept. 29,1978)).

B. *Section 1180.8—Comments and Responses.* This section is designed to list the purposes for which a Special Project grant may be used.

A significant number of commenters objected to elimination of certain categories or types of activities which were mentioned in the previously published regulations but which are not specifically mentioned in § 1180.8 as proposed. In particular, commenters objected to the elimination of reference to cooperative or collaborative educational programs between museums and schools. Commenters believed that this was a valuable type of project which should not be eliminated. As one commenter on § 1180.8 stated:

> Here, at the Museum of Science, the . . . area's largest education center, support from the local . . . County Public School System enables us to reach 45,000 students annually. We have two full-time teachers assigned to the Museum and work closely with the Science Fair committee, Teacher Training programs and the Coalition of Environmental Educators . . .
>
> Suspension of funding for continued cooperative endeavors would severely limit our ability to provide interactive, hands-on science experiences for the large numbers of students that participate in our programs. I certainly hope . . . in this time of economic uncertainty that priority can once again be given to institutions such as ours that are willing to plan cooperatively with local school systems so that the best use can be made of the funds available.

Another commenter urged:

> This is a time to strengthen ties in the education community, not to divide them. Considering lack of science, math, and art education in the schools, statistics show that museums increasingly have picked up the slack through outreach and in-house programming.

Section 1180.8 was revised in order to follow more closely the list of authorized purposes in the statute. It was not the intent of the regulations to eliminate authority for carrying out education-related projects. Indeed § 1180.8(a)(6) *specifically mentions* projects to "develop and carry out educational programs." However, a change has been made in the regulations by adding the phrase, "including cooperative education projects between museums and school boards, schools, or other public or private nonprofit educational institutions", to make clear that this type of activity includes cooperative education projects with local schools boards and other educational institutions.

With respect to comments that projects to encourage long-range institutional planning be mentioned, the Board believes that this is an activity which may be carried out by individual museums under the GOS category and need not be specifically emphasized in § 1180.8. No change has been made.

C. *Section 1180.9 Likely Size of Grants and Allocation of Funds Among Activities—Comments and Responses.* Several commenters objected to the change which would eliminate a statement as to the amount reserved for GOS grants. One commenter objected to this change as a dangerous straw in the wind which might move IMS away from a concentration on GOS support in favor of project support. The commenter observed that a museum can undergo financial reverses by engaging in a directed special project while museums need general operating support *to survive.* The commenter urged that focus on GOS be continued. Another commenter urged elimination of Special Project support.

The purpose of the provision in question is to permit flexibility in determining funds available in keeping with the appropriation decision of the Congress. In recent years the division between funds for GOS and for Special Projects has been explicitly determined in appropriation acts or their legislative histories and it is to these sources that IMS must look to determine the proportionate amounts. The purpose of § 1180.9 is to facilitate responsiveness to legislative direction.

Most commenters who discussed the issue supported the lifting of the $35,000 maximum to $50,000. As one commenter observed, "Because of inflation and increasing service to the public-at-large, the $50,000 maximum seems a reasonable figure."

D. *Section 1180.11(c) Financial statements—Comments and Responses.*

(1) *Section 1180.11(c)—General.* Section 1180.11(c) provides for submission of financial statements, including, in the case of applicants which have previously received an IMS award, *audited* financial statements. Reference is made to the text of this section in the notice of proposed rulemaking.

A number of commenters questioned the need for the information required by § 1180.11(c), regarded its provisions as overly burdensome, or stated that it required more paperwork than needed. Requiring statements for the two preceding years was questioned. The difficulties which university museums (or other museums which are part of a larger organization) face in meeting these requirements was the subject of a significant number of other comments. Although commenters generally recognized the need of IMS to receive financial information, a number of commenters, including commenters representing small museums, questioned the ability of small museums to meet the requirements of § 1180.11(c) or indicated that satisfying these requirements would be particularly costly for a small museum and would offset the benefits of an IMS grant.

(2) *Section 1180.11(c)—Comments from university and other museums which are part of larger organizations.* A number of university museums indicated that, because they operated on a cash, rather than an accrual, basis, furnishing audited financial statements would be extremely difficult and would require a change in accounting methods. As one commenter stated:

> The [university], like most state universites, operates on and prepares its financial statements on a cash basis. The [museum] maintains appropriate journals and ledgers but these, also, are maintained on a cash basis. In order to meet fully the financial reporting requirements of the proposed 1983 guidelines, our books would have to be maintained on an accrual basis. According to the American Institute of Certified Public Accountants, an audit opinion certifying that financial statements are prepared in accordance with generally accepted accounting principles would require full accrual accounting. We simply cannot change to this accounting system.
>
> There are three points to be made here: (1) The proposed 1983 guidelines seem to specify the kind of financial statements that require full accrual accounting, even though full accrual accounting is not used by most state universities and their associated museums; (2) the requirement that an audit opinion certify that the statements be prepared in accordance with generally accepted accounting principles could not be met if the books were maintained on a cash basis; (3) the requirement that every applicant, including state university museums, which has received an IMS award must submit an audited financial statement prepared by an individual or organization meeting the qualifications of the Comptroller General for individuals or organizations conducting Government audits would seem to be redundant in view of the fact that most state universities themselves have such statements prepared.
>
> Therefore, it is requested that the proposed 1983 guidelines be amended so as to include financial reporting requirements that are reasonable and fair for university museums. This request is made not to avoid responsible financial management and reporting, but because the financial environment in which university museums operate is substantially different from that of privately endowed organizations. In the university environment, cash basis accounting is needed and used, although accountability requirements for individual departments are maintained at a high level and monitored closely throughout any given year. *University museums . . . can and should present a Statement of Revenues and Expenditures, and this can be examined by university auditors or an outside public accounting firm. This examination can be made in accordance with generally accepted auditing standards even though the Statement itself cannot be certified as being prepared in accordance with generally accepted accounting principles. The auditors can also express an opinion as to whether the statement presents fairly the revenues collected and the expenditures made under the cash basis of accounting.* (emphasis added)

Another comment suggested that the requirement for a *separate* audit should be in effect eliminated entirely for university museums on the following basis:

> Most states, universities, and municipalities are required to undergo annual audits by an independent external auditor each year. This procedure does meet the requirement stated under Section 1180.11(c)(1). However, the individual account of a budgetary unit such as an affiliated museum is not identified in the statement of financial operations and balance sheet such as described in the Museum Accounting Guidelines of the Association of Science Technology Centers, or Museum Accounting Handbook of the AAM. The accounting standards employed by reputable accounting firms do meet the standards cited in Section 1180.11(c)(2). It should only be necessary and sufficient for a museum which is part of an organization such as a university, state, or municipality to show that the financial management and internal auditing system of the unit which conducts the fiscal accounting program for the museum meets those same standards as demonstrated in the audit report from an external accredited accounting firm. The essence is that the acceptable annual audit report for a state, university, or municipal museum should be the report which covers the unit having the responsibility for conducting the financial transactions on behalf of the museum as an identified budget unit of the larger organization.

Still other commenters suggested that, if § 1180.11(c)(3) is retained, the authority therein to deny a waiver to a museum meeting the conditions of that section should be limited.

(3) *Section 1180.11(c)—Responses.* IMS regulations have *always* called for the submission of financial statements. See 34 CFR § 64.11 (c)(1981). The Board has always been of the view that financial information of this nature was *essential* to a responsible evaluation of requests for Federal operating dollars and furnished an objective financial picture of an institution to which Federal funds might be made available, as well as an assurance to the taxpaying public of institutional integrity.

During the Fiscal Year 1982 grants cycle, questions were encountered as to the definition and implementation of certain financial requirements set forth in the previous regulations, and an attempt has been made in the proposed regulations to address these questions and provide clarification. In particular, guidance is included in the proposed regulations as to what must be embodied in a financial statement as well as the minimum requirements for an audit. See § 1180.11(c) (1) and (2) in the proposed regulations; § 64.11(c) in the prior regulations.

It is emphasized by the Board that the requirement that every museum must submit its financial statement and every previous IMS award recipient must submit an audited statement has *always* been imposed by IMS regulations. These requirements are nothing new.

The Board continues to believe that the submission of financial statements is essential and continues to seek ways to reduce the burden of such submissions. The Board agrees with one comment which stated: "No institution should use government funds which does not have an acceptable annual audit of accounts."

Much of the difficulty with the financial statement provisions of the regulations has been encountered by university museums or other museums which are part of larger organizations. IMS has attempted over the years to provide relief to these institutions while at the same time meeting the need for financial information. Section 1180.11(c)(3) represents the most recent effort to do this. It provides:

> If a museum is part of an organization such as a university, State or municipality and does not receive audits separate from those of the organization of which it is a part, it may submit its financial statement as drawn from and containing only audited figures of the organization of which the museum is a part. This financial statement must clearly

indicate that it has been so prepared and the Director *may*, upon written request filed at the time of the application, waive the requirement of a separate audit and proceed to process the application [on] its merits.

The instant paragraph was drawn from the experience of IMS in responding to the needs of university museums during the FY 1982 grant cycle and provides for a waiver of the *audited* financial statement requirement where a financial statement for the museum, although itself not audited, can be drawn from audited figures. This proposed regulation represents a liberalization of the prior rule to enable museums in this category to meet financial requirements applicable to all museums. The suggestion by one commenter that no financial statements be submitted by the museum itself but rather statements of the organization as a whole be submitted in lieu of statements for the museum misses the point and is unacceptable. Audited print-outs relating to entire states or entire universities are of no value in assessing the financial integrity or managerial quality of the museum itself. Further, there is no justification for relieving one museum and not another from a showing of financial and managerial condition. It is the *museum* which is assisted under the Act—not the parent organization—and it is the *museum's* situation which must be evaluated.

The Board agrees with the observations set forth in the following comment:

> I fully agree with the requirement that each institution applying for IMS support provide an audited financial statement. As you know, the difficulty with this requirement relates to the fact that many museums have universities or other larger umbrella organizations as governing authorities and as a result have financial management policies quite different from those of independent, free standing museums. Thus, the University. . . Museum of Natural History and many other (perhaps most other?) university and college museums do not as a matter of practice prepare annual financial statements. Instead, the financial integrity of such museums is subsumed under the financial statement of the parent university. In my view, this should not exempt university and college museums from providing as part of the grant proposal a financial statement drawn from the financial statement of the organization of which the museum is a part. While this may require some effort on the part of the university or college administration, such a financial statement, I feel, would be a useful part of a university or college museum IMS application since it provides certain assurances to the IMS and to its reviewing system.

The commenter went on to suggest that waiver language be eliminated in favor of language providing for automatic acceptance of such statements.

The waiver language was included in the proposed regulations to enable the Director to make the finding that the requirements for the waiver had been met, that is, that the financial statement so prepared presents fairly the financial position and the results of financial operations of the museum. A change has been made in the language, however, to respond to the commenter's point by providing further information as to the standard to be used in considering requests for waivers.

(4) *Section 1180.11(c)—Changes made.* Several changes have been made in the regulations to respond to comments from university museums and other museums which are part of larger organizations. These are summarized below:

(i) *Cash accounting.* In response to the comment previously summarized regarding university museums which are on a cash accounting basis, a change has been made in § 1180.11(c)(2) which would permit a museum which uses a cash accounting basis to comply with the requirements for an audited financial statement if the individual or organization performing the audit certifies that the financial statement of the museum presents fairly revenues collected and expenditures made in accordance with generally accepted auditing standards. This change has been made in order to respond to objections that the language in the proposed regulations (in § 1180.11(c)(2)) would preclude a museum on a *cash basis* from meeting the requirements because an auditor would be unable to certify that a museum which did not use accrual accounting had financial statements which presented the financial position and the results of financial operations *in accordance with generally accepted accounting principles.* (This concern is discussed more fully in the comment quoted above.)

The Board believes that this change will enable university museums which use a cash accounting basis to meet the financial statements requirement without difficulty.

(ii) *Balance sheet.* The attention of the Board was called to a number of questions or comments from museums which believed that the requirement for submission of a balance sheet under § 1180.11(c)(2) was inapplicable to their situation. The proposed regulations in that section stated that a financial statement must include a balance sheet such as described in the Museum Accounting Guidelines of the Association of Science-Technology Centers (1976) or in the Museum Accounting Handbook of the American Association of Museums (1978). This language was included in the proposed regulations in response to numerous questions which were received in prior years as to what constituted a financial statement. Financial statements as described in the Museum Accounting Guidelines mentioned above include a balance sheet (or statement of fund balance). Accordingly, it was concluded that such information was important for complete review. However, it appears that a number of museums, particularly university museums, observed that submission of a balance sheet would be inapplicable to their situation because they lack assets, liabilities, land, buildings or other items which would normally appear in a balance sheet and that the creation of a balance sheet merely to meet the purpose of the IMS regulations might serve no substantive purpose. To meet this objection, the Board determined to add the words "if applicable" to the balance sheet requirement, in effect providing that a balance sheet need be submitted only "if applicable" to the situation of the museum. As amended, the requirement appears in § 1180.11(c)(2) in the text of the regulations.

(iii) *Waiver standards.* Language has been added to § 1180.11(c)(3) to respond to a number of comments which suggested that either the standards for waiver of the requirement for an audited statement be clarified or the waiver be made in effect automatic. The purpose of § 1180.11(c)(3) and the comments on this point are described above. In response, the Board has determined to add clarifying language to indicate that the financial statement for the museum in question, albeit not audited, "must present fairly the financial position and results of financial operations of the museum." See the full text of § 1180.11(c)(3).

(iv) *Periodic audits.* In response to comments from a number of university museums that the requirements of § 1180.11(c)(3) could not be met because the university or other parent organization did not conduct annual audits, language has been added to the provision to state: "Where the organization is not audited on an annual basis, the financial statement may be drawn from the most recent audited figures of the organization."

The Board hopes that, taken in the aggregate, these changes will meet the special needs of museums which are part of universities or other organizations in furnishing financial statements while at the same time

accommodating the interests in accountability which the Board feels strongly must be maintained under the Museum Services Act.

E. *Section 1180.11(e) Maintenance of effort—Comments and Responses.* Some commenters expressed concern that this provision (relating to maintenance of effort) would render ineligible museums which had a large, extraordinary influx of revenues in a particular year, resulting, for example, from a large one-time gift from a particular donor. The concern was expressed that the base year for measuring the museum's expenditures would be inflated thus causing it to fall out of compliance in the succeeding year with the provision in § 1180.11(e) which states: "An applicant complies with this requirement [maintenance of effort] if its aggregate expenditures for museum services (exclusive of Federal assistance) for the grant period are at least equal to those expenditures for the equivalent preceding period."

As one commenter stated:

> This maintenance of effort clause, while philosophically sound in that museums should continue to increase their services, can be restrictive if held to the letter of the statement. A number of museums make great efforts to produce or at least show exhibitions which have great public appeal. Often there (sic) are costly events which are paid for by public admissions. The result of such activities is that aggregate expenditures for the year are extremely high followed, perhaps, by lower expenditures the following year. This situation must be understood in evaluating annual fluctuations by IMS panels. (sic)

The maintenance of effort provision in § 1180.11(e) has been in the IMS regulations since inception; many commenters recognized that it was sound in principle, while raising the concern expressed above. However, the quoted sentence was never intended as the exclusive means of testing compliance with the general requirement. On the contrary, it was intended as a guideline; if a museum can demonstrate compliance with the guideline, it is considered in compliance with the requirement. If not, it may need to present other material to show that its effort has generally been maintained. Accordingly, the receipt of a large one-time gift increasing expenditures in the base period would not automatically or necessarily put a museum at odds with § 1180.11(e) if it can show that otherwise it is maintaining its "fiscal effort"—viz., is making a comparable effort to maintain funding levels. Because the provision is important in preventing a museum's parent organization or funding sources from withdrawing support as a result of the IMS grant thus negating the effect of the grant, the provision has been retained.

F. *Section 1180.12 How Applications are Judged; Priorities—Comments and Responses.* A number of commenters approved the priorities set forth in § 1180.12. A commenter particularly commended the encouragement of cooperative projects between museums, a priority under § 1180.12. One commenter expressed an objection to these priorities. The Board believes that the priorities are sound and reflective of the needs of the museum community for the current fiscal year and no change has been made. Priorities are, of course, subject to annual reconsideration by the Board.

G. *Emergency Grants—Comments and Responses.* A number of commenters believed that eliminating emergency grants (previously covered 34 CFR § 64.12) was unwise.

For the reasons stated in the preamble to the proposed regulations, the Board believes that so-called emergency grants should not be continued under IMS auspices. It should be emphasized that IMS regulations *never* provided that an "emergency" gave a museum an advantage in a funding competition under GOS but merely provided a mechanism for considering the application out of the normal cycle and process for consideration of grant applications. Essentially the same purposes can be served through regular GOS grant competition because emergency grants provided GOS outside of the normal, regular competitive cycle and through a process that avoided normal peer review and review by the full Board. No change has been made.

H. *Sections 1180.13 and 1180.14 Criteria for Evaluation of Applications for General Operating Support and Special Projects—Comments and Responses.* Commenters were generally satisfied with this section. However, a number of suggestions were made with respect to individual criteria or particular factors under individual criteria. These are discussed below.

(1) Section 1180.13(c) deals with the criterion of accessibility. Section 1180.13(c)(1) calls upon a reader to weigh, in considering accessibility, the reported percentage of the museum's collections on view to the general public on a regular basis. A number of commenters regarded this factor as irrelevant and not related to accessibility. Typical of the comments on this point was the following observation:

> A second area of concern has to do with what I feel is a basic misunderstanding regarding the purpose of a museum and how it uses its collection. Under "Criteria for evaluation of application for General Operating Support (§ 1180.13C1) (sic), the regulations suggest a correlation between "the percentage of the museum's collections on view to the general public on a regular basis" and the accessibility of that museum to the public. Quite frankly, such a correlation is often impossible since accessibility in a museum means total "use" of collections (by the public, by scholars, by researchers, etc.), not a limited public viewing. Museums are, or at least should be, broader institutions in every sense than this section of the regulations seems to suggest.

The governing statute emphasizes exhibition of objects to the general public in the definition of "museum." Museum Services Act, Section 210. Accordingly, it seems appropriate to the Board, that one question under the "accessibility" heading address itself to the portion of the collection which is open to the general public. No eligibility determinations turn on the answer to the question which is but one of a number of suggested factors among many others.

A number of commenters also questioned in § 1180.13(e), "Financial Management: . . . In how many of the last five years has the museum shown an excess of revenues over expenditures?" A number of commenters observed that questions as to "profitability" were inappropriate with respect to museums which are public or non-profit organizations and are not designed to make a profit. As one commenter put it:

> Point e, 1, (sic) calling for the show of an excess of revenues over expenditures places an undue and unwarranted emphasis upon profits. Museums have never measured their value or activities by profits, but rather by mission, as most non-profit organizations do. Thus, profitability is not a particularly relevant concept to apply. Morever, it fails to take into account the potential need to run deficit budget during a period of economic decline (such as we are now experiencing) and it does not recognize that the practice of deficit spending might be far less severe for an institution with a sizeable endowment.

No change has been made in the regulations. The Board does not believe that the question relates to the "profitability" of the museum but rather to the ability of the museum's management to restrain deficits and operate on a financially prudent basis. The question is but one of a number of points to measure management capability.

I. *Section 1180.15 Duration of Grants—Comments and Responses.* This section relates to the duration of grants. As proposed, it provided that an IMS grant is generally made for 12 months and that a Special Project Grant may be

extended, without additional funds, at the discretion of the agency. A number of comments on Sections 1180.5(f) and (g) observed that the effect of these provisions would be abruptly to terminate activities begun with IMS funds which the museum desired to extend over a number of years. Moreover, it is believed that there may be occasions when a museum needs flexibility with GOS funds to carry over activities into a succeeding year if funds are still available. For example, a museum with a GOS grant may desire to hire a guard but may not be able to employ one until well into the grant year; an extension would be needed to permit the carryover of the grant funds into the succeeding period. A museum may also wish to plan to carry over funds on that basis in order to maximize the use of the operating support. The Board feels that flexibility of this sort should be provided. Accordingly, language has been added which would permit, with the approval of the Director, the carryover of GOS as well as Special Project money. As amended, the section is found in the text of the final regulations. It is hoped that this added flexibility will assist institutions in carrying out Federal assisted GOS activities over a period which best meets their particular institutional needs.

One commenter observed that the revised criteria for Special Project Grants (§ 1180.14) were "good."

J. *Section 1180.16(b)—Comments and Responses.* Section 1180.16(b) sets forth a guideline (previously contained in annual program announcements) to the effect that IMS normally does not make grants for more than 10 percent of a museum's most recently completed fiscal year's operating budget. An operating budget may reflect the reasonable and conservative value of volunteer services. One commenter commended the inclusion of volunteer time for this purpose, observing that a museum could not provide quality programs without such service.

A number of commenters expressed concern that § 1180.16(h) of the proposed regulations failed to provide a stated minimum award for museums that report budgets of under $50,000 as the majority of the museum community falls under this category.

Because § 1180.16(b) provides that IMS normally does not award a grant for in excess of 10 percent of a museum's operating budget, museums with budgets of under $50,000 could receive only minimal grants under this limitation. Commenters therefore sought an exception permitting grants of at least $5,000 for museums in that budget category. This exception has not been previously stated in regulations, although it has been applied in practice in prior years. In response to these comments, a change has been made in the regulations to reflect this modification which should be of particular help to small museums.

K. *Section 1180.16(c)—Comments and Responses.* A number of commenters opposed the imposition of matching "requirements" (sic) under § 1180.16 or questioned the purpose of that section.

The Board points out that there are no "requirements" imposed by this section. Section 1180.16(c) is basically reflective of the statute as originally written and does not represent an alteration of the basic law. The Act contains a requirement that a grant not exceed 50 percentum of the cost of the program for which the grant was made. This provision is susceptible to the interpretation that "new" money is required to meet the cost-sharing requirement.

A number of comments on the original (1978) regulations for the program suggested that this interpretation was a distinct possibility. IMS did not take that course and instead concluded that, in the case of a GOS grant, the requirement was met if the GOS grant did not exceed 50 percent of the operating costs of the recipient institution.

Section 1180.16(c) places the matter in the open and states that the former interpretation is a possibility but conditions implementation on future Board action.

Subpart B—General Applications, Selection and Award Procedures

Subpart C—General Conditions Which Must Be Met by a Grantee

I. General; Subparts B and C

A number of commenters noted the general thrust of the proposed regulations. One observed: "Many of the revisions were helpful in clarifying the responsibilities of the applying institutions as well as the role of [the Institute]."

These sections contain general administrative provisions and were designed by the Board to set forth the steps in the grant award process as concisely as possible while greatly reducing the number of applicable regulatory provisions formerly set forth in the Education Department General Administrative Regulations (EDGAR) which pertained to IMS operations. A new § 1180.37 has been added to Subpart B of the regulations to carry out requirements set forth in Pub. L. 97-394 regarding regulatory provisions to provide for appeals, reconsideration of applications and wavier. Otherwise, the regulations are retained as proposed.

Comments on the provisions of the proposed Subparts B and C were positive.

One commenter stated:

> . . . I want to congratulate the Institute on a document that will definitely clarify the process through which a museum must pass before receiving IMS funding.

The commenter further observed:

> Clear statements from any branch of the government are always appreciated.

[FR Doc. 83-16350 Filed 6-16-83; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30526-96]

Atlantic Tuna Fisheries; Monitoring of the Status of Stock

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA publishes this final rule to implement recommendations of the International Commission for the Conservation of Atlantic Tunas to increase the catch of Atlantic bluefin tuna for more accurate monitoring of the status of the stock. This rule establishes annual quotas for U.S. fishermen and provides a reasonable mechanism for managing the fishery. This action is necessary to collect more complete and accurate biological information for stock monitoring purposes while keeping the total annual harvest within a biologically acceptable range.

EFFECTIVE DATE: These rules are effective on June 17, 1983.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr., 617-281-3600, extension 325; or David S. Crestin, 617-281-3600, extension 253. The address for both individuals is: National Marine Fisheries Service, Northeast Region, Management Division, State Fish Pier, Gloucester, Massachusetts 01930-3097

SUPPLEMENTARY INFORMATION:

Background

The United States is a signatory nation to the International Convention for the Conservation of Atlantic Tunas

(the Convention, 20 UST 2887, TIAS 6767). The Convention's provisions entered into force for the United States on March 21, 1969. The U.S. obligations under the Convention are implemented by the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971–971h) (the Act). Both the Convention and the Act are directed toward "maintaining the populations of Atlantic bluefin tuna at levels which will permit the maximum sustainable catch of food and other purposes" (Preamble to the Convention). This Act directs the Secretary of Commerce (Secretary) to promulgate rules necessary to implement recommendations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and to carry out the purposes and objectives of the Convention.

Rules presently governing the U.S. fishery (47 FR 25350, 47 FR 40179, 47 FR 50886, and 48 FR 3991) are designed to implement the following recommendations of ICCAT: (1) To prohibit any taking and landing of Atlantic bluefin tuna weighing less than 6.4 kilograms (kg) [14 pounds (lbs)] except for a 15 percent incidental catch allowance; (2) to limit fishing mortality to recent levels; and (3) to reduce harvest levels of Atlantic bluefin tuna in the western Atlantic Ocean to as near zero as feasible for two years. ICCAT made recommendations one and two in 1974 and recommendation three in 1981.

In mid-November, 1982, ICCAT met in Madeira, Portugal and decided to continue conservation measures for Atlantic bluefin tuna in the western Atlantic Ocean. ICCAT, in making this decision, took into account the results of the meeting of the Standing Committee on Research and Statisitcs (SCRS). SCRS could not reach agreement on certain aspects of the status of the stock, and felt that the level of 1982 catches was insufficient to provide a broad range of biological information to monitor the stock. SCRS concluded, however, that evidence suggests that catch levels should remain conservative. ICCAT considered it appropriate to introduce greater flexibility in the total allowable catch levels necessary for stock assessment purposes during this second year of the two year moratorium. ICCAT, therefore, raised the total allowable catch limit from 1,160 metric tons (mt) [1,279 short tons (st)] for 1982 to 2,660 mt (2,931 st) for 1983.

The U.S. allocation of the total allowable catch is 1,387.3 mt (1,529 st). The allocations for Canada and Japan are 573.3 mt (632 st) and 699.4 mt (771 st), respectively. The percentage share of the total quota for the western Atlantic Ocean remains the same for each nation in 1983 as in 1982: United States, 52.15 percent; Canada, 21.55 percent; and Japan, 26.30 percent.

ICCAT's concern for the continued low level of abundance of small Atlantic bluefin tuna resulted in the 1982 recommendation that the catch of Atlantic bluefin tuna smaller than 120 centimeters (cm) (47 inches) in length be limited to no more than 15 percent by weight of the total catch in the western Atlantic Ocean (i.e., no more than 440 st). For the United States, this means no more than 229 st of Atlantic bluefin tuna in this size class is available for domestic harvest. ICCAT also recommended the continuation of a prohibition on directed fisheries for Atlantic bluefin tuna in spawning areas, such as the Gulf of Mexico.

These rules implement the ICCAT recommendations for persons and vessels subject to U.S. jurisdiction.

Rulemaking Process

Following the ICCAT meeting which concluded on November 16, 1982, NOAA began work necessary to implement the recommended management measures. NOAA published proposed rules on March 30, 1983 (48 FR 13200); public comment was invited for a 30-day period which ended April 28, 1983. To ensure the maximum opportunity for public participation in the rulemaking process, NOAA held eight public meetings on seven evenings and one afternoon during the period from March 14, 1983, through April 20, 1983. Five public meetings were originally scheduled and held in the States of Florida, Virginia, New Jersey, New York (eastern Long Island), and Massachusetts during the period March 14 through March 17, 1983. NOAA informed the public of these meetings in the following manner: (a) notice mailed on February 25, 1983 to all Atlantic bluefin tuna permit holders (over 10,000); (b) general news release mailed on February 24, 1983 to media and industry representatives; and (c) notice of public meetings published in the **Federal Register** on February 25, 1983 (48 FR 8097). Because the proposed rules could not be published in the **Federal Register** prior to the meetings, NOAA mailed copies of the proposed rules to those who expressed interest in receiving them. Further, copies of the proposed rules were handed out at each meeting.

Subsequently, an additional public meeting was scheduled and held on March 16, 1983, on western Long Island, New York. Notice of this meeting was published in the **Federal Register** on March 7, 1983 (48 FR 9547). The New York State Department of Environmental Conservation agreed to notify the constituency in western Long Island of the date and location of this meeting. An additional public meeting was held in Washington, DC, on April 20, 1983. Notice of this meeting was published in the **Federal Register** on April 4, 1983 (48 FR 14416).

One commenter recommended that the public meetings begin at 7:30 p.m. rather than 7:00 p.m. to allow those wishing to attend more arrival time. Although all meetings were scheduled to begin at 7:00 p.m., commencement of the meetings was not initiated until all or most of the attendees present had an opportunity to sign in and be seated. Generally, opening comments were not made until well after 7:00 p.m. NOAA believes that 7:30 p.m. would result in an unnecessarily late starting time, often approaching 8:00 p.m., and that the scheduled meeting time of 7:00 p.m. provided adequate opportunity for those interested to attend the meetings. NOAA will continue the practice of scheduling the Atlantic bluefin tuna meetings at 7:00 p.m.

Discussion of Public Comments

Attendance of each of two public meetings held in Florida was low (7 and 8 people signed the attendance records). For each of the five public meetings held in the Atlantic seaboard states (Virginia through Massachusetts) attendance was significantly higher with between 25 and 136 people signing the attendance record. Twelve individuals attended the public meeting in Washington, DC. In addition to the comments received at the public meetings, 70 written comments were received during the public comment period. The written comments included letters from four members of Congress, representatives of two State marine fishery agencies and one county government official. Discussion of the comments received and NOAA's response to these comments are grouped together by major issue.

1. General

Two commenters recommended that Atlantic bluefin tuna be managed by the United States through its exclusive fishery management authority under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Such action would require legislative change to the Magnuson Act's definition of highly migratory species, and, further, is not within the authority conferred by the Act, which is the legal authority for this rulemaking. Revising the legal authority of the United States over Atlantic

bluefin tuna is beyond the scope of this rulemaking.

One commenter recommended placing Atlantic bluefin tuna under the Endangered Species Act, as amended (ESA). Section 4 of the ESA provides that the Secretary of Commerce could determine Atlantic bluefin tuna to be an endangered or threatened species for any of the following reasons:

> Present or threatened destruction, modification or curtailment of its habitat or range; overutilization for commercial, recreational, scientific or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; or other natural or man-made factors affecting its continued existence.

The ESA requires such determinations to be made solely on the basis of the best scientific and commercial data avaialble after conducting a review of the status of the species and taking into account any efforts being made to protect the species under consideration.

NOAA believes that, based on the criteria contained in the ESA, listing Atlantic bluefin tuna as either a threatened or endangered species is inappropriate. NOAA knows of no information to suggest that the habitat for Atlantic bluefin tuna is being modified or diminished. Disease or predation are not known to be affecting Atlantic bluefin tuna abundance in the western Atlantic Ocean. While overutilization may have been a factor in the decline in abundance, NOAA believes that the present international regulatory system is adequate for managing this fishery and for protecting this resource.

Several commenters, including those from representatives of a State marine fishery agency and a sport fishing organization and a petition from Virginia sport fishermen, recommended a continuation of the conservation measures initiated in 1982. One commenter even recommended a reduction in the total quota from that available in 1982. These commenters were not in favor of the ICCAT recommendation to increase the total allowable catch for Atlantic bluefin tuna in the western Atlantic Ocean in 1983. The ICCAT recommendation was based on a review of available stock assessment data by the SCRS which is comprised of scientists from the 19 member nations. The recommended increase in the total allowable catch for 1983, was initiated to allow for a more adequate scientific monitoring of the stock. These final rules governing the domestic Atlantic bluefin tuna fishery will provide the opportunity to add significantly to the ICCAT data base for the international management of the species. NOAA rejects the recommendation that the 1982 measures continue unchanged.

Although certain segments of the fishery provide scientific information of a quality usable for stock assessment purposes, all segments have potential to add to the overall data base to improve our understanding of this resource. NOAA believes that all segments comprising the domestic Atlantic bluefin tuna industry should have the opportunity to participate in the fishery. NOAA further believes the U.S. commitment to ICCAT to use the U.S. portion of the 1983 Atlantic bluefin tuna quota for scientific purposes has been met.

One commenter recommended a prohibition on commercial fishing for Atlantic Bluefin tuna in order to improve the sport fishery in the mid-Atlantic area. NOAA believes this recommendation ignores the historical and traditional participation of most segments of the domestic Atlantic bluefin tuna fishery. Further, most giant Atlantic bluefin tuna caught by various categories of fishermen are sold. NOAA rejects the recommendation because the significant negative financial effects this action would have on all segments of the industry are unwarranted.

2. Miscellaneous Comments

Two commenters proposed that the United States recommend to ICCAT a tagging program in both the eastern and western Atlantic Ocean for school-sized Atlantic bluefin tuna to verify the existence of one or two stocks. NOAA conducted a tagging program in cooperation with the purse seine vessel owners for school-sized Atlantic bluefin tuna for several years prior to 1982. Information collected from this and other tagging programs, both domestic and foreign, indicated that although some interchange of Atlantic bluefin tuna between the eastern and western Atlantic Ocean has taken place over time, sufficient evidence has not been obtained to prove the existence of one or two distinct Atlantic Ocean stocks.

The program was terminated in 1982 due to a greatly reduced U. S. quota, whereupon it became unfeasible to set aside sufficient quantities of fish for tagging purposes. Further, the information obtained through this program was considered supplementary to information obtained through ongoing monitoring of the recreational angling fishery for young school-, school-, and medium-sized Atlantic bluefin tuna. Stock assessment scientists determined that this latter fishery will be the primiary monitoring mechanism for assessing the status of the western Atlantic stock for young school and school Atlantic bluefin tuna.

The issue of identification of Atlantic bluefin tuna stocks currently is being addressed by ICCAT. NOAA is participating in this effort. Information derived from cooperative international programs designed to improve basic knowledge pertaining to the biology of the Atlantic bluefin tuna will receive consideration by U.S. scientists responsible for the management of this resource. For these reasons, NOAA believes that a tagging program for school fish taken by purse seinars is unnecessary.

One commenter recommeded that the individuals participating in the tag and release program be allowed to use only plastic leaders on the terminal end of handline and rod and reel gear. The purpose of such a restriction would be to reduce Atlantic bluefin tuna mortalities from injuries which might occur while fighting the fish. NOAA agrees that certain gear restrictions may reduce injury and thus improve the probability of survival in some cases; however, enforcement of such restrictions would be virtually impossible. NOAA, therefore, rejects the recommendation.

Representatives of two State marine fishery agencies, a representative of organized fishermen, and several fishermen from the mid-Atlantic area commented that scientific monitoring of the young school, school, and medium Atlantic bluefin tuna fishery is inadequate. One commenter noted that monitoring of medium-sized Atlantic bluefin tuna was nonexistent. One commenter observed that the survey objectives for 1982 mentioned making estimates of catch and effort for the sport fishery for school and giant Atlantic bluefin tuna only; the objectives did not mention making catch estimates for medium Atlantic bluefin tuna.

The NOAA program to monitor the catch of Atlantic bluefin tuna by recreational anglers is based on a predetermined sampling regime. Although the commenter is correct in the fact that sampling of medium-sized Atlantic bluefin tuna was not mentioned specifically, this size class was sampled. The completion report for the 1982 monitoring activities estimated that over eight short tons of medium Atlantic bluefin tuna were harvested by anglers in the area from New Jersey through Massachusetts.

Representatives from two State marine fishery agencies recommended that the rules be changed to require reporting of medium-sized Atlantic bluefin tuna. These commenters say this would improve the quality of the harvest

data for this size class. One of these commenters also recommended that all medium Atlantic bluefin tuna be tagged to improve the tracking of these fish as they pass through normal commercial channels and help prevent improper reporting practices

Based on these comments and the recognized limitations inherent in the present sport fishing survey, NOAA agrees that the reporting requirements for medium Atlantic bluefin tuna should be improved. Sections 285.29 and 285.30 of the final rules have been modified to require dealer reporting and tagging of all medium-sized Atlantic bluefin tuna in the same manner as the reporting and tagging of giant Atlantic bluefin tuna. This adjustment does not materially change the approved reporting requirements for Atlantic bluefin tuna. The total number of responses and burden hours remain unchanged for NOAA Forms 88–114a and 88–114b.

Several commenters representing a State marine fishery agency, party-charter boat interests, and organized sport fishermen recommended that tag and release fishing be allowed only after closure of the handgear fishery. One commenter recommended just the opposite, that tag and release fishing not be allowed after closure of the fishery. The primary reason given for the former recommendation was that Atlantic bluefin tuna caught by vessel operators continuing to fish under the tag and release program after taking their daily catch limit of Atlantic bluefin tuna resulted in excessive mortalities. In many instances, fishermen reported that fish which are exhausted when finally brought to the boat appear to have little chance of survival. Once released, they often appear dead and then immediately sink from sight. Other commenters reported that another problem generated by the tag and release program involved the dumping at sea of a smaller fish caught earlier in the day and retaining a larger one caught while fishing under the tag and release program.

The issue of fishing after an individual's daily catch limit has been taken or after the season has been closed for a particular gear segment is one without reasonable solution. Unless *all* fishing which could result in hooking Atlantic bluefin tuna is prohibited, they will be hooked and some degree of mortality undoubtably will occur. NOAA recognizes the level of mortality may be significant. Reports of additional observations from fishermen on hooking mortality would be useful to NOAA scientists.

Cooperation by fishermen in the tag and release program has provided valuable information on many pelagic species over the years. Mandatory participation in the tag and release program, closed season or not, would be difficult to enforce. Anyone not participating in the tag and release program who hooks and releases an Atlantic bluefin tuna while fishing, or claiming to fish, for other species would present an unlikely case for successful prosecution. The only significant result of abolishing the tag and release program would be the loss of valuable scientific information on Atlantic bluefin tuna and other oceanic, pelagic species. It is in the best interest of the Atlantic bluefin tuna resource that fishermen continue to participate in the voluntary tag and release program and supply valuable life history information. Anglers not willing to cooperate, will not and can not be regulated away.

NOAA makes no change in the rules and will continue the tag and release program.

A representative of a party-charter boat organization recommended that a Federal fisheries permit be required for anyone who fishes for, transports, or sells any Atlantic bluefin tuna, regardless of size class. Further, this individual recommended that all Atlantic bluefin tuna be reported. To fish for giant Atlantic bluefin tuna, an individual must obtain a permit. All giants landed and sold are reported by permitted Atlantic bluefin tuna dealers. The rules require that all giants which are not sold be reported to a National Marine Fisheries Service law enforcement office. In 1983, these same reporting requirements will apply to all medium Atlantic bluefin tuna. The young school- and school-sized fishery is monitored through NOAA's sport fishing survey which provides an annual estimate of the harvest. Participants in this fishery, varying in number from 5,000 to 40,000 individuals depending on the availability of young school and school fish, are not easily identifiable. If NOAA were to require these recreational anglers to obtain permits, the burden would hamper administrative operations severely. NOAA believes that many of these individuals would apply for permits but then never actually fish for Atlantic bluefin tuna. In such cases, no benefits would result from the substantial expenditures of time, personnel, and money for the permitting effort. NOAA, therefore, rejects this recommendation.

A few commenters recommended that specific quotas and geographic areas south of Cape Cod be established for rod and reel fishing within the General category. NOAA rejects this recommendation as it would further complicate management of this segment of the fishery and be difficult to enforce. Further, the final rules establish within the General category an amount of 100 st for harvest after September 15, throughout the regulatory area (see discussion under the Handgear issue below). NOAA believes the harvest of either all or part of this 100 st should not be limited to a single gear type such as rod and reel. NOAA's view, the 1983 handgear and recreational angling quotas will provide reasonable opportunity for rod and reel fishermen to fish south of Cape Cod for all size classes of Atlantic bluefin tuna. No change, therefore, has been made to the rules as a result of this recommendation.

Several commenters, including a congressional representative, recommended the establishment of a toll-free telephone "hotline" in order to expedite receipt of Atlantic bluefin tuna dealer landing reports. One commenter observed that the lag time involved in dealer reporting by mail may have contributed to a late closure of the handgear fishery in 1982, resulting in the quota being exceeded by 12 st. Another commenter felt that dealer reporting by telephone would prevent late closures due to overages which preclude some area fishermen from having the opportunity to fish.

NOAA believes this telephone recommendation is unworkable. NOAA understands "hotlines" have been established to enhance information gathering opportunities by various segments of local, State, and Federal governments. Telephoning in such information could be either mandatory or voluntary; however, the caller would not necessarily be identifiable. It is true that Atlantic bluefin tuna dealer landing reports telephoned in could be checked by the required written reports NOAA would receive several days later in the mail. This cross check, of course, would negate the reason for the telephone reports. A telephone reporting system could be subject to "crank" calls designed to confuse or mislead fishery managers. In addition, telephone calls could not be used as evidence to support irregularities or abuses in the dealer reporting system. The increased reporting burden on the business community would be significant and unwarranted in view of the minimal benefits which might be derived from such a reporting system. NOAA rejects the telephone reporting proposal as unworkable.

General editorial changes were recommended by NOAA reviewers and several commenters to correct or clarify individual sections of the proposed rules. Changes which corrected existing

errors or which improved readability were accepted. NOAA has made the appropriate changes to the final rules.

3. Handgear

In general, the proposed quota of 650 st for the handgear fishery received little negative comment. Several commenters did suggest that an unspecified tonnage be taken from the proposed quota for purse seine vessels and be added to the handgear quota. A congressional representative recommended a larger handgear quota for the collection of additional scientific information. Most comments received on this issue concerned not the amount of the overall quota but rather the allocation of the amount by geographical area.

Geographical differences in the handgear fishery have been the subject of much comment and debate over the last several years. NOAA, in the proposed rules, had reserved 25 st of the total handgear quota for harvest after September 15. A representative of a State marine fishery agency stated that an option to prevent premature closure of the fishery off of western Long Island/New Jersey would be to increase the minimum amount reserved for harvest after September 15 from 25 st to 55 st. This representative, however, indicated another option would be to establish regional management areas each with their own allocation. Numerous other commenters representing diverse recreational and industry organizations along with congressional representatives stated their preference for regional allocations over NOAA's proposal of a single allocation for the entire regulatory area.

Several specific management areas were recommended. The recommendation receiving considerable support at the public meetings in the mid-Atlantic area was a straight line originating at the southern coast of Long Island at 72°50' W. longitude (approximately the town of Moriches) and running SSE 150° True. Others suggested 72°40' and 72°30' W. longitude as the dividing line. Two commenters recommended that Block Island, RI, be the dividing point for two separate management areas. Other recommendations for a separate management area were from Fire Island Inlet on Long Island or Block Island to Cape May, New Jersey. Yet a fourth recommendation made by an industry representative and supported by several other commenters was that there be three management areas as follows: "north, east (Block Island), and west (New York Bight)."

In conjunction with the recommendations for establishment of separate management areas, numerous recommendations for regional allocations were made by representatives of two State marine fishery agencies, sportfishing organizations, sportfishermen, industry, and congressional representatives. These varied from a low of 55 st to a high of 250 st for the fishery off of western Long Island/New Jersey. The majority of the commenters favored 200 st. A petition representing approximately 600 individuals recommended a separate quota and management area for western Long Island/New Jersey. Two commenters recommended that the allocation for a southern management area be taken from the quota NOAA proposed for purse seine vessels.

NOAA realizes that these various proposals express concern about closure of the handgear fishery before commencement of the traditional fishery for giant Atlantic bluefin tuna off the mid-Atlantic area. The establishment of separate management areas, regardless of the actual dividing line, tends to create considerable fishery management and enforcement problems. For example, the line that was established at Gay Head, Martha's Vineyard in 1980 and 1981, became ineffective because a significant fishery developed in the approximate vicinity of the line, thus negating the purpose of the separate management areas. The constant shift in age composition and geographical movements of the stock over time make it difficult to predict where and when actual fishing will take place. Because of this, dividing the current management area into several smaller units would make management of the handgear fishery almost untenable. It also is difficult to preserve the integrity of several smaller quotas instead of one large one because of the ease in which effort can shift from one area to another. This type of activity would eliminate whatever advantage such a system potentially could provide. NOAA, therefore, rejects these proposals and makes no change in the designation of the management area.

Even though NOAA does not agree with the recommended establishment of two or more management areas for the handgear fishery, it acknowledges the concerns about ensuring a reasonable opportunity for fishermen from western Long Island and New Jersey to catch giant Atlantic bluefin tuna late in the fishing season. The problems encountered in the 1982 fishery were not a result of the measure reserving a certain portion of the handgear quota (26 st) until after September 15, but rather with the small amount available in the overall General category quota (310 st). Heavy landings of giant Atlantic bluefin tuna over a very short period of time exceeded the entire General category quota before a closure could be effected. The fact that the General category quota has been increased from 310 st to 650 st should prevent the reoccurrence of a similar situation in 1983. NOAA, therefore, has modified § 285.22(a) of the rules to reserve 100 st for harvest beginning September 15.

The proposed rules would have continued the June 1 commencement date for the handgear fishery currently in effect. Three comments were received on this subject. A few commercial fishermen favored the June 1 commencement date, while another recommended delaying the commencement date to August 1. The third commenter recommended a commencement date later in the season without specifying any particular date. The reason put forth for having a commencement date later than June 1 was to take advantage of increases in the market price for Atlantic bluefin tuna as the season progresses. NOAA rejects these recommendations for a later commencement date as it would reduce the length of the fishing season significantly without concomitant benefits. Catch information for recent years prior to 1982 shows that a significant number of giant Atlantic bluefin tuna usually are not harvested in the early part of the season. The opportunity, however, to participate in the fishery during June and July is as important to many fishermen as it is to fish late in the season due to the seasonal, geographical distribution of the species. No change, therefore, has been made in the rules.

The proposed rules would have allowed a variable catch rate limit for the handgear fishery beginning at one giant Atlantic bluefin tuna per vessel per day and increasing under certain conditions to a maximum of four giants per vessel per day. A representative of the sportfishing industry recommended that the catch rate limit be set at one giant per vessel per day throughout the season in the entire regulatory area. One comment received indicated that the proposed catch rate limit of one giant per vessel per day would exhaust the handgear quota. The reasoning was the catch rate limit increased seven times (one per week to one per day) while the quota only doubled (310 st to 650 st). NOAA rejects this reasoning as the 650 st quota represents the approximate catching capacity of this gear segment under similar catch rate limits in 1980 and 1981. Several commenters, including

representatives of two party and charter boat associations from the mid-Atlantic area, recommended the daily catch rate limit remain at one giant per vessel per day "up north" throughout the season. At the same time, a larger group of commenters comprising representatives of party and charter boat organizations, a State marine fishery agency, and a congressional representative recommended a catch rate limit of seven giant Atlantic bluefin tuna per vessel per week with a daily possession limit of seven for any southern area established. NOAA rejects these recommendations because of the inequities that would result within the party-charter boat industry throughout the regulatory area. Since the multiple management area concept also was rejected by NOAA, differing catch rate limits would create insurmountable management and enforcement problems. No changes, therefore, have been made to the rules.

Several commenters, including a representative of a State marine fishery agency and a representative of an organized group of fishermen, recommended that a mechanism for reducing the catch rate limit to less than one giant Atlantic bluefin tuna per vessel per day be established to prevent an early closure of the giant Atlantic bluefin tuna handgear fishery and thus eliminating the fishery off western Long Island/New Jersey from taking place. In 1982, the catch rate limit of one giant Atlantic bluefin tuna per vessel per week resulted in significant economic losses to the party-charter boat industry throughout the fishing season. In addition, enforcement of a weekly catch rate limit is significantly less effective and more costly than efforts directed at enforcing a daily catch rate limit. NOAA believes that harvest controls built into the variable catch rate system, the increased quotas, and the portion of the General category quota set aside to ensure continued fishing after September 15, will prevent elimination of a late directed giant Atlantic bluefin tuna fishery in the New York Bight and off the coast of New Jersey. NOAA, therefore, makes no change in the rules.

4. Recreational Angling

Based on catches reported over the past two years, NOAA proposed to continue the 1982 quota of 99 st for the 1983 fishing season. Little comment was received on this issue, except in the mid-Atlantic area.

One commenter favored, for purposes of conservation, a reduction in the recreational angling quota and also a limitation on the daily catch rate limit to one fish per angler per day. Another commenter stated the daily catch limit of four fish per recreational angler was inequitable when the proposed daily catch limit for the handgear fishermen was only one fish per day. He bases this statement on the fact that the four-fish-per-day limit does not favor conservation, lends itself more to a commercial rather than a recreational activity, and favors the sportsman over the commercial fisherman. The recreational fishery has been identified as the primary monitoring mechanism for young school, school, and medium Atlantic bluefin tuna in the domestic fishery. It represents the only reliable time series of data on the young school and school fish segments of the Atlantic bluefin tuna fishery available to U.S. scientists. NOAA, therefore, rejects the recommendation to decrease the daily catch rate limit in this fishery because of the adverse effect such a practice would have on stock assessment capabilities.

One commenter reasoned that increasing the quota would degrade the quality and consistency of the data collected from the recreational fishery and thus hamper stock assessment efforts, while numerous other commenters favored increasing the recreational angling quota. Quotas ranging from 140 st to 249 st were recommended. One commenter representing an association of organized fishermen favored a quota of 140 st, equal in amount to the proposed incidental quota for purse seiners. A few commenters recommended increasing the quota for recreational angling by taking some part of the overall purse seine quota. Another representative of organized fishermen recommended a quota of 130 st to be taken from the inseason adjustment amount. A representative of a State marine fishery agency recommended a quota of 200 st subdivided on the basis of size class. This commenter stated that although large quotas were not necessary, it was important to provide a sufficient amount to this fishery for stock monitoring purposes. A congressional representative, two others representing industry, and another commenter for a national sport fishing organization recommended a quota of 239 st with 140 st taken from the purse seine fishery. It was suggested that this action would improve stock monitoring capabilities of this fishery and generate an increase in expenditures by fishermen. This, in turn, would increase overall revenue to the coastal communities in the mid-Atlantic area.

In conjunction with recommended increases in the quota for this gear segment, several commenters proposed to have a separate category for medium Atlantic bluefin tuna. Two commenters, one representing several organized fishermen's groups, recommended separate 100 st quotas for school and medium fish. Another recommended an even split of any recreational angling quota available. A representative of a State marine fishery agency recommended a quota of 99 st for young school and school fish and another quota of 65 st for medium fish. One commenter representing several organized fishermen groups from the mid-Atlantic area proposed quotas for school and medium fish and in addition proposed geographical zones for the conduct of this fishery. It was recommended to divide the recreational quota equally between the two recommended management areas. Of concern to these commenters is that an expansion of the fishery for medium-sized fish will impact heavily on the overall recreational angling quota resulting in a closure of the Atlantic bluefin tuna fishery for young school and school fish.

NOAA believes that dividing the recreational quota into subquotas would further increase the opportunity for unnecessary closures. Subdividing the regulatory area would compound the problem even further and could lead to a significant portion of the overall recreational angling quota not being harvested. In either case, important stock monitoring data would be lost. NOAA, therefore, rejects all recommendations for separate subquotas for young school, school, and medium Atlantic bluefin tuna as well as recommendations for geographical zones.

NOAA believes that the recreational angling quota should be increased from 99 st to 139 st to prevent premature closure by increased landings of medium Atlantic bluefin tuna and to protect the stock monitoring capabilities of this fishery. NOAA, therefore, revised § 285.22(e) to establish a quota of 139 st of young school, school, and medium Atlantic bluefin tuna for the recreational fishery.

NOAA had proposed to change the daily retention limit for medium Atlantic bluefin tuna for vessels carrying more than one angler. The proposed rules would have changed the daily retention limit for mediums from one per angler per day to one per group of anglers fishing from the same vessel.

Several commenters made the general statement that the catch of mediums should be restricted and appeared to support the NOAA proposal. A representative of a State marine fishery

agency, a congressional representative, two representatives of organized fishing groups, a tuna industry representative, and several other commenters favored continuation of the 1982 rules which allow each angler fishing from the same vessel to retain one medium per day. One commenter offered that since no other fishery would suffer reductions under the proposed rules this segment should not have a reduction. Representatives of the party-charter boat industry stated that a retention limit of only one medium Atlantic bluefin tuna per vessel per day would cause hardship to the industry. These commenters recommended a retention limit of one medium per angler per day up to a maximum of between two and four mediums per vessel per day for vessels with multiple anglers aboard. These recommendations met with the approval of several other commenters attending the public meetings. Another commenter recommended four school and one medium per angler per day up to a maximum of eight school and two mediums per vessel per day.

In 1982, an Atlantic bluefin tuna fishery developed for medium-sized fish in the general area between Montauk, Long Island and Block Island late in the season where large numbers were available and because the price per pound from commercial buyers approached that paid for giants. NOAA believes that the potential development of a significant fishery for medium-sized Atlantic bluefin tuna could result in an excessively high percentage of the recreational angling quota being filled by this particular size class.

This recent shift in the recreational fishery is of concern to NOAA for two reasons. With the projection for continued decline in the abundance of Atlantic bluefin tuna stocks, an increase in the harvest of meduims at this time could impact negatively on the future contribution of this size class to the spawning population. Second, any significant shift in increased landings of medium Atlantic bluefin tuna could reduce the quality of the biological information being collected from the recreational fishery and its capability to be used for stock monitoring purposes.

NOAA believes that some control of the harvest of mediums in the recreational fishery is necessary. The large number of comments received indicated concern over the harvest of medium Atlantic bluefin tuna; however, most comments stated that the NOAA proposal was too severe. NOAA agrees with the commenters, and therefore, has modified § 285.24(c) of the rules to allow a catch rate limit of one medium Atlantic bluefin tuna per angler per day up to a maximum of four mediums per vessel per day for vessels carrying four or more anglers onboard.

5. Harpoon Boat

The proposed rules would have established a quota of 60 st for the Harpoon Boat category, an increase of 17 st over the 1982 quota of 43 st. This proposed quota was based on the catching capacity of this segment of the fishery in 1980 and 1981.

Several commenters recommended that the category be abolished and that harpoon boats be permitted in the General category. The commenters mentioned that these vessels can fish after closure of the General category. It was their opinion that giant Atlantic bluefin tuna taken by vessels permitted in the Harpoon Boat category were charged inappropriately to the General category quota. No reporting violations have been documented during investigations of alleged violations by special agents of the National Marine Fisheries Service. A comparison of landings data for the past several years indicated that significant transfer of Harpoon Boat-caught Atlantic bluefin tuna to the General category did not occur.

Several commenters proposed an 86 st quota, an amount which would reflect a percentage increase similar to that for the overall increase in the 1983 U.S. quota compared to that of 1982. One commenter recommended a quota of 77 st and another recommended that the quota should be based on the number of vessels in the fishery. A sportfishing organization recommended that the Harpoon Boat quota remain at 43 st. The largest number of commenters, however, spoke in favor of the proposed quota of 60 st.

One commenter recommended that the Harpoon Boat category close on the same day as the General category. Another proposed that before closing the General category, the two quotas should be combined. These comments ignore the basic reasons for which separate quotas are established.

One commenter objected to the unlimited daily catch rate limit for the Harpoon Boat category when vessels permitted in the General category are limited to one giant Atlantic bluefin tuna per day. Another recommended a daily catch rate limit for the Harpoon Boat category of two giant Atlantic bluefin tuna per vessel per day. The unlimited daily catch rate limit for the Harpoon Boat category was established to allow these fisherman to take advantage of the relatively few days with calm ocean surfaces which allow the harpooning of giant Atlantic bluefin tuna.

Based on the comments received, NOAA believes the proposed quota is reasonable. No changes have been made to the rules governing this fishery.

6. Longline Fishery

In 1982, the quota for vessels permitted in the longline category was 44 st. Based on catches reported in 1981 and 1982, 90 st and 74 st respectively, accompanied by an expansion of the Atlantic and Gulf of Mexico longline fishery for swordfish, NOAA proposed a quota of 145 st of Atlantic bluefin tuna for 1983. This quota would be allocated as follows: 115 st south of 36°00′ N. latitude and 30 st north of that line.

A fisheries organization representing commercial fisheries interests, including longline vessels which fish for swordfish in the Gulf of Mexico, commented in favor of the NOAA proposal. They indicated the amount of the overall quota and its allocation north and south of 36°00′ N. latitude "recognized the very real needs of the swordfish longline fishery in the southeastern United States."

Several commenters favored eliminating the quota for the incidential longline fishery and reallocating this quota to the General category quota. This recommendation would prohibit longliners from retaining any Atlantic bluefin tuna. Reasons presented included the need to protect spawning giant Atlantic bluefin tuna in the Gulf of Mexico and that incidental catches were actually the results of fishing practices directed at Atlantic bluefin tuna.

A few commenters made the general recommendation to keep the quota as low as possible. Another favored a quota based on recent landings data. Specific recommendations were made for quotas of 80 st and 88 st.

A representative of a State marine fishery agency favored an overall increase in the incidental quota for the longline fishery. This individual's recommendation involved taking 100 st from the purse seine quota and applying it to the proposed longline quota north of 36°00′ N. latitude. The argument was based on the existance of an extensive historical longline fishery from New Jersey to Massachusetts and that longline statistics are one of the better scientific monitoring methods for Atlantic bluefin tuna. NOAA disagrees with these arguments. Reported incidental landings of Atlantic bluefin tuna from longline vessels fishing in the Atlantic Ocean were 10 st in 1981 and 21 st in 1982. These landings do not reflect a need for an increase in the proposed

quota of 30 st for the area of 36°00′ N. latitude.

Statistics accumulated overtime by the Japanese longline fishery directed at Atlantic bluefin tuna and other tuna species provide significant information useful for stock assessment purposes by scientists of ICCAT member nations. The domestic longline fishery which incidently harvests Atlantic bluefin tuna has been directed primarily at swordfish. The incidental nature of the domestic fishery does not provide catch and effort data useful for stock assessment purposes.

Several commenters recommended a number of options including splitting any longline quota between the Gulf of Mexico and the Atlantic Ocean areas, establishing a quota for the eastern seaboard and Georges bank (taken from the purse seine quota), allowing an incidental catch after March 15 based on historical landings, and reducing the proposed quota to 100 st (with 45 st added to the recreational angling quota).

NOAA believes that the quota of 145 st more adequately addresses the incidental nature of the expanding domestic longline fishery and its unavoidable incidental catch based on recent landings data from this fishery. The recommendations, therefore, are rejected and no change has been made to the rules.

7. Purse Seine

NOAA had proposed to allocate 300 st for a directed purse seine fishery for giant Atlantic bluefin tuna and 140 st for an incidental catch of Atlantic bluefin tuna in other tuna fisheries. Two comments received from participants in the purse seine fishery for Atlantic bluefin tuna indicated that, with the total 1983 U.S. quota of 1,529 st, the proposed allocation of 440 st appears to represent a reasonable compromise for the diverse user groups in the domestic fishery. These commenters, however, also pointed out that while the percentage of the total quota allocated to the purse seine fishery increased slightly over that of 1982, it still represents a considerable reduction over the percentage allocated to this gear segment in 1980 and 1981. These commenters suggest catch levels in earlier years represent a more traditional allocation than what was proposed.

Other commenters including a representative of a State marine fishery agency, a congressional representative, and a representative of several groups of organized fishermen recommended that the amount of Atlantic bluefin tuna available to purse seine vessels for both directed and incidental fisheries should be reduced from 440 st to between 300 st and 379 st. A number of other commenters including a local government official, representatives of State marine fishery agencies, congressional representatives, fishermen's organizations, and fishermen were in general agreement that the quotas NOAA had proposed for purse seine vessels were inequitable when compared to the participancy in other gear categories. These commenters, mostly from the mid-Atlantic area, favored substantial reduction of the purse seine quota and transfer of this amount to other quotas. Specific comments concerning transfer of tonnage from the purse seine quota were diverse as to the total amount and its disposition to the other quotas

Still other commenters recommended that there be no directed purse seine fishery. One commenter recommended a continuation of the 1982 quota of 165 st for incidental catch purposes only. One commenter recommended that, while the directed purse seine fishery should be eliminated, the incidental catch quota of Atlantic bluefin tuna for purse seine vessels should be adjusted upwards to better meet their needs while fishing for other tuna species.

Most comments, including those received from representatives of two State marine fishery agencies, an industry representative, and several others on the issue of incidental catch for the purse seine vessels recommended that the qouta be reduced below the 140 st which NOAA proposed. An extreme position was advanced by numerous commenters to virtually eliminate this segment of the fishery.

Included in the comments about the purse seine quota were several letters containing ambiguous or internally inconsistent recommendations. NOAA believes that the intent of these comments have been covered in the above discussion.

NOAA rejects the recommendations for allowing only an incidential catch of Atlantic bluefin tuna by purse seine vessels. The increase in the overall U.S. quota for 1983 allowed NOAA to propose sufficient allocations for the handgear and recreational fisheries to improve the U.S. stock monitoring capability. Given this fact, an increase in the purse seine quota is possible without compromising NOAA's prime purpose of allocating fish for scientific information collection purposes.

In response to the large number of comments received, NOAA has made a minor reduction in the overall amount of Atlantic bluefin tuna allocated to the purse seine fishery. The incidental catch quota has been reduced from 140 st to 100 st. This reduction should further minimize the fishing mortality of school-sized Atlantic bluefin tuna by purse seine fisheries for other tunas. This 100 st when considered on a per vessel basis (i.e., 20 st per vessel) represents a sizeable reduction over the 33 st available per vessel during the 1982 fishery.

The purse seine fishery has been one of the traditional fisheries for harvesting Atlantic bluefin tuna in the western Atlantic Ocean. NOAA does not believe that because the number of participants are small compared to the handgear and recreational fisheries, the purse seine fishery should be eliminated or severely restricted. As the overall U.S. quota increases from the extremely low level in 1982, NOAA believes that each segment of the fishery should benefit with some equity from that increase provided that the United States can continue to meet its ICCAT commitments concerning scientific monitoring of the status of the stock.

NOAA has decided, with the 40 st reduction in the incidental catch quota, that an increase of 25 st can be made to the proposed 300 st quota for a directed purse seine fishery for giant Atlantic bluefin tuna. Because fewer school fish will be harvested as a result of these modifications and because 25 st of giants represents far fewer individual fish than 25 st of school fish, overall mortality from the purse seine fishery will be reduced.

The rules, therefore, have been modified to reflect an overall quota for purse seine vessels of 425 st broken down into 325 st for a directed fishery and 100 st for an incidental fishery.

The proposed rules would have established for 1983 a commencement date of August 15 for the giant Atlantic bluefin tuna purse seine fishery. Several commenters recommended this commencement date be changed to August 1 to allow purse seine vessels an opportunity to market their catch over a longer time period and, thus, potentially improve price stability. Several individuals not connected with the purse seine fishery recommended a commencement date as late as November, effectively eliminating the purse seine vessel's ability to fish.

NOAA rejects both recommendations. An earlier commencement date would increase the opportunity for gear conflicts between different segments of the fishery and does not appear to present any major economic benefits as purse seine catches already can be marketed over two and one-half months. A substantially later commencement date represents a virtual elimination of

the purse seine fishery. No change, therefore, has been made in this portion of the rules.

The proposed rules would have continued the practice of allowing an individual purse seine vessel to transfer the unharvested portion of its incidental catch allocation to its allocation of giants. A representative of an organized group of fishermen and other industry representatives opposed this flexibility. Reasons presented in opposition included the belief that school sized Atlantic bluefin tuna would either go unreported or be dumped at sea.

In 1982, this provision allowed purse seine vessels some flexibility in their fishery operations, and NOAA did not encounter management-related problems resulting from this practice. Dumping at sea is not practical, as fish are brailed aboard in large quantities, and are placed directly in the hold without sorting as to species. From a resource conservation standpoint, NOAA believes such flexibility makes sense. Since the price per pound paid for giant Atlantic bluefin tuna far exceeds that paid for school fish, purse seine operators have an incentive to minimize their incidental catch of school fish and, thereby reducing overall mortality. No change, therefore, has been made to the rules.

The proposed rules would have allowed purse seine vessels receiving an individual vessel allocation to transfer these allocations among vessels. Notice of such a transfer would have to be provided to the Regional Director in writing prior to commencement of annual fishing operations. Comments on this issue were mixed. Several commenters supported the proposal, while others opposed allowing free transfer of vessel allocations. Some of the commenters opposing the NOAA proposal failed to state any reason other than one philosophical in nature.

NOAA believes this provision of the rules tends to reduce rigid and unnecessary regulation of fishing practices without reducing the capability to manage the fishery. NOAA continues to believe that allowing free transfer of vessel allocations will minimize purse seine vessel operating costs, lessen demands on State and Federal law enforcement agencies, reduce mandatory record keeping in the purse seine fishery, and potentially reduce gear conflicts. No change, therefore, has been made in rules.

Several commenters recommended that purse seine vessels should be required to have observers on board to prevent at-sea dumping of small Atlantic bluefin tuna and to enforce quotas. The dumping issue is discussed above. Due to the nature of the fishery, which often is active over a period of several months, placement of observers on board would be an excessively costly burden for the benefits derived. This recommendation implies that participants in this segment of the fishery are more suspect in the conduct of their fishing activities than those in other segments of the Atlantic bluefin tuna fishery. Such a recommendation further raises a constitutional issue concerning unlawful search and seizure. NOAA believes that for monitoring purposes the requirement that all purse seine vessels must notify NMFS prior to offloading Atlantic bluefin tuna is sufficient to provide adequate enforcement capability. NOAA, therefore, rejects the recommendation and makes no changes to the rule.

Operators of two purse seine vessels not presently engaged in the fishery have requested permits and allocations for the 1983 Atlantic bluefin tuna fishery. These individuals believe that, given the 1983 purse seine quota of 440 st, some accommodation should be provided for new entrants in the incidental and directed Atlantic bluefin tuna fishery. These individuals further support their position for participation in the fishery by stating they have made a capital outlay with the expectation of being able to participate therein. They indicate that potential discarding of Atlantic bluefin tuna caught in fishing efforts directed at other species of tuna would result in resource waste and would increase their vessels' operational costs.

The quota for the 1983 directed purse seine fishery for Atlantic bluefin tuna does not allow NOAA to revive the new entrant category. This amount of tuna does not allow an equitable distribution among more than those that have participated in this fishery for a number of years. Historical participants and new entrants in this fishery are not similarly situated. The historical participants have been dependent on this fishery for a number of years. They have borne the burden of Federal regulation of the fishery in order to enhance the abundance of the resource upon which their livelihood depends. NOAA believes, therefore, they must be afforded some preference in terms of reaping the harvest of their forbearance.

The low quota level presents other practical reasons for not reviving the new entrant category. The entry of new vessels will, without question, exacerbate the already overcapitalized condition of this fishery. Since all of the vessels with experienced captains participating in this fishery can take well in excess of their present quota unintentionally in one set, the permitting of new vessels with less experienced captains would aggravate this situation. This mortality level could well frustrate the U.S. international obligations to maintain the integrity of its Atlantic bluefin tuna quota. Allowing vessels an amount of Atlantic bluefin tuna which can reasonably be expected to be harvested in one set is designed to reduce this mortality factor.

NOAA, because of the foregoing, rejects these recommendations.

A representative from a State marine fishery agency and several others advised that an error had been made in the proposed rules by including the incidental purse seine allocation in § 285.22(d). NOAA disagrees with the argument because § 285.22(f) establishes quotas for vessels permitted in the Incidental Catch Category. Purse seine vessels fishing for school size Atlantic bluefin tunas are permitted in the Purse Seine Category. NOAA rejects the recommendation.

Based on the total 1982 incidental catch (10.3 percent) of Atlantic bluefin tuna less than 77 inches in length by purse seine vessels conducting a directed fishery for giant Atlantic bluefin tuna, NOAA had proposed an increase from three to ten percent in the incidental catch allowance for 1983. Several commenters recommended that no incidental catch of medium-sized Atlantic bluefin tuna be allowed. A representative of a State marine fishery agency recommended that the incidental catch remain at three percent. This commenter stated that the size classes in a school of Atlantic bluefin tuna can be identified and that the incidental catch can be kept to a minimum. One commenter recommended that participants in the purse seine fishery be penalized for taking any size class of tuna other than the size class for which the fishery effort is directed.

NOAA believes that in recent years, the size class structure of the Atlantic bluefin tuna stock has undergone significant change. Large numbers of medium and giant Atlantic bluefin tuna (just over 310 pounds) presently are available in the fishery. Medium and giant Atlantic bluefin tuna often are found in mixed schools making size composition assessments difficult at best prior to making a purse seine set.

Based on recent landings data which reflect the stock structure of Atlantic bluefin tuna in overall fishery, NOAA believes an incidental catch of medium Atlantic bluefin tuna of up to 10 percent of giants caught is reasonable. The final rules remain unchanged.

8. Inseason adjustment amount

NOAA had proposed an inseason adjustment amount of 129 st to prevent exceeding total catch limits set by ICCAT, to prevent premature closures depriving some sectors of the opportunity to fish, and to ensure that the primary stock monitoring segments of the fishery, if faced with closure, could remain open.

Several commenters were in favor of the NOAA proposal. A representative of a State marine fishery agency recommended that the inseason adjustment amount of 129 st should not be reallocated. This would show that the U.S. concern for the resource is genuine and not politically motivated.

Numerous commenters made various recommendations relative to a division of the inseason adjustment amount among the various gear segments. These included: divide proportionately or by percentages among all gear segments; revert any portion of the inseason adjustment amount not used to the General or Harpoon Boat categories; and revert any portion not used to the Purse Seine category.

Several commenters including representatives of a State marine fishery agency and sport fishing organizations recommended that purse seine vessels not receive any portion of the inseason adjustment amount. Several commenters recommended that the amount be used only to extend the handgear and/or recreational fisheries, should they be faced with closure. A sportfishing federation recommended that a portion of the inseason adjustment amount be reserved specifically for recreational anglers in the New York Bight area.

The proposed rules would have restricted the use of the inseason adjustment amount to fish with a fork length greater than 47 inches. Representatives of two State marine fishery agencies and a representative of the tuna industry recommended that the inseason adjustment amount not contain such a restriction but rather include all size classes of Atlantic bluefin tuna. ICCAT, in November 1982, recommended limits on the total amount of Atlantic bluefin tuna less than a 47-inch fork length which may be harvested in the western Atlantic Ocean. The United States is obligated to ensure that its quota of 229 st of Atlantic bluefin tuna less than 47 inches is not exceeded. With amounts of 89 st allocated to the recreational fishery and 100 st allocated to the incidental purse seine fishery, 40 st of fish less than 47 inches would be available for allocation from the inseason adjustment amount if necessary. NOAA, therefore, agrees that all size classes of Atlantic bluefin tuna should be available for reallocation from the inseason adjustment amount and has modified § 285.22(g) of the rules accordingly.

A representative of a sport fishing organization recommended that the inseason adjustment amount be reduced by 55 st for use in the establishment of a specific quota for a southern fishing zone. Two other commenters recommended that all 129 st be used for this same purpose. One commenter, stating that the inseason adjustment amount should be larger, recommended taking 120 st from the purse seine fishery for this purpose.

NOAA continues to believe that the establishment of a quota for inseason adjustments is necessary to accommodate unanticipated quota shortages which may develop during the conduct of the 1983 Atlantic bluefin tuna fishery. Reallocation of this reserve will be made according to the criteria contained in § 285.22(g). Based on the comments received, NOAA has reduced the inseason adjustment amount from 129 st to 104 st; it was considered prudent to distribute some of the inseason adjustment amount to appropriate gear categories before the fishery commenced. The 104 st is considered sufficient to meet quota shortages likely to occur in the 1983 fishery.

9. Incidental Rod and Reel Fishery—Gulf of Mexico

The proposed rule would have allowed rod and reel fishermen in the Gulf of Mexico to take incidentally one giant Atlantic bluefin tuna annually. Rod and reel fishermen in the Gulf of Mexico on rare occasions take giant Atlantic bluefin tuna incidentally while fishing for billfish and other game species before June 1. These fishermen contend that in the past the once in a lifetime opportunity to take a giant Atlantic bluefin tuna enhanced the quality of their big game fishing experience.

A representative of a State marine fishery agency and numerous other commenters spoke in favor of the NOAA proposal. Two commenters recommended an annual incidental catch of three giant Atlantic bluefin tuna. Two other commenters, however, were against the NOAA proposal, one on the premise that a new fishery may develop.

NOAA believes that this rod and reel fishery in the Gulf of Mexico constitutes a truly incidental fishery and has little effect on spawning giant Atlantic bluefin tuna; only one giant was reported taken during the period 1980 through 1982. NOAA, therefore, has made no change in the final rule.

Changes Made in the Rules

For the reasons discussed above, the final rules differ from the proposed rules as follows:

Section 285.1

A citation in paragraph (d) was corrected.

Section 285.20

A citation in paragraph (b)(3) was corrected. Paragraph (b)(2) was rewritten for clarity.

Section 285.21

A citation in paragraph (a) was corrected. Minor work changes were made to paragraph (b) to clarify that the required vessel permit only relates to a vessel's fishing operations for Atlantic bluefin tuna.

Paragraph (j) was rewritten to reflect the rules which currently govern actions to modify, suspend, or revoke Federal fishery permits.

Section 285.22

The quota amounts in paragraphs (a), (c), (d), and (e) were revised as discussed above. The amount of the General category quota which may be harvested before September 15, was reduced from 625 st to 550 st. The purse seine quota for giants was increased from 300 st to 325 st. The purse seine incidental catch quota was reduced from 140 st to 100 st. The recreational angling quota was increased from 99 st to 139 st.

Paragraph (f)(1) was revised to eliminate unnecessary language.

Paragraph (g) was revised to reduce the inseason adjustment amount from 129 st to 104 st, to eliminate the restriction that the inseason adjustment amount was for only Atlantic bluefin tuna greater than a 47-inch fork length, and to eliminate the requirement that the Federal Register notice of an allocation of the inseason adjustment amount be published 72 hours in advance.

Section 285.23

Paragraph (f) was modified slightly to correct grammatical errors.

Paragraph (g) was rewritten to improve readability.

Section 285.24

Paragraph (a) was revised to improve readability and eliminate redundant language.

Paragraph (c) was revised to increase from one to four medium Atlantic bluefin tuna that may be caught and

retained per day by vessels carrying multiple anglers.

Section 285.25

Paragraph (d) was subdivided into (d)(1) and (d)(2) for clearer identification purposes.

Section 285.28

Paragraph (i) was rewritten to reflect the rules which currently govern actions to modify, suspend, or revoke Federal fishery permits.

Section 285.29

Paragraph (a) was revised to require dealers to affix metal tags and report all medium Atlantic bluefin tuna purchased or received.

Section 285.30

Paragraphs (c) and (d) were rewritten to require tagging of medium Atlantic bluefin tuna.

Section 285.31

Paragraphs (e) and (f) were revised to correct citations.

Paragraph (k) was rewritten for clarity.

A new paragraph (l) was added to prohibit the purchase, receipt, or transfer of Atlantic bluefin tuna without a valid dealer permit.

The old paragraphs (l) through (aa) are redesignated (m) through (bb) respectively.

The new paragraph (o) was revised to more clearly identify the manner in which giant bluefin tuna can be legally handled.

The new paragraph (r) was revised to include medium Atlantic bluefin tuna.

Section 285.32

The citations to various paragraphs of Section 285.31 were revised to reflect the current lettering system of the prohibitions.

Classification

The Administrator of NOAA has determined that these rules are not major under Executive Order 12291. A regulatory impact review (RIR), which was prepared in making this determination, concludes that additional revenues to the commercial and recreational sectors of $2.6 million and total regional impacts of $16.9 million will accrue because of the proposed action. Additional, but unquantified, revenue and regional benefit will also result from the action. The public may obtain copies of these reports as a combined RFA/RIR from the National Marine Fisheries Service, Northeast Region, Services Division, P.O. Box 1109, Gloucester, MA 01930-5309.

NOAA prepared a draft regulatory flexibility analysis (RFA) as part of the Regulatory Impact Review and determined that this action is significant under the Regulatory Flexibility Act. Approximately $2.6 million of total beneficial impacts would be realized by commercial and recreational fishermen. The impacts on individual participants in the fishery could not be accurately estimated because information on current effort or number of participants is unavailable. The draft RFA was made available for public review and comment. Based on those comments, the final regulatory flexibility analysis reached the same conclusions.

The agency prepared an Environmental Assessment (EA) and has determined that these rules will have no significant environmental impacts, other than those already addressed in earlier environmental impact statements. Copies of this EA may be obtained from the address above.

The information collection requirements in §§ 285.21 and 285.27 are identical to the requirements in the existing regulations. The information collection requirements in §§ 285.29 and 285.30 have been adjusted within the requirements of the existing regulations. This adjustment does not materially change the information collection requirements approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 and have been assigned OMB control numbers as noted under those sections.

This revision of the existing rules constitutes a substantive rulemaking that relieves a restriction and, as such, is not subject to the 30-day delayed effective date provision of the Administrative Procedure Act.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International organizations, Penalties, Reporting and recordkeeping requirements.

Dated: June 14, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 285—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 285 is amended as follows:

1. The authority citation for Part 285 is as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. Subparts A and B of Part 285 are revised to read as follows:

PART 285—ATLANTIC TUNA FISHERIES

Subpart A—General

Sec.

285.1 Purpose and scope.
285.2 Definitions.
285.3 Prohibitions.
285.4 Enforcement.
285.5 Civil procedures.
285.6 Civil penalties.

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

285.20 Fishing seasons.
285.21 Vessel permits.
285.22 Quotas.
285.23 Incidental catch.
285.24 Catch rate limits.
285.25 Purse seine vessel requirements.
285.26 Size classes.
285.27 Tag and release program.
285.28 Dealer permits.
285.29 Dealer record keeping and reporting.
285.30 Metal tags.
285.31 Prohibitions.
285.32 Civil penalties.

* * * * *

Authority: 16 U.S.C. 971 *et seq.*

Subpart A—General

§ 285.1 Purpose and scope.

(a) The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971–971h) authorizes the Secretary to implement the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The Secretary's authority under the Act has been delegated to the Assistant Administrator.

(b) This part implements the ICCAT recommendations for persons and vessels subject to the jurisdiction of the United States.

(c) This part does not apply to any person or vessel authorized by the Commission, the Regional Director, the Director of the Southeast Fisheries Center, or any State upon approval by the Regional Director, to engage in fishing for research purposes.

(d) Under Section 9(d) of the Act, determinations made by the Assistant Administrator that the provisions of this part apply within the territorial sea of the United States adjacent to, and within the boundaries of, the States of Texas, Louisiana, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Rhode Island, Massachusetts, New Hampshire, and the Commonwealths of Puerto Rico and the Virgin Islands, and, with the exceptions of §§ 285.22 (c) and (d), 285.23 (a) and (b) and 285.25 within the territorial sea of

the United States adjacent to, and within the boundaries of the State of Maine, continue in effect.

§ 285.2 Definitions.

The terms used in this part have the following meanings (definitions in the Act are repeated here to aid understanding of the rules):

"Act" means the Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971h.

"Albacore" means the fish species *Thunnus alalunga.*

"Angling" means fishing for or catching of, or the attempted fishing for or catching of, fish by any person (angler) with a hook attached to a line which is hand held or by rod and reel made for this purpose.

"Assistant Administrator" means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

"Atlantic bluefin tuna" means the fish species *Thunnus thynnus thynnus.* Size classes for Atlantic bluefin tuna are defined in § 285.26.

"Atlantic bonito" means the fish species *Sarda chiliensis* or *Sarda sarda.*

"Authorized Officer" means—

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any certified enforcement agent or Special Agent of the NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

"Bigeye tuna" means the fish species *Thunnus obesus.*

"Buy-boat" means any vessel used by a dealer in purchasing or receiving Atlantic bluefin tuna from any person or fishing vessel engaged in fishing for any tuna.

"Cargo vessel" means any fishing vessel used for transporting fish or fish products.

"Commercial activity" means any activity, other than fishing, of industry, trade, or commerce, including but not limited to the buying or selling of a regulated species and activities conducted for the purpose of facilitating such buying and selling.

"Commission" means the International Commission for the Conservation of Atlantic Tunas established under Article III of the Convention.

"Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro, Brazil on May 14, 1966, 20 U.S.T. 2887, TIAS 6767, including any amendments or protocols thereto, which are binding upon the United States.

"Dealer" means any person who engages in a commercial activity with respect to a regulated species or parts thereof.

"Dressed weight" means the weight of a fish after it has been gilled, gutted, beheaded, and definned.

"Fish" or "fishing" means the catching or fishing for, or the attempted catching or fishing for, any species of fish covered by the Convention, or any activities in support of fishing.

"Fishing trip" means the time period between when a fishing vessel departs from port to carry out fishing operations and the time such vessel returns to port or offloads any of its catch.

"Fishing vessel" means any vessel engaged in fishing, processing, or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

"Fishing week" means a period of time beginning at 0001 hours local time on Sunday, and ending at 2400 hours local time on the following Saturday.

"Fork length" means a measurement of the length of Atlantic bluefin tuna taken in a straight line along the middle of the lateral surface from the tip of the snout to the fork of the tail.

"Handgear" means handline, harpoon, or rod and reel.

"Handline" or "handline gear" means fishing gear which is released by hand and consists of one main line of variable length to which is attached one or two leaders and hooks. Handlines are retrieved only by hand, and not by mechanical means.

"Longline" or "longline gear" means fishing gear which is set horizontally, either anchored, floating, or attached to a vessel, which consists of a main or groundline with three or more gangions and hooks. A longline may be retrieved by hand or mechanical means.

"Metal tag" means the flexible, selflocking ribbon of metal issued by the NMFS for the identification of Atlantic bluefin tuna under § 285.30.

"Metric ton" (mt) means 2204.6 pounds (1000 kilograms).

"NMFS" means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

"Person" means any individual, partnership, corporation, or association subject to the jurisdiction of the United States.

"Plastic tag" means the plastic or combination plastic and metal marker issued for the tag and release program under § 285.27.

"Purse seining" means fishing for or catching a regulated species by means of an encircling net and associated gear.

"Regional Director" means—

(a) For purposes of Atlantic bluefin tuna, the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930–3799; and

(b) For purposes of yellowfin tuna, the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

"Regulated species" means albacore, Atlantic bluefin tuna, bigeye tuna, skipjack tuna, or yellowfin tuna.

"Regulatory area" means all waters of the Atlantic Ocean including adjacent seas, except the waters over which the individual States exercise fishery management jurisdiction unless the Assistant Administrator has determined otherwise in accordance with this part, as noted in § 285.1(d).

"Reporting week" means a period of time beginning at 0001 hours local time on Sunday, and ending at 2400 hours local time the following Saturday.

"Round" or "round weight" means a fish or the weight of a fish before gilling, gutting, beheading, and definning.

"Secretary" means the Secretary of Commerce or an individual to whom appropriate authority has been delegated.

"Short ton" (st) means 2,000 pounds (907 kilograms).

"Skipjack tuna" means the fish species *Katsuwonus (=Euthynnus) pelamis.*

"State" means any State of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Virgin Islands, and territories and possessions of the United States.

"Tuna" means albacore, Atlantic bluefin tuna, bigeye tuna, skipjack tuna or yellowfin tuna.

"Yellowfin tuna" means the fish species *Thunnus albacares.*

§ 285.3 Prohibitions.

It is unlawful—

(a) For any person in charge of a fishing vessel or for any fishing vessel subject to the jurisdiction of the United States to engage in fishing or to land any tuna in violation of these rules.

(b) For any person to land, transship, ship, transport, purchase, sell, offer for

sale, import, export, or have in custody, possession, or control any fish which the person knows, or should have known, was taken or retained contrary to this part, without regard to the citizenship of the person or registry of the fishing vessel which took the fish.

(c) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish reports required by this part.

(d) For a dealer or any person in charge of any fishing vessel subject to the jurisdiction of the United States to obstruct or to refuse to allow any authorized officer to enter the dealer's premises or to board the fishing vessel to search or inspect its catch, equipment, books, documents, records, or other articles, or to question the persons in the dealer's premises or onboard the fishing vessel under the provisions of this part.

(e) For any person to import from any country any regulated species in any form subject to regulation under a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry under this part.

§ 285.4 Enforcement.

(a) The Secretary, the Secretary of the Department in which the U.S. Coast Guard is operating, and the U.S. Customs Service shall enforce jointly this part and the provisions of the Act.

(b) Enforcement Agents of the NVFS shall enforce provisions of this part and the Act on behalf of the Secretary and may take any actions authorized with respect to enforcement. By agreement, the Secretary may utilize the personnel, services, and facilities of any other Federal Agency to enforce these rules and the Act. By agreement, the Secretary also may designate personnel of a State to enforce these rules and the Act.

§ 285.5 Civil procedures.

(a) The method for assessment of civil penalties for violation of these rules or the Act must be in accordance with the procedures set forth in 15 CFR Part 904.

(b) In view of the perishable nature of tuna when not processed otherwise than by chilling or freezing, Authorized Officers may cause to be sold, for not less than its reasonable market value, unchilled or unfrozen tunas that may be seized and forfeited under the Act and this part.

(c) The purchaser must remit the proceeds of any sale made under paragraph (b) of this section to the Regional Director. The Regional Director shall deposit and retain the proceeds in the Suspense Account of the NMFS (Account No. DO 6875—Phase 19) after deducting the reasonable cost of the sale, if any, pending judgement of the court or other disposition of the case.

§ 285.6 Civil penalties.

Any person who—

(a) Violates any provision of § 285.3 (a) or (b) of this part shall be assessed a civil penalty of not more than $25,000 for a first violation and a civil penalty of not more than $50,000 for any subsequent violation;

(b) Violates any provisions of § 285.3 (c) or (d) of this part shall be assessed a civil penalty of not more than $1,000 for a first violation and a civil penalty of not more than $5,000 for any subsequent violation; or

(c) Violates any provision of § 285.3(e) shall be assessed a civil penalty of not more than $100,000.

Subpart B—Atlantic Bluefin Tuna (Thunnus thynnus thynnus)

§ 285.20 Fishing seasons.

(a) *Commencement.* Fishing in the regulatory area for Atlantic bluefin tuna will begin—

(1) On January 1 of each year:

(i) For vessels permitted in the Purse Seine category fishing under the quota specified in § 285.22(d),

(ii) For anglers fishing for young school, school, and medium Atlantic bluefin tuna under the quota specified in § 285.22(e),

(iii) For vessels permitted in the Incidental Catch category fishing under the quota specified in § 285.22(f), and

(iv) For anglers participating in the tag and release program under § 285.27.

(2) On June 1 of each year:

(i) For vessels permitted in the General category fishing under the quota specified in § 285.22(a), and

(ii) For vessels permitted in the Harpoon Boat category fishing under the quota specified in § 285.22(b).

(3) On August 15 of each year:

(i) For vessels permitted in the Purse Seine category fishing under the quota specified in § 285.22(c).

(ii) [Reserved].

(4) Consistent with Convention, the Act and this part, the Assistant Administrator may change the commencement date under this section for any vessel permit category or person (angler) if the Assistant Administrator determines that the changed date will enable scientific research on the status of the stock to be conducted more effectively and will not prevent the quotas for the affected fishery from being caught, based upon historical catch data or other relevant information. The Assistant Administrator will publish a notice in the **Federal Register** of any change in the commencement date(s) for fishing under this section at least 60 days before commencement of the affected fishery.

(b) *Closure.* (1) The Assistant Administrator will monitor catch and landing statistics of Atlantic bluefin tuna by vessels other than those permitted in the Purse Seine category. On the basis of these statistics, the Assistant Administrator will project a date when the catch of Atlantic bluefin tuna will equal any quota under § 285.22, and will publish a notice in the **Federal Register** stating that fishing for or retaining Atlantic bluefin tuna under that quota must cease on that date at a specified hour.

(2) Angling for Atlantic bluefin tuna under a tag and release program under § 285.27 may continue even after fishing for a quota has ceased.

(3) Any vessels permitted in the Purse Seine category may fish under the quotas specified in § 285.22(c) and § 285.22(d) only until the allocation(s) assigned or transferred under § 285.22(d) to that vessel is reached. Upon reaching its individual vessel allocation for a particular size class of Atlantic bluefin tuna, a vessel will be deemed to have been given notice that the fishery for such tuna is closed to that vessel.

(c) *State actions.* Nothing in this section shall be construed to invalidate any more restrictive commencement or closure date established by any State in waters under its jurisdiction.

§ 285.21 Vessel permits.

(a) *Permit requirements.* Each vessel which fishes for or takes Atlantic bluefin tuna, except vessels being used by anglers fishing for young school, school, or medium Atlantic bluefin tuna under § 285.24(c), must have an appropriate permit issued under this section.

(b) *Categories of permits.* The Regional Director will issue a permit to each vessel for only one of the following categories: General (handgear), Harpoon Boat, Purse Seine, or Incidental Catch. A permitted vessel is entitled to fish for Atlantic bluefin tuna only under the quota for the category in which it is permitted, and must use gear appropriate to that category. Anglers also may fish for young school, school, and medium Atlantic bluefin tuna from a vessel that has a permit for other types of fishing, but anglers will remain subject to provisions of this subpart applicable to angling. The Regional Director will issue permits to catch and retain Atlantic bluefin tuna under

§ 285.22 (c) and (d) only to owners of those purse seine vessels, or their replacements, which were granted allocations under this subpart and landed Atlantic bluefin tuna in the fishery for Atlantic bluefin tuna during the period 1980 through 1982. The Regional Director will not issue a permit to take Atlantic bluefin tuna under this subpart to any vessel which was replaced with another vessel and retired from the purse seine fishery during the period 1980 through 1982, unless that vessel is replacing another vessel being retired from the fishery.

(c) *Application procedure.* A vessel owner applying for an Atlantic bluefin tuna permit under this section must submit a completed permit application signed by the owner on an appropriate form obtained from the Regional Director. The application must be submitted to the Regional Director at least 30 days before the date on which the applicant desires to have the permit made effective. The application must include the name and address of the vessel owner, the name of the vessel, the port where the vessel is docked, the official State registration or U.S. Coast Guard documentation number, the length of the vessel, the tonnage (if known), the area to be fished, and the category of the permit. Except for purse seine vessels, an owner may change the category of the vessel's permit by notifying the Regional Director in writing before May 15.

(d) *Issuance.* (1) The Regional Director will issue a permit within 30 days of receipt of a completed application.

(2) The Regional Director will notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(e) *Duration.* A permit issued under this section remains valid until it is suspended, revoked, or expires. Except with respect to purse seine permits, a permit issued under this section expires when the owner or name of the vessel changes.

(f) *Alteration.* A permit issued under this section which is substantially altered, erased, or mutilated is invalid.

(g) *Replacement.* The Regional Director may issue replacement permits. An application for a replacement permit is not considered a new application.

(h) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the vessel and/or owner to which it is issued.

(i) *Display.* A permit issued under this section must be carried on board the vessel at all times. The permit must be displayed for inspection upon request of any Authorized Officer or any employee of the NMFS designated by the Regional Director for such purpose.

(j) *Modification.* The Assistant Administrator may modify, suspend, or revoke permits issued under this section in connection with violations of the Act, or any of the Act's implementing rules. Any action to modify, suspend or revoke a permit issued under this section will follow the procedures of 50 CFR Part 261—Subpart D insofar as they do not conflict with the provisions of the Act or this Part, and of 15 CFR Part 904.

(k) *Fees.* No fee is required for any permit issued under this section.

(l) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the vessel owner must report the change in writing to the Regional Director.

(Approved by the Office of Management and Budget under OMB control number 0648–0097)

§ 285.22 Quotas.

The total annual amount of Atlantic bluefin tuna which may be caught and retained by persons and vessels subject to U.S. jurisdiction in the regulatory area is 1,529 st (1,387 mt), subdivided as follows:

(a) *General.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the General category under § 285.21(b) is 650 st (590 mt). No more than 550 st (499 mt) of this quota may be taken before September 15.

(b) *Harpoon-boat.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Harpoon Boat category under § 285.21(b) is 60 st (54 mt).

(c) *Purse Seine—Giants.* The total amount of giant Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 325 st (295 mt).

(d) *Purse Seine—School fish.* The total amount of Atlantic bluefin tuna less than 120 cm fork length (47 inches) which may be caught and retained in the regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 100 st (91 mt). See § 285.23(b) for further clarification.

(e) *Angling.* The total amount of young school, school, and medium Atlantic bluefin tuna which may be caught and retained in the regulatory area by anglers is 139 st (126 mt). No more than 89 st (81 mt) of this quota may be fish less than 120 cm (47 inches) fork length.

(f) *Incidental.* The total amount of Atlantic bluefin tuna which may be caught and retained in the regulatory area by vessels permitted in the Incidental Catch category under § 285.21(b) is 151 st (137 mt). This quota is further subdivided as follows:

(1) 145 st (132 mt) for longline vessels. No more than 115 st (104 mt) may be taken in the area south of 36°00′ N. latitude.

(2) 6 st (5 mt) for vessels fishing for species of fish other than tuna.

(g) *Inseason adjustment amount.* The total amount of Atlantic bluefin tuna which will be held in reserve for inseason adjustments is 104 st (94 mt). The Regional Director may allocate any portion (from zero to 100 percent) of this amount to any segment or segments of the fishery. The Regional Director will publish a notice of allocation of any inseason adjustment amount in the **Federal Register** before such allocation is to become effective. Before making any such allocation, the Regional Director will consider the following factors:

(1) The usefulness of information obtained from catches of the particular gear segment of the fishery for biological sampling and monitoring the status of the stock;

(2) The catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made;

(3) The projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season; and

(4) The estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

§285.23 Incidental catch.

(a) Subject to the quota in § 285.22(c), purse seine vessels permitted in the purse seine category under § 285.21 and fishing for giant Atlantic bluefin tuna may catch incidentally, during any fishing trip, Atlantic bluefin tuna with a fork length less than 77 inches, provided that the total amount of such tuna taken does not exceed 10 percent by weight of the total amount of giant Atlantic bluefin tuna onboard the vessel at the end of each fishing trip.

(b) Subject to the quota in § 285.22(d) and individual vessel allocations, purse seine vessel permitted in the purse seine category under § 285.21 and fishing for tunas other than Atantic bluefin tuna may catch incidentally and retain, during any fishing trip, Atlantic bluefin tuna, provided that the total amount of

Atlantic bluefin tuna taken does not exceed 10 percent of weight of all other tuna species onboard the vessel at the end of each fishing trip. Any vessel that has not taken its allocation under § 285.22(d) at the seasonal termination of the vessel's fishing for species of tuna other than Atlantic bluefin tuna, may add the remainder of its allocation to the vessel's allocation of giant Atlantic bluefin tuna under § 285.22(c).

(c) *Attribution.* Atlantic bluefin tuna caught incidentally by purse seine vessels fishing for an allocation of a particular size class of Atlantic bluefin tuna will be applied to that vessel's allocation for such size class Atlantic bluefin tuna.

(d) *Herring, mackerel, and menhaden purse seine vessels and vessels using fixed gear other than longlines or traps (pounds, weirs, and gillnets).* Subject to the quotas in § 285.22, any person operating a vessel fishing with these types of gear principally for species of fish other than tuna and possessing an Incidental Catch permit issued under § 285.21 may catch, during any fishing trip, Atlantic bluefin tuna of any size class, provided that, the total amount of Atlantic bluefin tuna taken does not exceed two percent, by weight, of all other onboard the vessel at the end of each fishing trip.

(e) *Traps.* Subject to the quotas in § 285.22, any person operating a vessel possessing an Incidental Catch permit issued under § 285.21 which catches Atlantic bluefin tuna incidentally while fishing with traps, may retain Atlantic bluefin tuna, provided, that such tuna do not exceed two percent, by weight, of the total amount of all other fish species caught within the preceding 30-day period.

(f) *Longlines.* Subject to the quotas in § 285.22, any person operating a vessel using longline gear possessing an Incidental Catch permit issued under § 285.21 may land Atlantic bluefin tuna as an incidental catch. The amount of Atlantic bluefin tuna may not exceed:

(1) Two fish per vessel per trip south 36°00′ N. latitude, and

(2) Two percent by weight of all other fish onboard the vessel at the end of each fishing trip, north of 36°00′ N. latitude.

(g) *Rod and reel.* Subject to the quotas in § 285.22, any person operating a vessel using rod and reel gear in the Gulf of Mexico and possessing an Incidental Catch permit issued under § 285.21 may catch and retain annually one giant Atlantic bluefin tuna as an incidental catch. The permit holder must report within 24 hours of landing his/her giant Atlantic bluefin tuna to the nearest NMFS enforcement office, and must make the tuna available for inspection and attachment of a metal tag. No such Atlantic bluefin tuna may be sold or transferred to any person for a commercial purpose.

§ 285.24 Catch rate limits.

(a) From June 1, vessels permitted in the General category under § 285.21(b), may catch only one giant Atlantic bluefin tuna per day per vessel. On or about August 7, the Assistant Administrator will review dealer and buy-boat reports to determine the catch of giant Atlantic bluefin tuna. If the Assistant Administrator determines that 30 percent or more of the General category quota of giant Atlantic bluefin tuna is caught, the allowable catch rate limit will remian at one giant Atlantic bluefin tuna per day per vessel; if the Assistant Administrator determines that less than 30 percent of the quota has been caught, the allowable catch rate limit will be increased to two giant Atlantic bluefin tuna per day per vessel. On or about September 7, the Assistant Administrator will review dealer and buy-boat reports to determine the total catch of giant Atlantic bluefin tuna. If the Assistant Administrator determines that 85 percent or more of the General category quota of giant Atlantic bluefin tuna is caught, an allowable catch rate limit of one giant Atlantic bluefin tuna per day per vessel will either remain or be reestablished. If the Assistant Administrator determines that 70 or more percent and less than 85 percent of the quota has been caught, the allowable catch rate limit will remain or be set at two giant Atlantic bluefin tuna per day per vessel. If more than 60 percent and less than 70 percent of the quota has been caught, the allowable catch rate limit will be set at three giant Atlantic bluefin tuna per day per vessel. If the Assistant Administrator determines that 60 percent or less of the quotas has been caught, the allowable catch rate limit will be increased to four giant Atlantic bluefin tuna per day per vessel. The Assistant Administrator will publish a notice in the **Federal Register** of the determination and the allowable catch rate limits made under this paragraph.

(b) Vessels permitted in the Harpoon Boat category are not restricted in their catch rate of giant Atlantic bluefin tuna.

(c) Persons angling in the regulatory area may catch and retain no more than four Atlantic bluefin tuna other than giant Atlantic bluefin tuna each day, only one of which may be a medium: provided that no more than four medium Atlantic bluefin tuna per day may be caught and retained per vessel for vessels having four or more anglers onboard.

§ 285.25 Purse seine vessel requirements.

(a) *Mesh size.* Any owner or operator of a vessel with a permit issued under § 285.21(b) conducting a directed fishery for Atlantic bluefin tuna with nets, other than a trap net, must use a purse seine net with a mesh size equal to or smaller than 4.5 inches in the main body (stretched when wet) and which has at least 24 count thread throughout the net.

(b) *Exemption.* The Regional Director may exempt any person from the mesh restrictions in paragraph (a) of this section if it is determined that the net sought to be exempted will not result in significant injury or mortality to Atlantic bluefin tuna which are encircled by the net but manage to escape.

(c) *Inspection.* Any owner or operator of a purse seine vessel with a permit issued under § 285.21(b) must request an inspection of the vessel and fishing gear by an enforcement agent of the NMFS before commencing any fishing trip and before offloading any Atlantic bluefin tuna. The vessel owner or operator must request such inspection at least 24 hours before commencement of a fishing trip or offloading by calling 617–281–3600 extension 252; or 617–992–7711.

(d) *Vessel allocations.* (1) Purse seine vessel permit holders must apply for an allocation of Atlantic bluefin tuna from the quotas specified in § 285.22 (c) and (d). The permit holder must apply for this allocation in writing to the Regional Director by June 1, 1983, and by April 15 of subsequent years. The permit holder must specify the particular size class or classes of Atlantic bluefin tuna for which the vessel will fish. The owner must supply documentation of the vessel's stockholders, owners, partners, or association structure.

(2) The Regional Director will review these applications for allocations of Atlantic bluefin tuna by June 15, 1983, and by May 1 in subsequent years, and will make equal allocations of the available size classes of Atlantic bluefin tuna among the vessels permitted under § 285.21(b). Such allocations are freely transferable among purse seine vessel permit holders. Any purse seine vessel permit holder intending to fish for more than one allocation in any fishing season must provide written notice of such intent to the Regional Director 15 days before commencing fishing in that season. Purse seine vessel permit holders who transfer their allocation to another purse seine vessel permit holder must not fish their permitted vessel in any fishery in which Atlantic bluefin tuna might be caught.

§ 285.26 Size classes.

For any Atlantic bluefin tuna which is landed with the head removed, it is a rebuttable presumption for purposes of this subpart that the tuna, when caught, fell into a size class in accordance with the following table. For this purpose, all measurements must be taken in a straight line along the middle of the lateral surface from the forwardmost part of the beheaded fish to the fork of the tail. Approximate round weights are given for illustrative purposes only.

Original size class (fork length)	Approximate round weights	Length with head off
Young school tuna: Less than 26 inches (66 cm).	Less than 14 pounds	Less than 18 inches (46 cm).
School tuna: Equal to 26 inches (66 cm) but less than 57 inches (145 cm).	From 14 pounds but less than 135 pounds	18 inches (46 cm) but less than 40 inches (102 cm).
Medium tuna: Equal to 57 inches (145 cm) but less than 77 inches (196 cm).	From 135 pounds but less than 310 pounds.	40 inches (102 cm) but less than 54 inches (137 cm).
Giant tuna: 77 inches (196 cm) or more.	310 pounds or more	54 inches (137 cm) or more.

§ 285.27 Tag and release program.

Notwithstanding other provisions of these rules, an angler may fish for Atlantic bluefin tuna under a tag and release program, provided the angler tags all Atlantic bluefin tuna so caught with plastic tags issued under this section, and releases and returns such fish to the sea immediately after tagging and with a minimum of injury. To participate in this program, an angler must obtain plastic tags, reporting cards, and detailed instructions for their use by writing to the Cooperative Game Fish Tagging Program, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149–1099.

(Approved by the Office of Management and Budget under OMB control number 0648–0031)

§ 285.28 Dealer permits.

(a) *General.* A dealer purchasing or receiving Atlantic bluefin tuna from any person or vessel which catches such tuna must have a valid permit required under this section. If such purchase or receipt is made from a buy boat, the buy boat must have a valid permit under paragraph (1) of this section.

(b) *Application.* An applicant must apply for a dealer permit in writing on an appropriate form obtained from the Regional Director. The application must be signed by the applicant, and be submitted to the Regional Director at least 30 days before the date upon which the applicant desires to have the permit made effective. Applications must contain the name, principal place of business, mailing address, and telephone number of the applicant.

(c) *Issuance.* (1) The Regional Director will issue a permit within 30 days of receipt of a completed application; provided, however, that the Regional Director may exercise discretion not to issue a permit to any applicant who has violated any provision of the Act or this part.

(2) The Regional Director will notify the applicant of any deficiency in the application. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(d) *Duration.* Any permit issued under this section remains valid until December 31 of the year for which it is issued, unless suspended or revoked.

(e) *Alteration.* Any permit which is substantially altered, erased, or mutilated is invalid.

(f) *Replacement.* The Regional Director may issue replacement permits. An application for a replacement permit is not considered a new application.

(g) *Transfer.* A permit issued under this section is not transferable or assignable; it is valid only for the dealer to whom it is issued.

(h) *Inspection.* The dealer must keep the permit issued under this section at his/her principal place of business. The permit must be displayed for inspection upon request of any Authorized Officer, or any employee of the NMFS designated by the Regional Director for such purpose.

(i) *Modification.* The Assistant Administrator may modify, suspend, or revoke permits issued under this section in connection with violations of the Act, or any of the Act's implementing rules. Any action to modify, suspend or revoke a permit issued under this section will follow the procedures of 50 CFR Part 621—Subpart D insofar as they do not conflict with the provisions of the Act or this Part, and of 15 CFR Part 904.

(j) *Fees.* No fee is required for any permit issued under this section.

(k) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the dealer issued a permit will report the change in writing to the Regional Director.

(l) *Buy-boats.* Each buy-boat must have a dealer permit issued under this section. The Regional Director will not issue a dealer permit under this section to any vessel which has a valid permit issued under § 285.21. The Regional Director will not issue a dealer permit to a buy-boat unless the owner or operator of the buy-boat agrees in writing to allow an individual authorized by the Regional Director to accompany the buy-boat on any trip to observe operations. The Regional Director will provide reasonable notice to the owner or operator of any buy-boat that an individual will be placed on board. The Regional Director will reimburse the owner of any buy-boat for any expenses which the Regional Director determines to be reasonable and which are directly related to the placement of an individual on that buy-boat. Buy-boats may not purchase or transport Atlantic bluefin tuna caught accidentally by longlines.

(Approved by the Office of Management and Budget under OMB control number 0648–0097)

§ 285.29 Dealer recordkeeping and reporting.

Any person issued a dealer permit under § 285.28—

(a) Must submit to the Regional Director a daily report on a reporting card provided by the NMFS, within 24 hours of the purchase or receipt of each medium or giant Atlantic bluefin tuna. Each reporting card must be signed by the vessel permit holder or vessel operator and must show the Atlantic bluefin tuna vessel permit number, metal tag number affixed to the fish by the dealer or assigned by an Authorized Officer, the date landed, the port where landed, the round or dressed weight, the fork length, gear used, and area where caught.

(b) Must submit to the Regional Director a weekly report on forms supplied by the NMFS, within two days after the end of each reporting week in which Atlantic bluefin tuna were purchased or received. Each report must specify accurately and completely: the number of tuna purchased or received; location where each tuna was caught; the disposition of the tuna (names, addresses and, where applicable, country of destination); the source of the tuna (names and addresses); date; metal tag numbers (where applicable); round or dressed weight and fork length (by individual tuna); and any other information requested by the Regional Director. Also, dealers using buy-boats, in addition to the information required

above, must include the precise time when any tuna were received on the buy-boat;

(c) Must allow an Authorized Officer, or any employee of the NMFS designated by the Regional Director for this purpose, to inspect and copy any records of transfers, purchases, or receipts of Atlantic bluefin tuna;

(d) Must retain in his/her possession a copy of each weekly report for a period of two years from the date on which it was submitted to the Regional Director.

(e) Each operator of a buy-boat, in addition to the above, must notify the Regional Director of any offloading, and must request a vessel inspection at least six hours before such offloading by calling 617–281–3600, extension 252, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, local time, or at all other times during the day and weekends, by calling 617–992–7711. In making the request for inspection, the owner or operator of the buy-boat or his/her designated representative must provide his/her name, the buy-boat's name and permit number, the number of tuna received, and the location and anticipated time of landing in port.

[Approved by the Office of Management and Budget under OMB control number 648–0013]

§ 285.30 Metal tags.

(a) *Issuance of tags.* The Regional Director will issue numbered metal tags to each person receiving a dealer's permit under § 285.28.

(b) *Transfer of tags.* Tags issued under this section are not transferable.

(c) *Affixing tags.* (1) A dealer or his/her agent must affix a metal tag to each medium or giant Atlantic bluefin tuna immediately upon its offloading from a vessel. He/she must affix the metal tag to the tuna between the fifth dorsal finlet and the keel.

(2) Any person who catches a medium or giant Atlantic bluefin tuna and does not transfer it to a permitted dealer must contact the nearest NMFS enforcement office within 24 hours of landing such tuna and make the tuna available for inspection and attachment of a metal tag.

(d) *Removal of tags.* A metal tag affixed to any medium or giant Atlantic bluefin tuna must remain on the tuna until the tuna is either cut into portions or sold for export from the United States. If the tuna or tuna parts subsequently are packaged for transport for domestic commercial use or for export, the tag must be attached to the outside of the package or container and the tag number must be written legibly and indelibly on the outside of any package or container.

§ 285.31 Prohibitions.

It is unlawful for any person or vessel subject to the jurisdiction of the United States—

(a) To fish for or catch Atlantic bluefin tuna without a valid permit required under § 285.21 and carried onboard the vessel;

(b) To fish for or catch Atlantic bluefin tuna after fishing has been closed or before fishing has commenced under § 285.20, except under the provisions of § 285.27;

(c) To fish for, catch, or possess Atlantic bluefin tuna in excess of the quotas specified in § 285.22 except under the provisions of § 285.27;

(d) To fish for, catch, or possess Atlantic bluefin tuna in excess of the catch limits specified in § 285.24 except under the provisions of § 285.27;

(e) To fish for or catch Atlantic bluefin tuna in excess of any vessel allocation made under § 285.25(d);

(f) To fish for or catch Atlantic bluefin tuna in a directed fishery with purse seine nets without an allocation made under § 285.25(d);

(g) To fish for or catch Atlantic bluefin tuna in a directed fishery with nets other than those specified in § 285.25;

(h) To fish for or catch Atlantic bluefin tuna within 100 yards (91.5 meters) of the cork line of a purse seine net used by a vessel conducting scientific research operations authorized by the NMFS;

(i) To catch and retain Atlantic bluefin tuna in excess of the incidental catch provisions under § 285.23;

(j) To land any Atlantic bluefin tuna in forms other than round, or with the head removed;

(k) To retain any Atlantic bluefin tuna caught under the tag and release program allowed under § 285.27;

(l) To purchase, receive, or transfer Atlantic bluefin tuna from any person or vessel without a valid dealer permit issued under § 285.28(a);

(m) To purchase, receive, or transfer any Atlantic bluefin tuna at sea from a person or vessel engaged in fishing for such tuna without a valid dealer permit for buy-boat operations issued under § 285.28;

(n) To sell, offer for sale, or transfer any Atlantic bluefin tuna to any person or vessel other than to a person or vessel with a permit issued under § 285.28;

(o) To sell, offer for sale, or transfer to any person for a commercial purpose any giant Atlantic bluefin tuna caught incidentally in the Gulf of Mexico with rod and reel gear under § 285.23(g);

(p) To engage in fishing with a vessel holding a permit under § 285.21 unless the vessel travels to and from the area where it will be fishing under its own power and the person operating that vessel brings under control (secured to the catching vessel or boated) any Atlantic bluefin tuna with no assistance from other vessels, except in circumstances where the safety of the vessel or its crew is jeopardized or due to other circumstances beyond the control of the operator;

(q) To fail to release immediately with a minimum of injury any Atlantic bluefin tuna which will not be retained;

(r) To fail to affix immediately to any medium or giant Atlantic bluefin tuna, between the fifth dorsal finlet and the keel, an individually numbered metal tag when the tuna has been received or purchased by that person for a commercial purpose from any person or vessel having caught such tuna;

(s) To remove any metal tag affixed to an Atlantic bluefin tuna under § 285.30 before removal is allowed under that section, or fail to write the tag number on the shipping package or container as prescribed by that section;

(t) To purchase or transport with a buy-boat any Atlantic bluefin tuna captured incidentally by longlines;

(u) To begin fishing or offloading from any purse seine vessel to which a permit has been issued under § 285.21 any Atlantic bluefin tuna without first requesting an inspection of the vessel in accordance with § 285.25;

(v) To fail to report the catching of any Atlantic bluefin tuna to which a plastic tag has been affixed under a bona fide tag and release program conducted by the NMFS or any other recognized scientific organization;

(w) To falsify or fail to make, keep, maintain, or submit any reports, or other record required by this subpart;

(x) To refuse to allow an Authorized Officer to make inspections for the purpose of checking any records relating to the catching, harvesting, landing, purchase, or sale of any Atlantic bluefin tuna required by this subpart;

(y) To make any false statement, oral or written, to an Authorized Officer concerning the catching, harvesting, landing, purchase, sale, or transfer of any Atlantic bluefin tuna;

(z) To fish for or catch Atlantic bluefin tuna with longline gear except as provided in § 285.23(f);

(aa) To fish for or catch Atlantic bluefin tuna with longline gear, or while having longline gear on board, if the vessel is permitted in the General category under § 285.21;

(bb) To violate any other provision of this subpart, the Act, or any other rules promulgated under the Act.

§ 285.32 Civil penalties.

(a) Any person who vioates paragraphs (a) through (u) inclusive, or paragraphs (x) through (aa), inclusive, of § 285.31 shall be assessed a civil penalty of not more than $25,000 for a first violation and a civil penalty of not more than $50,000 for a subsequent violation.

(b) Any person who violates paragraphs (v) or (w), of § 285.31 shall be assessed a civil penalty of not more than $1,000, and a civil penalty of not more than $5,000 for a subsequent violation.

(c) Any person who violates paragraph (bb) of § 285.31 shall be assessed a civil penalty in accordance with the criteria set forth in 16 U.S.C. 971e.

[FR Doc. 83-16358 Filed 6-16-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 118
Friday, June 17, 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. A0-123-A50]

Milk in Louisville-Lexington-Evansville Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

Correction

In FR Doc. 83-14935, beginning on page 24905 in the issue of Friday, June 3, 1983, make the following changes:

1. On page 24912, first column, the next to last line of paragraph (e)(2) of § 1046.73 should read, "the amount of deductions claimed by such".

2. Also on page 24912, third column, the second word in the tenth line of § 1046.94 should read, "each".

BILLING CODE 1505-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1051, 1052, 1105, 1109, 1110, and 1607

Amendment of Procedures for Petitions, for Developing Standards, and for Oral Presentations

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: In order to conform to the statutory provisions of the Consumer Product Safety Amendments of 1981, the Consumer Product Safety Commission proposes to amend its procedures for petitions, for developing product safety standards, and for oral presentations: The amended petitioning and oral presentation procedure will apply uniformly to matters under all of the acts administered by the Commission. The only standard development procedure that would remain in effect concerns contributions toward the costs of participants in the development of consumer product safety standards.

DATE: Comments concerning this proposal must be received in the Office of the Secretary by August 16, 1983.

ADDRESS: Comments should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: Stephen Lemberg, Assistant General Counsel, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; Telephone (301) 492-6980.

SUPPLEMENTARY INFORMATION: The Consumer Product Safety Amendments of 1981 (1981 Amendments), (Pub. L. 97-35, 95 Stat. 703 *et seq.*), amended three laws administered by the Consumer Product Safety Commission. The 1981 Amendments provide that administrative procedures for product safety rules issued by the Commission under the Consumer Product Safety Act (CPSA), the Federal Hazardous Substances Act (FHSA) and the Flammable Fabrics Act (FFA), shall all be essentially the same. Thus, the following sections of each of these Acts that are concerned with rulemaking procedures now include the same provisions: section 9 of the CPSA (15 U.S.C. 2058); section 3(f) of the FHSA (15 U.S.C. 1262(f); and section 4(g) of the FFA (15 U.S.C. 1193(g)).

To conform its regulations to the changes referred to above, the Commission is proposing to amend its rulemaking procedures for the CPSA at 16 CFR Parts 1105, 1109 and 1110, and to revoke its procedures for rulemaking under the FFA, 16 CFR Part 1607. (Rulemaking under the FHSA has not been specifically addressed in FHSA regulations; therefore, amendment of FHSA regulations is not needed.)

Part 1105

Before enactment of the 1981 Amendments, section 7 of the CPSA (15 U.S.C. 2056) established procedures under which the Commission developed proposed consumer product safety standards. These procedures provided, among other matters, that outside persons or organizations (offerors) could offer to develop recommended standards for the Commission to consider and for possible issuance as the Commission's proposed standards; or, outside persons and organizations could submit already existing standards for consideration and possible proposal by the Commission. In addition, if the Commission determined that consumer product safety standards recommended by outsiders would not adequately protect the public from an unreasonable risk of injury, the Commission could develop its own proposed standards. The Commission could also develop its own proposed standard if it found it would be more expeditious than inviting offerors. Regulations implementing section 7 of the CPSA were issued at Part 1105.

However, the 1981 Amendments repealed the parts of section 7 of the CPSA that applied to offeror-submitted or Commission-developed consumer product safety standards. Therefore, it is now necessary to revoke those provisions of Part 1105 dealing with development of proposed consumer product safety standards. In place of these provisions, the 1981 Amendments provide that all consumer product safety rules of the Commission (i.e., consumer product safety standards or bans of hazardous products for which no safety standard is feasible) shall be issued under procedures set forth in section 9 of the CPSA (15 U.S.C. 2058). The new procedures require that rulemaking shall begin by issuing an advance notice of proposed rulemaking describing the risk of injury and inviting industry efforts to develop voluntary standards that address the risk. If it appears likely that a voluntary industry standard could adequately address the risk and that conformance would be substantial, the Commission must terminate its mandatory rulemaking proceeding. (See section 9 of the CPSA, 15 U.S.C. 2058 for additional provisions, as well as section 3(f) of the FHSA (15 U.S.C. 1262(f)) and section 4(g) of the FFA (15 U.S.C. 1193(g)) for the administrative procedures for those Acts.)

A provision of section 7 of the CPSA under which the Commission may agree to contribute to the cost of a person who participates with the Commission in the development of a consumer product safety standard, was retained by the 1981 Amendments (section 7(c), formerly designated as section 7(d)(1), (15 U.S.C. 2056)). Accordingly, the proposed amended Part 1105, newly entitled, Contributions to Costs of Participants in Development of Consumer Product

Safety Standards, retains provisions dealing with costs of participants.

Part 1109

This Part provides rules for oral presentations by members of the public concerning proposed consumer product safety standards under the CPSA (Section 9(d)(2), 15 U.S.C. 2058(d)(2)). Since the Commission is also required to provide the opportunity for oral presentations under the FFA (Section 4(d), 15 U.S.C. 1193(d)), and since the opportunity for oral presentations is optional for rulemaking under the Administrative Procedure Act, 5 U.S.C. 553(c), the Commission is proposing to amend this Part, as set forth below, to provide the same rules for oral presentations by the public during any rulemaking proceedings. (This Part will be recodified as 1052). In addition these rules will apply to informal proceedings under the authority of section 27(a) of the CPSA (15 U.S.C. 2076(a). In those situations where the opportunity for an oral presentation is not required by statute, the Commission will determine whether to provide the opportunity on a case-by-case basis.

Part 1110

Former section 10 of the CPSA (15 U.S.C. 2059) contained provisions for petitioning the CPSC to initiate rulemaking proceedings for consumer product safety standards or for rules to ban hazardous products for which standards were not feasible. Commission regulations under Part 1110 implemented section 10. However, the 1981 Amendments repealed section 10 of the CPSA; accordingly, Part 1110 is proposed to be amended to revoke those petitioning procedures specifically applicable to section 10.

Repeal of section 10 of the CPSA does not, however, repeal the right to petition the Commission concerning rulemaking proceedings. Any person may petition the Commission in accordance with the Administrative Procedure Act (APA) (5 U.S.C. 553(e)). Provisions of Part 1110 that provide general guidance on filing petitions to issue, amend or revoke Commission regulations under all of the Acts it administers are therefore retained. However, since these regulations are now of general applicability rather than being applicable only to CPSA rules, they are being redesignated as Part 1051.

Part 1607

Flammability standards for fabrics, related materials or products have been issued under the FFA in accordance with procedures described in Part 1607. Since the 1981 Amendments substantially change these procedures, Part 1607 is proposed to be revoked and section 4 of the Flammable Fabrics Act, as amended, 15 U.S.C. 1193, shall control.

Impact on Small Business

The regulations proposed below recodify, revoke, and revise, in accordance with statutory amendments, several rules of practice and procedure. Since a final rule based on the proposal imposes no new obligation on any person or firm, the Commission hereby certifies, in accordance with section 603 of the Regulatory Flexibility Act (15 U.S.C. 603), that it will not have a significant economic impact on a substantial number of small entities.

Environmental Considerations

The regulations proposed below do not fall within the category of Commission actions described in 16 CFR 1021.5(b) as having the potential of producing environmental effects. For this reason, and because these are rules of practice and procedure that are highly unlikely to produce an environmental effect, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

16 CFR Parts 1051, 1052, and 1105

Administrative practice and procedure, Consumer protection.

16 CFR Part 1607

Administrative practice and procedure, Clothing, Consumer protection, Flammable materials, Textiles.

Conclusion

Under authority of the Consumer Product Safety Act as amended in 1981 (Pub. L. 97-35, 95 Stat. 703 *et seq.*), the Administrative Procedure Act (5 U.S.C. 553), Parts 1105, 1109, 1110 and 1607 of Title 16 of the Code of Federal Regulations are proposed to be amended and Parts 1051 and 1052 added as follows:

1. Part 1105 is revised to read as follows:

PART 1105—CONTRIBUTIONS TO COSTS OF PARTICIPANTS IN DEVELOPMENT OF CONSUMER PRODUCT SAFETY STANDARDS

Sec.

1105.1 Purpose.
1105.2 Factors.
1105.3 A more satisfactory standard.
1105.4 Eligibility.
1105.5 Applications.
1105.6 Criteria.
1105.7 Limits on compensation.
1105.8 Costs must be authorized and incurred.
1105.9 Itemized vouchers.
1105.10 Reasonable costs.
1105.11 Compensable costs.
1105.12 Advance contributions.
1105.13 Noncompensable costs.
1105.14 Audit and examination.

Authority: Sec. 7(c), Pub. L. 97-35, 95 Stat. 704 (15 U.S.C. 2056(c)).

§ 1105.1 Purpose.

The purpose of this section is to describe the factors the Commission considers when determining whether or not to contribute to the cost of an individual, a group of individuals, a public or private organization or association, partnership or corporation (hereinafter "participant") who participates with the Commission in developing standards. The provisions of this section do not apply to and do not affect the Commission's ability and authority to contract with persons or groups outside the Commission to aid the Commission in developing proposed standards.

§ 1105.2 Factors.

The Commission may agree to contribute to the cost of a participant who participates with the Commission in developing a standard in any case in which the Commission determines:

(a) That a contribution is likely to result in a more satisfactory standard than would be developed without a contribution; and

(b) That the participant to whom a contribution is made is financially responsible.

§ 1105.3 A more satisfactory standard.

In considering whether a contribution is likely to result in a more satisfactory standard, the Commission shall consider:

(a) The need for representation of one or more particular interests, expertise, or points of view in the development proceeding, and

(b) The extent to which particular interests, points of view, or expertise can reasonably be expected to be represented if the Commission does not provide any financial contribution.

§ 1105.4 Eligibility.

In order to be eligible to receive a financial contribution, a participant must request in advance a specific contribution with an explanation as to why the contribution is likely to result in a more satisfactory standard than would be developed without a contribution. The request for a contribution shall contain, to the fullest extent possible

and appropriate, the following information:

(a) A description of the point of view, interest and/or expertise that the participant intends to bring to the proceeding;

(b) The reason(s) that representation of the participant's interest, point of view, or expertise can reasonably be expected to contribute substantially to a full and fair determination of the issues involved in the proceeding;

(c) An explanation of the economic interest, if any, that the participant has (and individuals or groups comprising the participant have) in any Commission determination related to the proceeding;

(d) A discussion, with supporting documentation, of the reason(s) a participant is unable to participate effectively in the proceeding without a financial contribution;

(e) A description of the participant's employment or organization, as appropriate; and

(f) A specific and itemized estimate of the costs for which the contribution is sought.

§ 1105.5 Applications.

Applications must be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, within the time specified by the Commission in its **Federal Register** notice beginning the development proceeding.

§ 1105.6 Criteria.

The Commission may authorize a financial contribution only for participants who meet all of the following criteria:

(a) The participant represents a particular interest, expertise or point of view that can reasonably be expected to contribute substantially to a full and fair determination of the issues involved in the proceeding;

(b) The economic interest of the participant in any Commission determination related to the proceeding is small in comparison to the participant's costs of effective participation in the proceeding. If the participant consists of more than one individual or group, the economic interest of each of the individuals or groups comprising the participant shall also be considered, if practicable and appropriate; and

(c) The participant does not have sufficient financial resources available for effective participation in the proceeding, in the absence of a financial contribution.

§ 1105.7 Limits on compensation.

The Commission may establish a limit on the total amount of financial compensation to be made to all participants in a particular proceeding and may establish a limit on the total amount of compensation to be made to any one participant in a particular proceeding.

§ 1105.8 Costs must be authorized and incurred.

The Commission shall compensate participants only for costs that have been authorized and only for such costs actually incurred for participation in a proceeding.

§ 1105.9 Itemized vouchers.

The participant shall be paid upon submission of an itemized voucher listing each item of expense. Each item of expense exceeding $15 must be substantiated by a copy of a receipt, invoice, or appropriate document evidencing the fact that the cost was incurred.

§ 1105.10 Reasonable costs.

The Commission shall compensate participants only for costs that it determines are reasonable. As guidelines in these determinations, the Commission shall consider market rates and rates normally paid by the Commission for comparable goods and services, as appropriate.

§ 1105.11 Compensable costs.

The Commission may compensate participants for any or all of the following costs:

(a) Salaries for participants or employees of participants;

(b) Fees for consultants, experts, contractual services, and attorneys that are incurred by participants;

(c) Transportation costs;

(d) Travel-related costs such as lodging, meals, tipping, telephone calls; and

(e) All other reasonable costs incurred, such as document reproduction, postage, baby-sitting, and the like.

§ 1105.12 Advance contributions.

The Commission may make its contribution in advance upon specific request, and the contribution may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).

§ 1105.13 Noncompensable costs.

The items of cost toward which the Commission will not contribute include:

(a) Costs for the acquisition of any interest in land or buildings;

(b) Costs for the payment of items in excess of the participant's actual cost; and

(c) Costs determined not to be allowable under generally accepted accounting principles and practices or Part 1–15, Federal Procurement Regulations (41 CFR Part 1–15).

§ 1105.14 Audit and examination.

The Commission and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers and records of a participant receiving compensation under this section. The Commission may establish additional guidelines for accounting, recordkeeping, and other administrative procedures with which participants must comply as a condition of receiving a contribution.

2. Part 1109 is proposed to be redesignated as Part 1052 and to be revised to read as follows:

PART 1052—PROCEDURAL REGULATIONS FOR INFORMAL ORAL PRESENTATIONS IN PROCEEDINGS BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

Sec.

1052.1 Scope and purpose.
1052.2 Notice of opportunity for oral presentation.
1052.3 Conduct of oral presentation.
1052.4 Presiding officer: appointment, duties, powers.

Authority: 15 U.S.C. 1193(d), 15 U.S.C. 2058(d)(2), 15 U.S.C. 2076(a), and 5 U.S.C. 553(c).

§ 1052.1 Scope and purpose.

(a) Section 9(d)(2) of the Consumer Product Safety Act, 15 U.S.C. 2058(d)(2), and section 4(d) of the Flammable Fabrics Act, 15 U.S.C. 1193(d), provide that certain rules under those statutes shall be promulgated pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views or arguments in addition to the opportunity to make written submissions. Several rulemaking provisions of the statutes administered by the Commission are subject only to the rulemaking procedures of the Administrative Procedure Act. Section 4(c) of the Administrative Procedure Act provides that the opportunity for oral presentations may or may not be granted in rulemaking under that section. In addition, section 27(a) of the Consumer Product Safety Act, 15 U.S.C. 2076(a), authorizes informal proceedings

that can be conducted in non-rulemaking investigatory situations.

(b) This Part sets forth rules of procedure for the oral presentation of data, views or arguments in the informal rulemaking or investigatory situations described in subsection (a) of this section. In situations where the opportunity for an oral presentation is not required by statute, the Commission will determine whether to provide the opportunity on a case-by-case basis.

§ 1052.2 Notice of opportunity for oral presentation.

The Commission will publish in the **Federal Register** notice of opportunity for an oral presentation in each instance. The notice shall be sufficiently in advance of the oral presentation to allow interested persons to participate. The **Federal Register** notice of a proposed rule for which the opportunity for an oral presentation will be provided will include the date for making oral presentations of data, views or arguments concerning the proposed rule. Alternatively, the proposal will state that the date will be announced later in the **Federal Register**. If the proceeding does not involve a proposed rule, notice of the opportunity for an oral presentation will also be announced in the **Federal Register**.

§ 1052.3 Conduct of oral presentation.

(a) The purpose of the oral presentation is to afford interested persons an opportunity to participate in person in the Commission's rulemaking or other proceedings and to help inform the Commission of relevant data, views and arguments.

(b) The oral presentation, which shall be taped or transcribed, shall be an informal, non-adversarial legislative-type proceeding at which there will be no formal pleadings or adverse parties.

(c) The proceedings for the oral presentation shall be conducted impartially, thoroughly, and expeditiously to allow interested persons an opportunity for oral presentation of data, views or arguments.

§ 1052.4 Presiding officer: appointment, duties, powers.

(a) For oral presentations, the presiding officer shall either be the Chairman of the Commission or a presiding officer shall be appointed by the Chairman with the concurrence of the Commission.

(b) The presiding officer shall chair the proceedings, shall make appropriate provision for testimony, comments and questions, and shall be responsible for the orderly conduct of the proceedings. The presiding officer shall have all the powers necessary or appropriate to contribute to the equitable and efficient conduct of the oral proceedings including the following:

(1) The right to apportion the time of persons making presentations in an equitable manner in order to complete the presentations within the time period allotted for the proceedings.

(2) The right to terminate or shorten the presentation of any party when, in the view of the presiding officer, such presentation is repetitive or is not relevant to the purpose of the proceedings.

(3) The right to confine the presentations to the issues specified in the notice of oral proceeding or, where no issues are specified, to matters pertinent to the proposed rule or other proceeding.

(4) The right to require a single representative to present the views of two or more persons or groups who have the same or similar interests. The presiding officer shall have the authority to identify groups or persons with the same or similar interests in the proceedings.

(c) The presiding officer and Commission representatives shall have the right to question persons making an oral presentation as to their testimony and any other relevant matter.

3. Part 1110 is proposed to be redesignated as Part 1051 and to be revised to read as follows:

PART 1051—PROCEDURE FOR PETITIONING FOR RULEMAKING

Sec.

1051.1 Scope.
1051.2 General.
1051.3 Place of filing.
1051.4 Time of filing.
1051.5 Requirements and recommendations for petitions.
1051.6 Documents not considered petitions.
1051.7 Statement in support of or in opposition to petitions; Duty of petitioners to remain apprised of developments regarding petitions.
1051.8 Public hearings on petitions.
1051.9 Factors the Commission considers in granting or denying petitions.
1051.10 Grant of petitions.
1051.11 Denial of petitions.

Authority: 5 U.S.C. 553(e), 5 U.S.C. 555(e).

§ 1051.1 Scope.

(a) This part establishes procedures for the submission and disposition of petitions for the issuance, amendment or revocation of rules under the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*) or other statutes administered by the Consumer Product Safety Commission.

(b) Persons filing petitions for rulemaking are encouraged to follow as closely as possible the requirements and recommendations for filing petitions under § 1051.5.

(c) Petitions regarding products regulated under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 *et seq.*) are governed by existing Commission procedures at 16 CFR 1500.82, 16 CFR 1500.201, and 21 CFR 2.65. Petitions regarding the exemption of products regulated under the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471 *et seq.*), are governed by existing Commission procedures at 16 CFR 1702. Persons filing such petitions, however, shall also follow the requirements and recommendations for filing petitions as set forth in § 1051.5.

§ 1051.2 General.

Any person may file with the Commission a petition requesting the Commission to begin a proceeding to issue, amend or revoke a regulation under any of the statutes it administers.

§ 1051.3 Place of filing.

A petition should be mailed to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Persons wishing to file a petition in person may do so in the Office of the Secretary, at either, 5401 Westbard Avenue, (third floor) Bethesda, Maryland or 1111 18th St. NW., 8th Floor, Washington, D.C.

§ 1051.4 Time of filing.

For purposes of computing time periods under this part, a petition shall be considered filed when time-date stamped by the Office of the Secretary. A document is time-date stamped when it is received in the Office of the Secretary.

§ 1051.5 Requirements and recommendations for petitions.

(a) *Requirements.* To be considered a petition under this part, any request to issue, amend or revoke a rule shall meet the requirements of this paragraph (a). A petition shall:

(1) Be written in the English language;

(2) Contain the name and address of the petitioner;

(3) Indicate the product (or products) regulated under the Consumer Product Safety Act or other statute the Commission administers for which a rule is sought or for which there is an existing rule sought to be modified or revoked. (If the petition regards a procedural or other rule not involving a specific product, the type of rule involved must be indicated.)

(4) Set forth facts which establish the claim that the issuance, amendment, or revocation of the rule is necessary (for example, such facts may include personal experience; medical, engineering or injury data; or a research study); and

(5) Contain an explicit request to initiate Commission rulemaking and set forth a brief description of the substance of the proposed rule or amendment or revocation thereof which it is claimed should be issued by the Commission. (A general request for regulatory action which does not reasonably specify the type of action requested shall not be sufficient for purposes of this Part.)

(b) *Recommendations.* The Commission encourages the submission of as much information as possible related to the petition. Thus, to assist the Commission in its evaluation of a petition, to the extent the information is known and available to the petitioner, the petitioner is encouraged to supply the following information or any other information relating to the petition. The petition will be considered by the Commission even if the petitioner is unable to supply the information recommended in this paragraph (b). However, as applicable, and to the extent possible, the petitioner is encouraged to:

(1) Describe the specific risk(s) of injury to which the petition is addressed, including the degree (severity) and the nature of the risk(s) of injury associated with the product and possible reasons for the existence of the risk of injury (for example, product defect, poor design, faulty workmanship, or intentional or unintentional misuse);

(2) State why a consumer product safety standard would not be feasible if the petitioner request the issuance of a rule declaring the product to be a banned hazardous product; and

(3) Supply or reference any known documentation, engineering studies, technical studies, report of injury, medical findings, legal analyses, economic analyses and environmental impact analyses relating to the petition.

(c) *Procedural recommendations.* The following are procedural recommendations to help the Commission in its consideration of petitions. The Commission requests but does not require, that a petition filed under this part:

(1) Be typewritten,

(2) Include the word "petition" in a heading preceding the text,

(3) Specify what section of the statute administered by the Commission authorizes the requested rulemaking,

Include the telephone number of the petitioner, and

(5) Be accompanied by at least five (5) copies of the petition.

§ 1051.6 Documents not considered petitions.

(a) A document filed with the Commission which addresses a topic or involves a product outside the jurisdiction of the Commission will not be considered to be a petition. After consultation with the Office of the General Counsel, the Office of the Secretary, if appropriate, will forward to the appropriate agency documents which address products or topics within the jurisdiction of other agencies. The Office of the Secretary shall notify the sender of the document that it has been forwarded to the appropriate agency.

(b) A petition which addresses a risk of injury associated with a product which could be eliminated or reduced to a sufficient extent by action taken under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act of 1970, or the Flammable Fabrics Act may be considered by the Commission under those Acts. However, if the Commission finds by rule, in accordance with section 30(d) of the CPSA, as amended by Pub. L. 94–284, that it is in the public interest to regulate such risk of injury under the CPSA, it may do so. Upon determination by the Office of the General Counsel that a petition should be considered under one of these acts rather than the CPSA, the Office of the Secretary shall docket and process the petition under the appropriate act and inform the petitioner of this determination. Such docketing, however, shall not preclude the Commission from proceeding to regulate the product under the CPSA after making the necessary findings.

(c) Any other documents filed with the Office of the Secretary that are determined by the Office of the General Counsel not to be petitions shall be evaluated for possible staff action. The Office of the General Counsel shall notify the writer of the manner in which the Commission staff is treating the document. If the writer has indicated an intention to petition the Commission, the Office of the General Counsel shall inform the writer of the procedure to be followed for petitioning.

§ 1051.7 Statement in support of or in opposition to petitions; Duty of petitioners to remain apprised of developments regarding petitions.

(a) Any person may file a statement with the Office of the Secretary in support of or in opposition to a petition prior to Commission action on the petition. Persons submitting statements in opposition to a petition are encouraged to provide copies of such statements to the petitioner.

(b) It is the duty of the petitioner, or any person submitting a statement in support of or in opposition to a petition, to keep himself or herself apprised of developments regarding the petition. Information regarding the status of petitions is available from the Office of the Secretary of the Commission.

(c) The Office of the Secretary shall send to the petitioner a copy of the staff briefing package on his or her petition at the same time the package is transmitted to the Commissioners for decision.

§ 1051.8 Public hearings on petitions.

(a) The Commission may hold a public hearing or may conduct such investigation or proceeding, including a public meeting, as it deems appropriate to determine whether a petition should be granted.

(b) If the Commission decides that a public hearing on a petition, or any portion thereof, would contribute to its determination of whether to grant or deny the petition, it shall publish in the **Federal Register** a notice of a hearing on the petition and invite interested persons to submit their views through an oral or written presentation or both. The hearings shall be informal, nonadversary, legislative-type proceedings in accordance with 16 CFR Part 1051.

§ 1051.9 Factors the Commission considers in granting or denying petitions.

(a) The major factors the Commission considers in deciding whether to grant or deny a petition regarding a product include the following items:

(1) Whether the product involved presents an unreasonable risk of injury.

(2) Whether a rule is reasonably necessary to eliminate or reduce the risk of injury.

(3) Whether failure of the Commission to initiate the rulemaking proceeding requested would unreasonably expose the petitioner or other consumers to the risk of injury which the petitioner alleges is presented by the product.

(4) Whether, in the case of a petition to declare a consumer product a "banned hazardous product" under section 8 of the CPSA, the product is being or will be distributed in commerce and whether a feasible consumer product safety standard would adequately protect the public from the unreasonable risk of injury associated with such product.

(b) In considering these factors, the Commission will treat as an important component of each one the relative

priority of the risk of injury associated with the product about which the petition has been filed and the Commission's resources available for rulemaking activities with respect to that risk of injury. The CPSC Policy on Establishing Priorities for Commission Action, 16 CFR 1009.8, sets forth the criteria upon which Commission priorities are based.

§ 1051.10 Grant of petitions.

(a) The Commission shall either grant or deny a petition within a reasonable time after it is filed, taking into account the resources available for processing the petition. The Commission may also grant a petition in part or deny it in part. If the Commission grants a petition, it shall begin proceedings to issue, amend or revoke the rule under the appropriate provisions of the statutes under its administration. Beginning a proceeding means taking the first step in the rulemaking process (issuance of an advance notice of proposed rulemaking or a notice of proposed rulemaking, whichever is applicable).

(b) Granting a petition and beginning a proceeding does not necessarily mean that the Commission will issue, amend or revoke the rule as requested in the petition. The Commission must make a final decision as to the issuance, amendment, or revocation of a rule on the basis of all available relevant information developed in the course of the rulemaking proceeding. Should later information indicate that the action is unwarranted or not necessary, the Commission may terminate the proceeding.

§ 1051.11 Denial of petitions.

(a) If the Commission denies a petition it shall promptly notify the petitioner in writing of its reasons for such denial as required by the Administrative Procedure Act, 5 U.S.C. 555(e).

(b) If the Commission denies a petition, the petitioner (or another party) can refile the petition if the party can demonstrate that new or changed circumstances or additional information justify reconsideration by the Commission.

(c) A Commission denial of a petition shall not preclude the Commission from continuing to consider matters raised in the petition.

PART 1607—[REMOVED]

4. Part 1607 is proposed to be removed.

Dated: June 2, 1983.

Sayde E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-15303 Filed 6-16-83; 8:45 am]

BILLING CODE 6355-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229 and 230

[Docket No. 33-6470; File No. S7-979]

Delayed or Continuous Offering and Sale of Securities

AGENCY: Securities and Exchange Commission.

ACTION: Solicitation of comment.

SUMMARY: The Commission today announced that it is soliciting comment on the shelf registration rule, which relates to the registration of securities to be offered and sold on a delayed or continuous basis. This solicitation of public comment is intended to afford all interested parties the opportunity to provide their views and experience under Rule 415 so that the Commission may consider all such views in making its final determination with respect to the Rule, which is effective until December 31, 1983.

DATE: Comments should be received on or before September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Steven L. Molinari (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 415 [1] has been extensively used since its adoption in March 1982.[2] The Commission is now publishing the Rule for further public comment in order to determine whether it should be adopted, revised or withdrawn.

Since March 1982, 3,516 (or 55%) of the 6,443 registration statements filed have been shelf registration statements, representing 55% of the over $266 billion of securities registered. Eighty-six percent of the shelf registrations have been traditional shelf filings, such as employee plans, dividend reinvestment plans, secondary offerings, best efforts offerings, tax shelters and mortgage participation offerings. Most of the balance have been investment grade debt filings. Such debt shelf filings represent 65% of the $110 billion of total debt issues filed during this period. The remaining shelf filings relating to equity amounted to 2% of the 5,555 equity registration statements and 5% of the $156 billion in equity securities registered.

This release presents: a brief description of the Rule, a discussion of the Commission's adminsitrative experience under the Rule, and the text of the Rule itself.

I. Description of Rule 415

Rule 415 is a procedural rule,[3] which addresses the types of shelf offerings, the updating of information in shelf registration statements and the specific requirements relating to "at the market offerings." [4] The Rule presents an optional registration technique.

The Rule also does not alter the eligibility for or disclosure requirements of any registration statement form. Offerings under Rule 415 may be registered on any registration statement form the registrant is eligible to use. Similarly, offerings made under Rule 415 may employ the same variety of distribution techniques which are used in offerings not made under Rule 415.[5] If the registrant so chooses, it may have more than one shelf registration statement in effect at one time, for different shelf offerings, or it may use a single shelf registration statement for a succession of different kinds of offerings. Moreover, a registrant may proceed with a registration statement and offering not subject to Rule 415 at

[1] 17 CFR 230.415 under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a et seq.].

[2] Release No. 33-6383 (March 3, 1982) [47 FR 11380]. The Commission extended the effective date of the Rule in September 1982. Release No. 33-6423 (September 2, 1982) [47 FR 39799]. For additional background on the development of Rule 415, see Release Nos. 33-6276 (December 23, 1980) [46 FR 78] and 33-6334 [August 6, 1981] [46 FR 42001] (both proposing the Rule for comment); and 33-6391 (March 12, 1982 [47 FR 11701] (publishing the order of hearing and the issues to be considered at the hearings and soliciting comment on those issues).

[3] Rule 415 is part of Regulation C, which contains rules governing procedural and mechanical aspects of the Securities Act registration process. 17 CFR 230.400-494.

[4] An "at the market offering" is defined in paragraph (a)(3) of Rule 415 as an offering of securities into an existing trading market for outstanding shares of the same class of securities at other than a fixed price on or through the facilities of a national securities exchange or to or through a market maker otherwise than on an exchange.

[5] The operation of Rule 415 is to be distinguished from the use of various distribution techniques, including "bought deals" (where an underwriter makes a bid for securities without engaging in a preselling effort); "internalized" underwritings (where one or more managing underwriter(s) sell the entire offering); "solo" underwritings (where an underwriter handles all aspects of the offering by itself); and competitive underwritings (where the issuer solicits bids from a number of underwriters). These or other distribution techniques are used both in offerings made under Rule 415 and in offerings not registered under the Rule.

the same time that it has an effective shelf registration statement.

Various types of shelf offerings are specified in Rule 415. Unless an offering falls within one of the specified categories,[6] the Rule provides that securities may be registered in an amount which is reasonably expected to be offered and sold within two years from the initial effective date of the registration statement.[7]

If an offering is subject to Rule 415, the Rule requires registrants to furnish the undertakings required by Item 512(a) of Regulation S–K,[8] which relate to the circumstances in which the registration statement should be updated by means of a post-effective amendment.[9] For shelf registration statements using Form S–3 or S–8, which incorporate subsequently filed Exchange Act reports,[10] those Exchange Act reports are allowed to take the place of otherwise required post-effective amendments. As examples, the filing of an annual report on Form 10–K may be relied upon in lieu of a post-effective amendment for purposes of Section 10(a)(3) and a current report on Form 8–K describing a significant acquisition may be used to take the place of a post-effective amendment reflecting this information.[11] Of course, the undertakings must still be included in the registration statement.

If an "at the market offering" is chosen as a method for distributing equity securities under the Rule, registrants must meet certain additional requirements. Specifically, the registrant must be eligible to use Form S–3; the amount of securities registered must not exceed ten percent of the registrant's non-affiliate float;[12] the securities must be sold through an underwriter or underwriters acting as principal(s) or agent(s) for the registrant; and the underwriter or underwriters must be named in the prospectus.

II. Administrative Experience Under Rule 415

From March 1982 through May 1983, 3,516 shelf registration statements relating to $146 billion were filed. Shelf filings have involved all categories of offerings under Rule 415.[13] The following table presents a breakdown of administrative experience with shelf registration, by category of offering type within Rule 415, as well as for foreign government issuers.

SHELF REGISTRATIONS AS OF MAY 31, 1983

Type of offering	Number of registration statements	Amount of securities
415(a)(1)(i)—Primary Offerings:		
Commodity Funds	16	$275,340,900
Mortgage Participations or Pass-Throughs	27	4,569,750,000
Tax Shelters:		
Real Estate	152	5,487,291,505
Oil & Gas	133	7,336,238,648
Leasing	7	139,250,000
Cattle Feeding	3	97,224,500
Other	32	730,981,213
Acquisitions	11	256,695,550
Continuous:		
Debt	70	9,469,418,781
Equity	106	1,873,129,252
Combined-debt & equity	5	147,228,000
Delayed:		
Debt	302	59,674,045,000
Equity	115	7,479,013,624
Combined-debt & equity	1	90,000,000
415(a)(1)(ii)—Secondary Offerings	980	97,645,606,973
415(a)(1)(iii)—Securities offered pursuant to employee plans, dividend reinvestment plans:		
Employee benefit plans	329	5,200,228,619
Dividend reinvestment plans	1,856	32,460,159,647
415(a)(1)(iv)—Securities issuable upon exercise of options, warrants or rights	176	6,129,731,539
415(a)(1)(v)—Securities issuable upon conversions	133	1,325,187,691
415(a)(1)(vi)—Securities pledged as collateral	32	994,440,232
Total Rule 415 filings	1	170,000
Foreign Government Shelf filings	3,507	143,755,524,701
Total Shelf filings	9	2,300,000,000
	3,516	146,055,524,701

As the table indicates, 2,527 or 72% of the total shelf filings have been for traditional offerings falling within paragraphs (a)(1)(ii) through (a)(1)(vi) of the rule, the 2,032 filings (for $38.6 billion) relating to employee benefit plans and dividend or interest reinvestment plans alone account for 58% of the shelf filings and represent 26% of the total $146 billion in shelf registered securities.[14]

Of the remaining filings, 381 filings (or 11% of the shelf filings) related to commodity funds, mortgage participations or pass-throughs, tax shelters and acquisitions.[15] Only 599 or 17% of the shelf filings have been for other "continuous" or "delayed" debt or equity offerings.[16] Of these, most of the 106 "continuous equity" offerings have

[6] These categories are enumerated in paragraphs (a)(1)(ii) through (vii) of Rule 415: securities which are to be offered and sold solely in secondary offerings; securities which are to be offered and sold pursuant to a dividend or interest reinvestment plan or an employee benefit plan; securities which are to be issued upon the exercise of outstanding options, warrants or rights; securities which are to be issued upon conversion of other outstanding securities; securities which are pledged as collateral; and securities which are registered on Form F–6 (17 CFR 239.36).

[7] A registrant's reasonable expectation for purposes of the two years standard is determined at the offering date. If its initial expectation was reasonable, the offering period may exceed two years without the need for deregistration and a new filing.

[8] 17 CFR 229.512(a).

[9] During periods when offers or sales are being made, registrants must file post-effective amendments: (1) to include updated financial statements as required by Section 10(a)(3) of the Securities Act; (2) to reflect a fundamental change in the information set forth in the registration statement; and (3) to include any new or changed material information with respect to the plan of distribution. Each post-effective amendment filed pursuant to these undertakings is deemed to be a new registration statement for purposes of determining liability under the Securities Act. For purposes other than these, updating may be accomplished by a prospectus supplemnnt ("sticker") pursuant to paragraph (c) of Rule 424 (17 CFR 230.424).

[10] Forms S–3 (17 CFR 239.13) (for securities to be offered by widely followed registrants and in certain other circumstances) and S–8 (17 CFR 238.16b) (for securities to be offered pursuant to employee benefit plans) require the incorporation by reference of all subsequently filed reports pursuant to Sections 13, 14 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), including reports on Form 10–K (17 CFR 249.310), Form 10–Q (17 CFR 249.308a) and Form 8–K (17 CFR 249.308).

[11] In addition, reports on Form 8–K may be used to provide such required exhibits as updated opinions of counsel, underwriting agreements and supplemental indentures, which would otherwise only be able to be included by the filing of a post-effective amendment.

[12] As used in Rule 415(a)(3), non-affiliate float is the aggregate market value of the registrant's outstanding voting stock held by non-affiliates of the registrant.

[13] There also have been 9 filings by foreign government issuers, whose shelf registrations are done pursuant to staff interpretation rather than under Rule 415. *See* text accompanying notes 22–24 *infra*.

[14] In addition, there were 329 filings for secondary offerings (aggregating $5.2 billion) and 166 filings for securities issuable upon conversion or exercise of options, warrants or rights and securities pledged as collateral (aggregating $2.3 billion).

[15] Commodity fund offerings generally are continuous offerings of interests in limited partnerships engaged primarily in investing in commodity future contracts. Mortgage participation or pass-through certificates are registered and then offered from time to time as the pools of mortgages in which interests are to be offered or formed. The shelf offerings of tax shelters include continuous offerings of limited partnership interests in a number of enterprises, primarily in the resl estate, oil and gas, leasing and cattle feeding businesses. Finally, shelf registration statements are filed for acquisitions so that a registrant can use one registration statement to offer the securities in connection with a planned series of acquisitions.

[16] These categories have been used in the table for administrative convenience. It should be noted, however, that one offering may fall into both categories if, for example, portions of the shelf registered securities are sold continuously into the market from time to time; thus, such distinctions are imprecise.

been offerings underwritten on a best efforts basis over an extended period of time. there have been only 508 shelf registration statements (registering $79.3 billion) of the type to which commentators have directed their attention in the past. these include six filings within the "continuous equity" category;[17] all of those categorized as "continuous debt", "delayed debt" and "delayed equity;" and all of those by foreign government issuers.

Three hundred and eighty-one (registering $71.5 billion) of these 508 registration statements have been for investment grade debt.[18] such debt filings amounted to 43% of the 888 debt registration statements filed from March 1982 through May 1983 or 65% of the $110 billion of debt securities registered.

In the "continuous debt" group, the most frequent users were finance company subsidiaries of large, well followed companies or other financial institutions, which accounted for 47% of the 70 filings (or 85% of the $9.5 billion). Most of the 70 filings were on Form S–3.

Almost 90% of the 302 filings in the "delayed debt" group were on form S–3. Approximately 35% were made by companies in the financial industry. Almost 20% were made by utilities. Approximately 80% named underwriters in their registration statements. the "delayed debt" filings registered amounts of securities ranging from $5 million to $2 billion.

Only 121 of the 508 shelf registration statements (registering $7.6 billion) have been for offerings of equity securities. These 121 filings amounted to 2% of the 5,555 registration statements for equity filed from March 1982 through May 1983 and 5% of the $156 billion in equity securities registered.

In the "delayed equity" group, 35% of the 115 filings (aggregating $2.7 billion) were made by utility companies. Seventy-four percent were for common stock and 26% were for preferred stock. Ninety percent were on Form S–3. The 115 "delayed equity" filings included 19 registration statements listing an "at-the-market" distribution as one of the potential distribution methods described. Of these, 7 were for so-called "dribble outs" by utility companies, in which they offer common stock through an underwriter into an existing trading market oin a regular basis. Only one of the 19 filings indicated that an "at-the-market" offering would be the only distribution method used. Roughly half of the 115 filings were fixed price syndicated offerings which were filed under Rule 415 largely for the procedural convenience afforded by the Rule.[19]

As this data indicates, utility companies have been frequent users of Rule 415. Some of these companies are subject to the Public Utility Holding Company Act of 1935 [20] and, as such, certain additional requirements must be met in connection with their financings, such as Rule 50.[21] Since March 1982, 15 holding companies and their subsidiaries filed shelf registration statements under Rule 415 relating to $1.9 billion.

While Rule 415, by its terms, is not available to foreign government issuers,[22] such issuers have been permitted to use a shelf registration procedure since September 1980.[23] From September 1980 through May 1983, 19 foreign governments or political subdivisions thereof filed 32 shelf registration statements, registering almost $12.2 billion of debt securities.[24] Nine of these registration statements, registering $2.3 billion, were filed from March 1982 through May 1983, and thus are reflected in the table. Most of the securities were offered in fixed price syndicated offerings sold on a firm commitment basis.

Staff processing of shelf registration statements is done in accordance with the same selective review procedures applied to all Securities Act filings. Under these procedures, the staff screens each registration statement filed in order to determine whether it will be reviewed. To the extent that a registrant files a single shelf registration statement with respect to offerings of securities which would otherwise be registered on several registration statements, staff time devoted to the Securities Act review process is saved. The savings in staff time has been reallocated to the review of Exchange Act reports, particularly reports on Form 10–K.

III. Request for Comment and Additional Data

The Commission is reproposing Rule 415 and Item 512(a) of Regulation S–K and invites commentators to express their views on the Rule and to submit information on their experience,[25] particularly that relating to the manner of distribution used in connection with shelf offerings. The only proposed change in Rule 415 is the deletion of paragraph (c) of Rule 415, relating to termination of the effective date of the Rule. Commentators may wish to refer to the following for discussions of the issues which have been raised in connection with Rule 415: the March 1982 release announcing hearings on the Rule;[26] the comment letters received in response to the request for comment contained in that release; the public record of the Rule 415 hearings, including transcripts of testimony; and the highlight of the written submissions and testimony.[27]

IV. Statutory Authority

This rulemaking action is being taken pursuant to Sections 6, 7, 10 and 19(a) of the Securities Act of 1933 [15 U.S.C. 77f, 77g, 77j and 77s(a)].

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[17] These filings were for offerings of utility company common stock under customer stock purchase plans.

[18] Six of the 508 registration statements registered a combination of debt and equity securities, amounting to $237 million. These are included in the table but not in the following discussion.

[19] Among the procedural conveniences shelf registration affords registrants (including those engaged in a traditional, fixed price syndicated offering whcih the registrant believes may not be sold immediately upon effectiveness and therefore is a delayed offering) is eliminating the need to make repeated filings of registration statements and to file pre-effective amendments to reflect final terms and conditions, such as price, interest rate, maturity, and redemption provisions.

[20] 15 U.S.C. 79–79z–6.

[21] 17 CFR 250.50. In Release No. 35–22623 (September 2, 1982) [47 FR 39810], the Commission issued a statement of policy concerning the application of Rule 50 to offerings of securities under Rule 415 by registered holding companies and their subsidiaries, indicating that such offerings were exempt from the competitive bidding provisions of the Rule.

[22] Rule 415(b).

[23] Release No. 33–6240 (September 10, 1980) [45 FR 61609]. The Commission revised this staff interpretive position to be consistent with Rule 415 to the extent practicable. Release No. 33–6424 (September 2, 1982) [47 FR 39809].

[24] Six shelf registration statements filed by foreign private issuers, relating to $2.2 billion, are included in the figures for filings under Rule 415. Foreign private issuers filing under Rule 415 use either Form F–1, Form F–2 or Form F–3 (239.31, 239.32 or 239.33), the three new registration statement forms adopted in November 1982 as part of the integrated disclosure system for foreign issuers. Release No. 33–6437 (November 19, 1982) [47 FR 54764].

[25] In the course of its monitoring of Rule 415, the Commission has received information from issuers and others concerning experience with the Rule and empirical data and studies conducted on the Rule. Specifically, information has been provided by: Wayne Marr and Rodney Thompson, Assistant Professors of Finance at the Graduate School of Business of Virginia Polytechnic Institute and State University in Blacksburg, Virginia (submitting information relating to offering costs of debt issues under the shelf rule); Honeywell, Inc. (submitting a presentation made to the Machinery and Allied Products Institute concerning Honeywell's experience under the shelf rule); and Chas. P. Young Company (submitting a listing of companies that filed under Rule 415). This information, as well as additional correspondence on Rule 415, has been placed in the public file of this proceeding and is available for inspection and copying at the Commission's Public Reference Room, 450 Fifth St., N.W., Washington, D.C. 20549 (*See* File No. S7–979).

[26] Release No. 33–6391.

[27] The written submissions, transcripts and staff highlight are available for public inspection and copying at the Commission's Public Reference Room (*See* File No. S7–925).

List of Subjects in 17 CFR Parts 229 and 230

Reporting and recordkeeping requirements, Securities.

V. Text of Rules.

1. In accordance with the foregoing, § 229.512(a) of Title 17 is proposed to be retained without change and is set forth below for solicitation of comments:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER THE SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

§ 229.512 (Item 512) Undertakings.

Include each of the following undertakings that is applicable to the offering being registered.

(a) *Rule 415 offering.* Include the following if the securities are registered pursuant to Rule 415 under the Securities Act (§ 230.415 of this chapter):

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the registration statement is on Form S-3 (§ 239.13 of this chapter) or Form S-8 (§ 239.16b of this chapter), and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) If the registrant is a foreign private issuer, to file a post-effective amendment to the registration statement to include any financial statements required by Rule 3-19 of Regulation S-X (§ 210.3-19 of this chapter) at the start of any delayed offering or throughout a continuous offering.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. Part 230 is proposed to be amended by revising § 230.415 as follows:

§ 230.415 Delayed or continuous offering and sale of securities.

(a) Securities may be registered for an offering to be made on a continuous or delayed basis in the future, *Provided,* That—

(1) The registration statement pertains to:

(i) Securities in an amount which, at the time the registration statement becomes effective, is reasonably expected to be offered and sold within two years from the initial effective date of the registration statement by or on behalf of the registrant, a subsidiary of the registrant or a person of which the registrant is a subsidiary; or

(ii) Securities which are to be offered or sold solely by or on behalf of a person or persons other than the registrant, a subsidiary of the registrant or a person of which the registrant is a subsidiary; or

(iii) Securities which are to be offered and sold pursuant to a dividend or interest reinvestment plan or an employee benefit plan of the registrant; or

(iv) Securities which are to be issued upon the exercise of outstanding options, warrants or rights; or

(v) Securities which are to be issued upon conversion of other outstanding securities; or

(vi) Securities which are pledged as collateral; or

(vii) Securities which are registered on Form F-6 (§ 239.36 of this chapter).

(2) The registrant furnishes the undertakings required by Item 512(a) of Regulation S-K (§ 229.512 of this chapter).

(3) In the case of a registration statement pertaining to an at the market offering of equity securities by or on behalf of the registrant:

(i) The registrant must meet the registrant requirements and the applicable transaction requirements of Form S-3 (§ 229.13 of this chapter); (ii) where voting stock is registered, the amount of securities registered for such purposes must not exceed 10% of the aggregate market value of the registrant's outstanding voting stock held by non-affiliates of the registrant (calculated as of a date within 60 days prior to the date of filing); (iii) the securities must be sold through an underwriter or underwriters, acting as principal(s) or as agent(s) for the registrant; and (iv) the underwriter or underwriters must be named in the prospectus which is part of the registration statement. As used in this paragraph, the term "at the market offering" means an offering of securities into an existing trading market for outstanding shares of the same class at other than a fixed price on or through the facilities of a national securities exchange or to or through a market maker otherwise than on an exchange.

(b) This section shall not apply to any registration statement pertaining to securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust under the Investment Company Act of 1940 or any registration statement filed by any foreign government or political subdivision thereof.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77f, 77g, 77j, 77s(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

June 9, 1983.

[FR Doc. 83-16276 Filed 6-16-83; 8:45 am]

BILLING DATE 6010-01-M

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17 CFR Part 275

[IA-865; File No. S7-981]

Conditional Exemption From the Prohibition of Compensation Based Upon a Share of the Capital Gains or Capital Appreciation of a Client's Account

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is publishing for comment a rule under the Investment Advisers Act of 1940 ("Advisers Act") which would permit registered investment advisers to be

compensated on the basis of a share of capital gains upon, or capital appreciation of, the funds or any portion of the funds of a client, provided certain conditions specified in the proposed rule were met. Under the Advisers Act investment advisers subject to registration are not permitted to receive this type of compensation except in limited circumstances specified in the Act or pursuant to Commission exemptive rule or order. The conditions specified in the proposed rule are intended to limit the exemptive relief which would be provided by the rule to investment advisory contracts between a registered investment adviser and its clients who, because of their financial sophistication and the amount of assets they are committing to the adviser's management, may not need the protections which the general prohibition on performance based compensation was designed to afford.

DATE: Comments must be received on or before September 12, 1983.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comment letters should refer to File No. S7-981. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Forrest R. Foss, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, (202) 272-2079.

SUPPLEMENTARY INFORMATION: The Commission is today publishing for comment Rule 205-3 [17 CFR 275.205-3] under the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 et seq.] (the "Advisers Act") regarding performance-based compensation for investment advisers. The proposed rule generally would exempt from the prohibitions of Section 205[1] an advisory contract between a registered investment adviser and a client (other than a registered investment company or a business development company) who is financially sophisticated and will commit at least $150,000 to the adviser's management.

I. Background

Section 205(1) of the Advisers Act [15 U.S.C. 80b-5(1)] prohibits a registered investment adviser from entering into, extending, renewing or performing any investment advisory contract which provides for compensation to the investment adviser on the basis of a share of capital gains upon, or capital appreciation of, the funds or any portion of the funds of the client except in limited circumstances. The type of compensation prohibited by Section 205 commonly is referred to as "performance-based compensation" or a "performance fee."

The general prohibition against performance fees was enacted by Congress in 1940 in response to criticism to the effect that an adviser receiving a performance fee "had everything to gain if he [were] successful and nothing to lose if he [were] wrong" and would thus have a "strong temptation to take unusual risks, to speculate or to over-trade." [1] Congress characterized performance fees as "nothing more than heads I win, tails you lose" arrangements [2] and adopted the prohibition to protect advisory clients from compensation arrangements which could encourage advisers to take undue risks in managing the funds of their clients in order to realize or increase an advisory fee.[3]

The prohibition against performance-based compensation does not apply to (i) advisory contracts which provide for compensation based on the total value of the Client's account averaged over a definite period, or as of definite dates, or taken as of a definite date; (ii) contracts with investment companies registered under the Investment Company Act of 1940 (Investment Company Act) provided that an appropriate fulcrum fee is used;[4] (iii) advisory contracts relating to the investment of assets in excess of $1,000,000 with persons other than trusts, collective trust funds, or separate accounts referred to in section 3(c)(11) of the Investment Company Act [15 U.S.C. Section 80a-3(c)(11)] provided that an appropriate fulcrum fee is used; and (iv) advisory contracts involving business development companies provided the conditions set forth in Section 205(C) of the Advisers Act [15 U.S.C. 80-5(C)] are met.

Under Section 206A of the Advisers Act, the Commission is authorized, by rule or regulation, upon its own motion, or by order upon application, to exempt conditionally or unconditionally any person or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Advisers Act. In enacting Section 206A, Congress specifically contemplated Commission action in appropriate cases "to exempt persons * * * from the ban on performance-based advisory compensation in * * * Section 205(1)."[5] The Commission has exercised its authority under Section 206A to grant by order a number of applications for exemption from the general prohibitions of Section 205(1).[6]

The Commission has reviewed Section 205(1) of the Advisers Act with a view towards determining whether it would be possible to provide by rule more general relief from the prohibitions of Section 205(1) in a manner consistent with the standards of Section 206A. In conducting this review the Commission considered the legislative history of Section 205(1), the Commission's experience in granting individual exemptions from the prohibitions of that section, the experience of appropriate regulatory authorities in areas where performance-based advisory compensation is permitted,[7] as well as criticism expressed by members of the investment adviser industry and their representatives both informally and in public comments to the Commission. The criticism of section 205(1) has focused particularly on the continued appropriateness of applying the prohibitions of Section 205(1) to advisory contracts with wealthy and

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[1] *See* Report of the Securities and Exchange Commission on Investment Counsel, Investment Management, Investment Supervisory and Investment Advisory Services, H.R. Doc. No. 477, 76th Cong., 3d Sess. 30 (1939).

[2] S. Rep. No. 1775, 76th Cong., 3d Sess. 22 (1940).

[3] H.R. Rep. No. 2839, 76th Cong., 3d Sess. 29 (1940); S. Rep. No. 1775, 76th Cong., 3d Sess. 22 (1940).

[4] A fulcrum fee is one in which the advisers fee is averaged over a specified period and increases and decreases proportionately with the investment performance of the company or fund over a specified period in relation to the investment record of an appropriate index of securities prices or other measure in investment performance as the Commission specifies by rule or order.

[5] S. Rep. No. 91-184, 91st Cong., 1st Sess. 46 (1969); H.R. Rep. No. 91-1382, 91st Cong., 2d Sess. 42 (1970).

[6] For example, the Commission granted a number of exemptions to permit investment advisers to certain business develpment type companies to receive performance-based compensation. In addition, the Commission proposed for comment a rule which would have provided general relief from the prohibitions of Section 205(1) for business development company advisers. Investment Advisers Act Release No. 680 [44 FR 37470, June 26, 1979]. With the passage of the Small Business Investment Incentive Act of 1980 [Publ. L. No. 96-477] which, among other things, specifically amended the Advisers Act to address the problem of performance-compensation for business development company managers, Commission action to provide general relief from Section 205(1) for business development acompany advisers became unnecessary and the Commission's rule proposal was withdrawn.

[7] For example, neither the federal banking laws nor the Commodities Futures Trading act prohibit the receipt of performance-based compenstion by banking institutons or commodity pool operators and commodity trading advisers subject to regulation under those laws.

sophisticated clients who, it is argued, do not need the protections Section 205(1) was designed to afford. Moreover, because performance compensation arrangements are permissible with respect to non-securities investment vehicles, Section 205(1) may operate as a disincentive to investment in securities. Finally, since Section 205(1) applies only to registered investment advisers, investment advisers wishing to receive performance fees may structure their services so as not to be required to register (e.g., by having 14 or fewer clients).

As a result of its review of Section 205(1) the Commission has determined to propose for comment Rule 205–3 which would provide a conditional exemption from the prohibitions of Section 205(1) for certain investment advisory contracts. Although Congress has provided in Section 205 for only limited exceptions from the prohibition against performance fees, the Commission believes that it would be consistent with the pertinent statutory standards to provide more general relief from that prohibition than is currently available in those circumstances where it appears that the client has the ability to understand and bear the risk of entering into a performance fee arrangement. Accordingly, the exemption provided by proposed rule 205–3 would be available only where (i) the investment adviser reasonably believed that the client, either individually or together with its representative or representatives, was financially sophisticated, and (ii) the client committed at least $150,000 to the adviser's management.

The exemption would not be available in the case of contracts involving investment companies or business development companies, because Congress has provided, in Section 205, specific limited exemptions from the basic prohibition against performance fees with respect to such entities. The specific provisions of the rule are discussed in more detail below.

II. General Provisions of the Proposed Rule

A. Exemption

Paragraph (a) of the proposed rule would provide relief from Section 205(1) of the Advisers Act to permit a registered investment adviser to enter into and perform an advisory contract which provides for compensation based on a share of the capital gains upon, or the capital appreciation of, the funds or any portion of the funds of a client, provided the substantive conditions of the rule were satisfied.

B. Eligible Clients

Paragraph (b)(1) of the proposal makes it clear that the rule would not extend to contracts between registered investment advisers and investment companies or business development companies. As stated above, in light of the specific statutory provisions of Section 205 of the Advisers Act which address the circumstances under which performance-based compensation arrangements are permissible in connection with advisory contracts with these types of companies, the Commission does not believe it would be appropriate to grant further generic relief in this area at this time.*

Paragraph (b)(2) contains the first part of the two-part test contained in the proposed rule. It is designed to limit the exemption to investors who, because of their own financial sophistication or that of their representatives, are able to appreciate and evaluate the nature and effects of a performance-based compensation arrangement. Specifically, under paragraphs (b)(2) (i) and (ii) exemptive relief would extend only to those cases where the adviser reasonably believes, immediately prior to entering into the contract, that the client has such knowledge and experience in financial matters that he is capable of evaluating the merits and risks of the proposed method of compensation, or that the client and his representative together have such knowledge and experience.

Proposed paragraph (b)(3) contains a specific provision with respect to limited partnerships. Under paragraph (b)(3), the adviser seeking to rely on the rule could look to either a client representative of the limited partnership or to the individual limited partners to satisfy the financial sophistication test. Of course, any such client representative would have to satisfy the requirements of proposed paragraph (f) which would impose conditions designed to ensure that the client representative is capable of acting independently in the interest of the investor. Thus, although the general partner of a limited partnership could act as the client representative of the partnership, the general partner would be disqualified from so acting where he himself is the investment adviser seeking to obtain a performance- based fee, or had a relationship to the investment adviser described in proposed paragraph (f) (1) or (2). In such a case, pursuant to proposed paragraph (b)(3), the partnership would be required to utilize a client representative that satisfied the conditions of paragraph (f), or each of the limited partners would have to satisfy the sophistication test.

C. Assets Under Management

Paragraph (c) of the proposed rule, which sets forth a second test intended to supplement the above-described financial sophistication test with a more objective rule, requires that the contract between the adviser and the client relate to the management of net assets in an amount no less than $150,000. Under proposed paragraph (c)(2), however, in the case of a limited partnership, each limited partner must have $150,000 invested in the limited partnership.

The Commission believes that both the financial sophistication test of proposed paragraph (b)(2) and (3) and the assets under management test of proposed paragraph (c) are necessary if the rule is to satisfy the exemptive standards set forth in Section 206A of the Act. In the Commission's view, these two aspects of the rule complement one another in a manner which is particularly appropriate, and necessary, in the context of the Act and the nature of investment advisory relationships.

The sophistication test of paragraph (b)(2) and (3) of the proposed rule is necessary because of the specific provisions of Section 205 of the Act and Congressional intent with regard to the limitations on performance fees. In this regard, Section 205 currently contains a specific, limited exception from the general prohibition against performance fees for accounts of more than $1,000,000 only if the account provides for a fulcrum fee. It would be difficult to predicate a broader exemption exclusively on a means test, other than one that, perhaps, set a minimum account size that was substantially higher than $1,000,000. On the other

* As originally enacted, the Advisers Act prohibition on performance fees was not applicable to investment company contracts. In 1970, Congress, which had before it a specific record concerning the manner in which performance fees were being paid by investment companies, extended the general prohibition against performance-based compensation to contracts between advisers and registered investment companies but provided a limited exemption from the general prohibition for performance fee arrangements using an appropriate fulcrum fee. In 1980, Section 205 of the Advisers Act was further amended to permit an investment adviser to a business development company to receive performance compensation under certain specifically defined circumstances. The proposed rule, however, would provide relief to employee benefit plans described in Section 3(c)(11) of the Investment Company Act of 1940 [15 U.S.C. 80a–3(c)(11)] provided the conditions of the proposed rule were met. The great majority of the employee benefit plans described in Section 3(c)(11) of the Investment Company Act are subject to the fiduciary provisions of ERISA, and the Commission believes it is appropriate to defer in this matter to the Department of Labor which is responsible for administering ERISA's fiduciary provisions.

hand, it would appear to be consistent with the policy and provisions of the Advisers Act to provide a broader exemption and less stringent means test than those contained in the statute where the client is financially sophisticated. By their nature, investment advisory contracts involve personal and continuing relationships which entail a high degree of trust, and, in certain instances, the advisory contract may involve negotiations between the adviser and wealthy but uinsophisticated investors who rely on the adviser for expert advice. For these reasons, the sophistication standard of proposed paragraph (b)(2) and (3) is necessary to provide adequate safeguards.

The Commission believes, however, that the financial sophistication test would not, by itself, provide adequate protection to investors in light of the nature of the Congressional policy embodied in Section 205. The inclusion of an objective means test in the proposed rule would increase the likelihood that persons entering into performance based compensation arrangements with investment advisers were persons capable of understanding their risks and ramifications, and were also capable of bearing those risks. The minimum account level specified in the proposal is $150,000. However, the Commission invites comments as to whether this test is appropriate under the circumstances. Additionally, the Commission solicits comments as to whether a different test than the one proposed under paragraph (c)(2) would be appropriate in the case of a pre-existing limited partnership whose formation was not influenced, directly or indirectly, by the investment adviser seeking to enter into a contract pursuant to the rule.

D. Disclosure

Proposed paragraph (d) requires disclosure of certain information which must be disclosed by an adviser to his client prior to entering into an advisory contract pursuant to this rule. The Commission believes that it is appropriate to specify this information as guidance to advisers in light of the broad exemptive provisions of the proposal. However, inclusion of this specific requirement should not be read as in any way narrowing the scope of the obligations of investment advisers under provisions of the Advisers Act, particularly: (1) Section 206 of that Act [15 U.S.C. 80b–6] which imposes on investment advisers "an affirmative duty of 'utmost good faith and full and fair' disclosure of all material facts." (*SEC* v. *Capital Gains Research Bureau*, 375 U.S. 180, 194 (1963), quoting Prosser, Law of Torts (1955), 534–535) and (2) Form ADV, Part II, Item 1 which requires disclosure of advisory fees. In this regard, it should be noted that if proposed Rule 205–3 is adopted and an investment adviser determines to offer performance based compensation arrangements to clients in reliance upon the rule, the information with respect to fee arrangements contained in the most recent Form ADV filed with the Commission would have to be amended promptly in order to comply with Rule 204–1(b)(1) under the Advisers Act.

E. Contract Renewal or Extension

Paragraph (e) of the rule proposal deals with the situation in which the parties to the advisory contract seek to renew or extend the provisions of the contract calling for the performance fee. Paragraph (e) makes it clear that the general exemption from the restriction on performance based compensation set forth in paragraph (a) applies to a renewal or extension of the advisory contract only if the provisions of the contract setting forth the performance fee are specifically reviewed and agreed to by the client or his representative at the time of the contract's renewal or extension.

F. Client Representative

In order to preclude obvious conflicts of interests, paragraph (f)(1) of the proposed rule defines client representative so as not to include the investment adviser seeking to rely on this rule, his affiliates, affiliates of his affiliates, and certain interested persons. Similarly, paragraph (f)(2) of the proposal prohibits the client representative from being a person who is currently receiving, will receive, or has received, directly or indirectly, from the investment adviser of his affiliates any compensation for his services as a client representative. This latter condition, in the Commission's view, is necessary to preserve the independence of the client representative in a situation involving potential conflicts of interest.

The provisions of proposed paragraph (f)(3) are modeled on similar provisions contained in 17 CFR 230.501(h) regarding "purchaser representatives" under Regulation D of the Securities Act of 1933 (15 U.S.C. 77(a) *et seq.*) and are designed to protect unsophisticated clients who enter into advisory contracts with advisers seeking to rely on this rule. Specifically, under paragraph (f)(3) of the proposal, the investment adviser must have a reasonable belief that the client representative (a) is capable of competently representing his client; (b) is in fact representing the client in connection with evaluating the merits and risks of the proposed method of compensation; and (c) has made certain disclosures to the client which will allow the client to make an informed judgment as to whether the advice he is receiving from his representative is objective. It should be noted that for purposes of the rule, it would be the Commission's view that the term "client representative", as used in proposed paragraph (f), would include, in the case of an entity, any natural person or persons who is or are duly authorized to act on behalf of such entity. Any such natural person or persons would be required to satisfy the requirements of proposed paragraph (f).

Finally, proposed paragraphs (f)(1) and (f)(2) contain two specific rules which address the situation where the investment adviser seeks to enter into an advisory contract with a limited partnership of which the investment adviser is the general partner. In such a case, proposed paragraph (f)(1) provides that a person will not be deemed to be an affiliated person of the investment adviser-general partner merely because such person is a limited partner in the limited partnership. [9] Thus, a limited partner, which otherwise satisfied the conditions of paragraph (f), could act as the client representative of a limited partnership of which the general partner was the investment adviser seeking to enter into a contract under the proposed rule. Proposed paragraph (f)(2) contains a provision which allows a limited partnership to compensate a person who satisfies the conditions of proposed paragraph (f)(1) for services as a client representative. In the absence of this provision, a limited partnership, which was deemed to be an affiliate of the general partner-investment adviser, might be precluded from compensating a client representative.

G. Solicitation of Comments

The Commission is aware that the proposed rule would provide very broad exemptive relief from the prohibition against performance fees. In this regard, the Commission solicits specific comment on whether the exemption should include certain limitations.

For example, should the rule require that compensation be based on realized capital gains net of all realized capital losses and unrealized capital depreciation? If so, should the compensation be limited to a set

[9] Under section 2(a)(3)(D) of the Investment Company Act of 1940, co-partners are affiliates of one another.

percentage of such net realized capital gains? [10] Should some form of a fulcrum fee arrangement (even if not measured against an appropriate index) be a condition of the rule, *i.e.*, should the adviser be required to be penalized for poor performance.

H. Antifraud Requirements

Although, as noted, the proposed rule would not impose any substantive requirements regarding the terms of the performance based advisory contract, the Commission emphasizes that nothing in the proposed rule would relieve an investment adviser of any obligation pursuant to any other provision of the Advisers Act or the rules thereunder or other federal or state law. In this regard, Note 1, which appears at the end of the proposal, reminds investment advisers of their obligations under Section 206 of the advisers Act (15 U.S.C. 80b–6), which sets forth antifraud provisions applicable to advisers in dealings with their clients, and of the other securities laws. Thus, for example, if the rule were adopted, an investment adviser entering into a performance fee arrangement with a client pursuant to the rule who managed the client's account in a manner designed to maximize the adviser's fee and without regard for the client's interests would violate the antifraud provisions of Section 206. In addition, it would be a violation of the antifraud provisions of Section 206 for an investment adviser to fail to live up to his fiduciary obligations in managing the accounts of clients who were parties to traditional fee arrangements in order to obtain possibly greater compensation from clients paying performance fees. Similarly, Notes 2 and 3, which appear at the end of the proposal, are intended to remind client representatives of their fiduciary obligations to their clients and of the antifraud provisions of the Advisers Act and the Securities Exchange Act of 1934 (15 U.S.C. 78(a) *et seq.*).

List of Subjects in 17 CFR Part 275

Investment Advisers, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule

It is proposed to amend Part 275 of Chapter II of Title 17 of the Code of Federal Regulations under the Investment Advisers Act of 1940 by adding new § 275.205–3 as follows:

[10] Section 205(C) currently treats performance compensation for advisers to business development companies in such a manner.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

§ 275.205–3 Conditional exemption from the compensation prohibition of Section 205(1) for registered investment advisers.

(a) *General.* The provisions of Section 205(1) of the Act shall not prohibit any registered investment adviser from entering into or performing an investment advisory contract which provides for compensation to the investment adviser on the basis of a share of the capital gains upon, or the capital appreciation of, the funds, or any portion of the funds, of a client, *Provided* that all the conditions in this rule are satisfied.

(b) *Nature of the client.*

(1) The client is not an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) or a business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(22)).

(2) The registered investment adviser, and any person acting on its behalf, who enters into the contract reasonably believes, immediately prior to entering into the contract, that either (i) the client has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the proposed method of compensation or (ii) the client and his client representative(s) together have such knowledge and experience in financial and business matters that they are capable of evaluating the merits and risks of the proposed method of compensation.

(3) Notwithstanding paragraph (b)(2) of this section, with respect to a limited partnership, the registered investment adviser and any person acting on its behalf, who enters into the contract must reasonably believe, immediately prior to entering into the contract, that either (i) the limited partnership is represented by a client representative (which may be, subject to paragraph (f) of this section, the general partner of such partnership), who has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the proposed method of compensation, or (ii) each of the limited partners in the limited partnership, either alone or together with his client representative, has such knowledge and experience in financial and business matters that he, either alone or together with his client representative, is capable of evaluating the merits and risks of the proposed method of compensation.

(c) *Amount of assets under management.*

(1) With respect to a person, other than a limited partnership, the contract must relate to the management of net assets in an amount of no less than $150,000.

(2) With respect to a limited partnership, each limited partner must have $150,000 invested in the limited partnership.

(d) *Disclosure to Client.* In addition to the requirements of Form ADV, the adviser shall disclose to the client prior to entering into an advisory contract established pursuant to this rule all material information concerning the proposed advisory arrangement (as required by Section 206 of the Act) including disclosure to the following effect where relevant:

(1) That under the fee arrangement, the adviser may benefit from appreciation, including unrealized appreciation, in the value of the client's account, but, depending on the arrangement, may not be similarly penalized for realized losses or decreases in the value of the client's account;

(2) That the fee arrangement may create an incentive for the adviser to make purchases for the client that are unduly risky or speculative in light of the client's investment objectives;

(3) That the adviser may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account;

(4) The periods which will be used to measure investment performance.

(e) *Contract extension or renewal.* An investment advisory contract which is entered into or performed pursuant to paragraph (a) may not be renewed or extended unless the investment adviser seeking to rely on this rule, and any person acting on his behalf, reasonably believes, immediately prior to entering into the renewal or extension, that the client or his representative has specifically reviewed and agreed to the terms of the contract setting forth the investment adviser's compensation.

(f) *Client representative.* For purposes of this rule, the term "client representative" shall mean any person—

(1) Other than the investment adviser seeking to obtain relief under this rule, an affiliate of the investment adviser (within the meaning of Section 2(a)(3) of the Investment Company Act (15 U.S.C. 80a–2(a)(3))), an affiliate of an affiliate of the investment adviser, or an interested person with respect to the investment adviser (within the meaning of section 2(a)(19)(B) (ii), (iii) or (iv) of the Investment Company Act (15 U.S.C.

80a-2(a)(19)(B) (ii), (iii) or (iv)]). For purposes of this provision, a person will not be deemed to be an affiliate of, or an interested person with respect to, the subject investment adviser merely by virtue of being a limited partner in a limited partnership entering into an investment advisory contract pursuant to this rule.

(2) Who is not receiving, has not received, and will not receive, directly or indirectly, from the investment adviser, an affiliate of the investment adviser, an affiliate of an affiliate of the investment adviser or an interested person of the investment adviser described in paragraph (f)(1) of this section any compensation for his services as a client representative; however, a limited partnership which may be deemed to be an affiliate of the investment adviser solely because its general partner is the investment adviser may compensate a person who satisfies the conditions of paragraph (f)(1) of this section for services as a client representative.

(3) Who the investment adviser and any person acting on its behalf reasonably believes, immediately prior to entering into the contract, satisfies all of the following conditions:

(i) Has such knowledge and experience in financial and business matters that he, either alone or together with other client representatives, is capable of evaluating the merits and risks of the proposed method of compensation;

(ii) Is acknowledged by the client, in writing, prior to the client's entering into the contract covered by this rule, to be his representative in connection with evaluating the merits and risks of the proposed method of compensation; and

(iii) Discloses to the client in writing, prior to the acknowledgment specified in paragraph (f)(3)(ii) of this section, any material relationship between himself or his affiliates and the investment adviser and its affiliates that then exists, that is mutually understood to be contemplated, or that has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship.

Note 1.—An investment adviser entering into or performing an investment advisory contract pursuant to this rule is not relieved of any obligations that may arise under Section 206 of the Investment Advisers Act of 1940 [15 U.S.C. 80a-6] or of any other applicable provisions of the federal securities laws.

Note 2.—A person acting as a client representative should consider the applicability of the registration and antifraud provisions relating to brokers and dealers under the Securities Exchange Act of 1934 (15 U.S.C. 78(a) *et seq.*, as amended) and relating to investment advisers under the Investment Advisers Act of 1940.

Note 3.—Disclosure of any material relationship between the client representative or his affiliates and the investment adviser or its affiliates does not relieve the client representative of his obligation to act in the interest of his client.

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding proposed rule 205-3. The Analysis notes that the proposed rule may have a significant impact on small investment advisers by allowing a substantial number of such advisers to enter into performance based advisory contracts with their clients. The Analysis further states that the proposed rule is exemptive in nature and would result in greater flexibility to advisers in structuring their compensation arrangements. However, the Analysis notes that it is not possible to predict with certainty the significance of the economic impact on small advisers, in part, because it is not possible to estimate the extent to which advisers and their clients would choose to enter into the types of compensation arrangements which the rule would permit.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Forrest R. Foss, Division of Investment Management, Securities and Exchange Commission, Room 5103, 450 Fifth Street, NW., Washington, D.C. 20549.

Statutory Bases

The rule proposed herein would be adopted pursuant to the authority contained in Sections 206(A) (15 U.S.C. 80b-6a) and 211(a) (15 U.S.C. 80b-11(a)) of the Advisers Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-16277 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10 and 147

Drawback of Internal Revenue Tax and Transfer of Merchandise Entered for a Trade Fair From a Foreign-Trade Zone

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes amendments to the Customs Regulations relating to drawback of internal revenue tax and transfer of merchandise entered for a trade fair from a foreign-trade zone, to substitute current references to Tariff Schedules of the United States item numbers. The foregoing changes are necessary to conform the regulations to statutory provisions. The document also proposes a regulation amendment to clarify that the transfer of articles entered for a trade fair from a foreign-trade zone status of "zone restricted", and afterwards entered for consumption from a trade fair, can only be accomplished after the Foreign-Trade Zones Board has approved such a transfer as being in the public interest. This nonsubstantive change is necessary to avoid possible misinterpretation of the regulations and clearly state statutory requirements.

DATES: Comments must be received on or before August 16, 1983.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Legal aspects of Part 147, Customs Regulations: Donald Beach, Carriers, Drawback and Bonds Division (202-566-5865)

Legal aspects of Part 10, Customs Regulations:

Russell X. Arnold, Classification and Value Division (202-566-5727)

Operational aspects:

Herbert Geller, Duty Assessment Division (202-566-5307)

U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

This document proposes to implement Pub. L. 91-692 by amending the following two sections of the Customs Regulations: Section 10.3, Customs Regulations (19 CFR 10.3), and footnote 2 to that section relating to drawback of internal revenue taxes; and § 147.45, Customs Regulations (19 CFR 147.45), relating to the transfer of merchandise entered for a trade fair from a foreign-trade zone, to delete the reference to item 804.00, Tariff Schedules of the United States, (TSUS) (19 U.S.C. 1202) and substitute TSUS items 804.10 and/or 804.20, as appropriate.

Prior to Pub. L. 91-692, articles produced in the United States with the use of foreign articles imported under bond were excluded from entry under the provisions of TSUS item 804.00 as "American goods returned." Such articles would have to be entered and duty paid under another applicable provision of the TSUS. However, articles produced in the United States with the use of foreign articles and exported with the benefit of drawback (the refund of a duty or tax lawfully collected because of a particular use of the merchandise on which the duty or tax was collected (section 313(a) Tariff Act of 1930, as amended (19 U.S.C. 1313(a)) could be imported under TSUS item 804.00 as "American goods returned" upon repayment of the drawback.

In the manufacture of aircraft in the United States, it is fairly common practice to use some foreign articles or materials. Export sales of aircraft produced in the United States are significant, and normally, the duty paid on the foreign articles used in the manufacture of such aircraft is subject to the drawback procedure set forth in Part 22, Customs Regulations (19 CFR Part 22), under which 99 percent of the duty paid on the foreign articles or materials is refunded upon exportation of the completed aircraft. In some instances, foreign articles for use in aircraft are temporarily entered to be repaired or altered under TSUS item 864.05, free of duty under bond (see §§ 10.38 and 10.39, Customs Regulations (19 CFR 10.38, 10.39)). Such temporary duty-free entry arrangement is preferred by some manufacturers since no large amount of capital is committed to duty payment for the period between the original entry of the foreign component and the drawback of the duty upon exportation of the aircraft.

Over the years both provisions, i.e., drawback and temporary importation under bond, have been used with respect to eliminating the cost of U.S. duty on foreign articles used in the domestic manufacture of aircraft which are subsequently sold abroad. Competition in the sales of new aircraft in world markets is rising. Very often the "trade in" allowance for old aircraft is an important factor in obtaining contracts for sales of new aircraft abroad. Under these circumstances, the dutiable status of the old aircraft being "traded in" and returned to the United States becomes important.

In view of the importance of the "trade in" of old aircraft to sales of new aircraft abroad, Congress believed it important to provide similar Customs treatment to aircraft produced in the United States which are sold abroad and returned, whether the drawback or temporary importation bond procedure was used with respect to foreign components. Pub. L. 91-692 provided such Customs treatment for aircraft by amending the TSUS to delete item 804.00, which provided for articles previously exported from the United States which are excepted from free entry under any of several other provisions of Schedule 8, Part 1, TSUS, and are not otherwise free of duty, and inserting in its place (a) TSUS item 804.10, relating to aircraft exported from the United States with benefit of drawback or TSUS item 864.05, and (b) TSUS item 804.20, relating to other articles. In light of the foregoing, it is necessary to amend section 10.3 and footnote 2 to that section and § 147.45 to delete the reference to TSUS item 804.00 and substitute a reference to TSUS items 804.10 and/or 804.20, as appropriate.

In addition to the above proposed amendment, Customs proposes to amend § 147.45 to clarify that the transfer of articles entered for a trade fair from a foreign-trade zone status of "zone restricted" and afterwards entered for consumption from a trade fair can only be accomplished after the Foreign-Trade Zones Board ("Board") has approved such a transfer as being in the public interest.

Customs has determined that § 147.45 does not, in its present form, make it clear that the transfer of articles entered for a trade fair from a foreign-trade zone status of "zone restricted" and afterwards entered for consumption from a trade fair can only be accomplished after the Board has approved such a transfer as being in the public interest.

Foreign or "free" trade zones are secured areas legally outside a nation's customs territory. Their purpose is to attract and promote international trade.

Foreign or "free" trade zones are secured areas legally outside a nation's customs territory. Their purpose is to attract and promote international trade. Zones are operated as public utilities by states, their political subdivisions, or corporations chartered for that purpose. Foreign-trade zones usually are located in or near customs ports of entry at industrial parks or terminal warehouse facilities.

The Foreign Trade Zones Act of 1934 (19 U.S.C. 81a *et seq.*) created the Board to review and approve applications to establish, operate, and maintain foreign-trade zones (see 15 CFR Part 400). The Board may approve any zone or subzone which it deems necessary to serve adequately "the convenience of commerce." The Board also regulates the administration of foreign-trade zones and the rates charged by zone operators, known as "grantees."

As provided in Part 146, Customs Regulations (19 CFR Part 146), Customs is responsible for the transfer of merchandise into and out of a zone and for matters involving the collection of revenue. The Customs Office of Regulations and Rulings, at Customs Headquarters, provides legal interpretations of the applicable statute, Customs Regulations, or procedure.

The district director of Customs in whose district a zone is located is in charge of the zone as the local representative of the Board. He controls the admission of merchandise into the zone, the handling and disposition of merchandise in the zone, and the removal of merchandise from the zone.

The exportation, entry, classification, and appraisement of merchandise tranferred from a foreign-trade zone is affected by the "status" of the merchandise in the zone. Merchandise may have a (1) privileged foreign status, (2) privileged domestic status, (3) zone restricted status, (4) nonprivileged status, foreign and domestic, or (5) mixed status. Each status, which is provided for in §§ 146.21 through 146.25, Customs Regulations (19 CFR 146.21-146.25), is discussed below.

Privileged foreign status. Prior to any manipulation or manufacture which would change its tariff classification, an importer may apply to the district director to have imported merchnandise in the zone given privileged foreign status. The merchandise is classified and appraised and duties and taxes are determined as of the date the application is filed. Taxes and duties are payable, however, only when such merchandise or articles manipulated, manufactured, or produced from such merchandise, are transferred from the zone to the customs territory of the United States.

Privileged domestic status. Privileged domestic status, which may be approved upon application to the district director, is available for merchandise which is (a) the growth, product, or manufacture of the United States on which all internal revenue taxes, if applicable, have been paid; (b) previously imported merchandise on which duty and/or tax have been paid; or (c) merchandise previously admitted free of duty and tax. Privileged domestic merchandise may be returned to the customs territory free of duty and tax.

Zone restricted status. Merchandise tranferred to a zone from the customs territory for storage or for the purpose of satisfying a legal requirement for exportation or destruction is considered exported and cannot be returned to the customs territory for consumption unless the Board rules specifically that its return is in the public interest. The status of merchandise tranferred to a zone under these circumstances is "zone restricted." Zone restricted merchandise may not be manipulated, except to destroy, it, or manufactured in a zone. As in the case of privileged status, the zone user must apply for zone restricted status on the appropriate foreign-trade zones form.

Nonprivileged status. Nonprivileged status is a residual category for merchandise which does not have privileged or zone restricted status. Articles composed entirely of or derived entirely from nonprivileged merchandise are classified and appraised in their condition at the time of legal transfer to the customs territory for consumption or for customs bonded warehousing.

Mixed status. Since manipulation and manufacture are permitted in a zone, articles transferred to the customs territory may be composed in part of, or derived in part from, merchandiste that is privileged and nonprivileged, whether foreing and/or domestic, the articles are appraised according to the status of the merchandise of which they are composed or from which derived, as explained above.

Section 146.25, Customs Regulations, states that zone restricted merchandise, other than as set forth in § 146.47, Customs Regulations, may not be returned to the customs territory for domestic consumption except where the Board deems such returns to be in the public interes.

Section 146.47 states that zone restricted merchandise may be returned to the customs territory only for entry for exportation, for entry for transportation and exportation, for destruction (except destruction of distilled spirits, wines, and fermented malt liquors), for transfer from one zone to another, or for delivery to a qualified vessel or aircraft or as ground equipment of a qualified aircraft under section 309 or 317, Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317). Any other transfer requires the Board to rule that the return of the merchandise to the customs territory for domestic consumption is in the public interest.

Accordingly, to avoid any misunderstanding, Customs is of the opinion that § 147.45 should be amended to clarify that the transfer of articles entered for a trade fair from a foreign trade zone status of "zone restricted" and afterwards entered for consumption, can only be accomplished after the Board has approved such a transfer as being in the public interest.

Executive Order 12291

This document will not result in a regulation which is a "major rule" as defined by section 1(b) of Executive Order 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. The proposed amendments are technical conforming amendments which clarify existing regulatory requirements without making any substantive change.

Accordingly, it is certified under the provisions of section 3, Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This document is issued under the authority of R.S. 251, as amended, sections 1–21, 48 Stat. 998, 999, as amended, 1000, 1002, as amended 1003, 77A Stat. 14, section 624, 46 Stat. 759 (19 U.S.C. 66 81a–81u, 1202 (General Headnote 11), 1624).

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, U.S. Customs Service, however, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Imports.

19 CFR Part 147

Customs duties and inspection, Fairs and expositions, Imports.

Proposed Amendments to the Regulations

It is proposed to amend Parts 10, and 147, Customs Regulations (19 CFR Parts 10, 147), as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

§ 10.3 [Amended]

It is proposed to amend § 10.3(a) by removing (a) the reference to footnote 2 and footnote 2, (b) the words "item 804.00" wherever they appear in paragraph (c)(3) and inserting in their place the words "items 804.10 or 804.20" and (c) the words "item 804.00" in paragraph (f) and inserting in their place the words "item 804.20."

PART 147—TRADE FAIRS

It is proposed to amend § 147.45 by revising it to read as follows:

§ 147.45 Merchandise from a foreign-trade zone.

Articles entered for a trade fair from a foreign-trade zone in the status of "zone-restricted merchandise" can afterwards be entered for consumption from a fair if the Foreign-Trade Zones Board has approved the entry for consumption as being in the public interest. Articles entered in the above manner are subject to the provisions of item 804.10, if aircraft, or item 804.20, if not aircraft, unless excluded by headnote 1(c), Subpart A, Part 1, Schedule 8, Tariff Schedules of the United States.

Alfred R. DeAngelus,

Acting Commissioner of Customs.

Approved: May 26, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-16305 Filed 6-16-83; 8:45 am]

BILLING CODE 4820-02-M

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19 CFR Part 152

Proposed Customs Regulations Amendment Relating to Valuation of Imported Merchandise

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to exclude from the transaction value of imported merchandise all documented foreign inland freight costs which occur

subsequent to the placing of that merchandise on the exporting carrier.

The proposed amendment is necessary to equalize adjustments made in the price actually paid or payable for merchandise imported from contiguous and non-contiguous countries.

DATES: Comments must be received on or before August 16, 1983.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas L. Lobred, Value Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 96-39, the Trade Agreements Act of 1979, incorporated into U.S. law the trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations. Title II of the Trade Agreements Act of 1979, "Customs Valuation," implemented the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the "Valuation Agreement"). Title II made significant changes in the laws administered by Customs relating to the valuation of imported merchandise by amending section 402, Tariff Act of 1930, as amended (the "Act") (19 U.S.C. 1401a). The Customs Regulations issued to administer the new statutory valuation scheme are contained in Subpart E, Part 152, §§ 152.100-152.108 (19 CFR 152.100-152.108).

Present section 402 of the Act provides for five bases for determining value presented in order of precedence of application. The first and primary basis of value is transaction value. Only if transaction value cannot be determined, or cannot be used, may another basis of value be used. The transaction value of imported merchandise, essentially, is the "price actually paid or payable" for the merchandise when sold for exportation to the United States. The term "price actually paid or payable" is defined in the Act as the total payment (whether direct or indirect, and *exclusive of* any costs, charges, or expenses incurred for transportation, insurance, and related services *incident to the international shipment of the merchandise* from the country of exportation to the place of importation in the United States) made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller (section 402(b)(4)(A)) (emphasis supplied). It is clear, then, that any costs for insurance, freight, *etc.*, involved in the international movement of merchandise are to be excluded from the dutiable value of imported merchandise appraised using the transaction value basis. However, in many cases, another significant cost to an importer is the expense related to foreign inland freight charges, especially where the seller quotes prices on a c.i.f. (delivered) method.

Note.—Costs incurred in the transportation of imported merchandise in the U.S., if identified separately, also are excluded from the transaction value.

Current Customs policy in regard to foreign inland freight, stated in § 152.103(a)(5), is to include that cost in the transaction value if it is indeed reflected in the price actually paid or payable to the seller, *e.g.*, in a c.i.f. price quotation. On the other hand, if the price actually paid or payable to the seller does not include the cost of foreign inland freight, *e.g.*, in an ex-factory price quotation, that cost will not be added to the price if paid to a freight forwarder unrelated to the seller.

The policy described above has led in practice to an anomalous situation in regard to the adjustment made in the price actually paid or payable for international transportation of merchandise imported into the United States from contiguous and non-contiguous countries. Appraisement of merchandise imported from non-contiguous countries has resulted in obvious adjustments for international transportation and related expenses, whereas merchandise imported from contiguous countries receives little or no adjustment for international transportation costs, although an international movement occurs. Furthermore, under § 152.103(a)(5), no adjustment for foreign inland freight may be made when, as often is the case, the merchandise is purchased from the foreign seller on a c.i.f. basis. The effect is to increase the cost to the U.S. consumer of merchandise imported from contiguous countries, and weaken the competitiveness of that merchandise *vis-a-vis* merchandise imported from non-contiguous countries. Such a result also derogates from the uniform application of the Customs system of valuation of imported merchandise derived from the Valuation Agreement and U.S. law.

After consideration of the problem, Customs believes that the definition of "the price actually paid or payable"excluding costs incident to the international shipment of merchandise from transaction value, supports an interpretation to exclude as well all documented foreign inland freight costs which occur subsequent to the placing of the imported merchandise on the exporting carrier. To illustrate, under the proposal if merchandise is purchased by a U.S. buyer at Chicago, Illinois, from a Canadian seller at Edmonton, Alberta, on a c.i.f. basis, the cost of rail transportation through Canada to the U.S. border would be construed as international, not foreign inland, freight and excluded from transaction value if the railway car loaded in Edmonton is deemed to be the exporting carrier. At present, the cost of that railway transportation, if paid to the seller, would be included in the price actually paid or payable for the imported merchandise and dutiable as such.

Accordingly, to ensure like treatment of all imported merchandise regardless of the mode of transportation used, Customs proposes to amend the regulations to exclude from the dutiable value of that merchandise as "international freight," certain costs paid to a seller in a contiguous country that are now dutiable as foreign inland freight.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This amendment is proposed under the authority of R.S. 251, as amended, section 624, 46 Stat. 759, section 201, 93 Stat. 194 (19 U.S.C. 66, 1401a, 1624).

Executive Order 12291

Because this document will not result in a regulation which will be a "major rule" as defined in section 1(b) of E.O. 12291, a regulatory impact analysis as prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if

promulgated, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidential effects on a substantial number of small entities or to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 152

Customs inspection and duties, Imports, Valuation.

Proposed Regulations Amendment

It is proposed to amend Part 152, Customs Regulations (19 CFR Part 152), in the following manner:

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

It is proposed to revise paragraph (a)(5) of § 152.103 to read as follows:

§ 152.103 Transaction value.

(a) *Price actually paid or payable—*

* * *

(5) *Foreign inland freight.*

If the price actually paid or payable by the buyer to the seller for the imported merchandise does not include a foreign inland freight charge (an ex-factory price), the foreign inland freight charge will not be added to the price if paid to a unrelated seller. In those situations where the price actually paid or payable for imported merchandise included a charge for foreign inland freight, that charge will be part of the transaction value to the extent it is included in that price. However, all documented foreign inland freight costs which occur subsequent to the placing of the imported merchanse on the exporting carrier are deemed to be incident to the international shipment of that merchandise within the meaning of § 152.102(f).

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Alfred R. DeAngelus,

Acting Commissioner of Customs.

Approved: May 26, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-16304 Filed 6-16-83; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 175

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Total Milk Proteinate, Whey Protein Concentrate, and Lactalbumin

Correction

In FR Doc. 83-15614 appearing on page 26833 in the issue of Friday, June 10, 1983, make the following correction in the third column, the first paragraph: In the next to the last line, the phrase "should be" should read "should not be".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16, 20, and 899

[Docket No. 80N-0002]

Alpha-Fetoprotein Test Kits; Withdrawal of Proposed Rule

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing its proposed rule that would have restricted the sale, distribution, and use of alpha-fetoprotein (AFP) test kits for detection of neural tube defects (NTD's). The agency has determined that the proposed restrictions are not needed to ensure the safe and effective use of AFP test kits. FDA is taking a number of steps to ensure that physicians, patients, and laboratories are informed about the need to adhere to certain procedures that will promote the safe and effective use of the kits. The Centers for Disease Control (CDC)— and the Health Care Financing Administration (HCFA) will soon publish notices regarding their proposed rule on AFP test kits.

EFFECTIVE DATE: The withdrawal of the proposed rule is effective June 17, 1983.

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 7, 1980 (45 FR 74158), FDA published a proposed rule that would have established certain restrictions on the sale, distribution, and use of AFP test kits as an aid in the diagnosis of NTD's in fetuses by means of analysis of the amount of AFP in the blood serum (or plasma) and amniotic fluid of pregnant women. AFP test kits are also used as an aid in the diagnosis of tumors. This current use of the AFP test kits would not have been affected by the proposed rule. FDA invited interested persons to submit written comments on the proposed rule until January 6, 1981. FDA held a public hearing on the proposed rule on January 15 and 16, 1981. In the **Federal Register** of January 13, 1981 (46 FR 3029), FDA extended the comment period to February 20, 1981. CDC and HCFA proposed additional quality control and testing requirements applicable to AFP testing for NTD's in the **Federal Register** of November 7, 1980 (45 FR 74174).

The proposed rule was developed after several health professional and consumer organizations expressed concern to FDA about possible problems that could result from the unrestricted use of AFP test kits. One concern was that there are insufficient ancillary services (ultrasonography, amniocentesis, genetic counseling) available to meet the demand for confirmatory tests when AFP test results suggest the presence of NTD's in fetuses. Another concern was that these ancillary services might not be utilized in a timely manner. A third concern was that physicians are not adequately trained to interpret the results of AFP test and that laboratories have not yet reached the level of expertise necessary to ensure satisfactory results.

The proposed rule would have required that AFP testing be conducted only in a program headed by a coordinator. The coordinator would have been responsible for, among other things, ensuring the availability of a complying laboratory, providing ultrasonograph and amniocentesis testing, providing genetic counseling, and compiling information for the manufacturer's quarterly and annual evaluation reports for submission to FDA. Laboratories, physicians, and ultrasonography and amniocentesis facilities would have been required to keep certain records, make periodic reports to manufacturers, and submit to FDA inspection. Laboratories also

would have been required to participate in an FDA-approved proficiency testing program and to test a minimum of 50 maternal serum and amniotic fluid samples each week. Manufacturers of the kits would have been required to distribute physician, laboratory, and patient labeling, to submit quarterly and annual reports to FDA, and to maintain distribution records for each AFP test kit distributed.

FDA received more than 650 written comments on the proposed rule. Few comments supported the proposed restrictions per se. Comments in favor of the regulations generally argued that the restrictions are necessary to ensure that adequate disgnostic followup testing is available and will be delivered on a timely basis. These comments also suggested that physicians and laboratories might not perform their functions appropriately without the Federal restrictions. One comment said that FDA has inadequate information to know how laboratories will perform, that proficiency testing programs are inadequate and, therefore, that FDA should allow AFP test kits to be released only subject to investigational device exemptions.

FDA received many comments from individuals and organizations that opposed the sale of AFP test kits, with or without restrictions, on the grounds that the results might be used to determine whether to abort an NTD fetus. Many of these comments also stated that there is a high incidence of false-positive test results which might lead to abortions of normal fetuses.

The majority of the comments received opposed the proposed restrictions. Many comments said that adequate facilities for followup testing already exist and that others would be established to meet the demand created by increased distribution of AFP test kits. Some comments pointed out that increased distribution of the kits would create little additional demand for facilities to do followup testing because few of the patients tested would require ultrasonography or amniocentesis. One comment estimated that there would be no more than one or two additional amniocenteses per week per facility. Many comments objected to the proposed restrictions because they would limit access to the test without providing a significant public health benefit.

FDA received many comments from physicians who argued that the proposed rule would be an unwarranted intrusion into the practice of medicine. These comments argued that the regulation would lock physicians into a diagonostic protocol that would not be flexible enough to allow for technological advancements. Many comments also pointed out that permitting government inspection of patient records would violate both the physician-patient relationship and the patient's privacy.

Comments from laboratories generally were concerned that the recordkeeping and reporting requirements in the proposed rule were overly burdensome and would not provide any public health benefit. These comments also argued that the minimum volume requirement was unjustified because there is no established relationship between volume and proficiency.

Comments from manufacturers generally argued that the proposed restrictions are not necessary to ensure the safety and effectiveness of AFP test kits and, moreover, that the restrictions would increase significantly the cost of AFP test kits without providing a public health benefit. Several manufacturers pointed out that AFP test kits currently are being used widely and successfully on an investigational basis.

After reviewing the comments received and testimony presented at the public hearing, FDA has concluded that the proposed restrictions are not necessary to provide reasonable assurance of the safety and effectiveness of AFP test kits and, therefore, that restrictions under 21 U.S.C. 360j(e) are not appropriate. This conclusion is based on a number of considerations, including:

Safety and effectiveness of AFP test kits. No evidence was submitted during the public comment period to demonstrate that there might have been significant problems involving the safety or effectiveness of AFP test kits either in the numerous studies sponsored by commercial firms undertaken to date or in the use of noncommercial AFP reagents. APF testing has been widely used on an investigational basis for several years. As one comment said, "AFP testing is no longer a frontier technology." Furthermore, the use of confirmatory diagnostic procedures—measuring AFP and acetylcholinesterase in amniotic fluid, and ultrasound or amniography—can virtually eliminate the risk of false positives, and misdiagnosis of NTD's.

Postapproval study. FDA approval of any applications for premarket approval of any AFP test kits will establish certain conditions on the sale of AFP test kits. The manufacturers will be required to submit to FDA quarterly reports concerning postapproval experience with the device. These requirements will allow FDA to monitor future product performance.

Patient and physician education. The manufacturers also will be required to distribute FDA-approved physician, laboratory, and patient labeling. In developing the patient brochure to be used by manufacturers, FDA will take into consideration all the comments received on the patient brochure published in the preamble to the proposed rule (45 FR 74164). FDA expects that physicians will ensure that the proper diagnostic protocol is followed in a timely manner and that patients are adequately informed of the significance of test results. In addition to requiring manufacturers of the kits to distribute patient and physician information, FDA will undertake educational programs to inform physicians and patients about AFP test kits.

Laboratory quality assurance. AFP test kits are not significantly different from other radioimmunoassay devices commonly used in clinical laboratories. Almost all laboratories are subject to the rules of State agencies as well as those of HCFA and CDC generally applicable to laboratories and diagnostic products. In addition, many laboratories voluntarily submit to proficiency testing by the College of American Pathologists and are subject to accreditation by the Joint Commission for Accreditation of Hospitals. FDA believes that these controls are adequate to assure the quality of laboratory testing.

Shortages. There are no demonstrated shortages of adequate facilities and qualified personnel for followup testing. FDA estimates that only 30 out of 1,000 women who undergo a serum test will be referred for sonography and only 15 out of 1,000 will be referred for amniocentesis. Furthermore, FDA believes that testing will not become universal upon approval of the kits, but rather will increase gradually over the next 5 years, allowing time for establishment of additional ancillary testing facilities that may be needed.

Costs and benefits. The proposed restrictions would have increased the cost of the AFP kit itself (estimated by one manufacturer to be 50 percent), would have imposed additional costs on the testing procedure by requiring a coordinator and clerical support for each AFP testing activity (two comments estimated salary costs from $30,000 to $110,000 per year in addition to office space, etc.), and would have established strict recordkeeping requirements. FDA has determined the increased costs are not warranted.

In sum, FDA has concluded that the proposed restrictions are not necessary

to ensure the safety and effectiveness of AFP test kits when used as an aid in detecting NTD's and would not provide significant benefit to the public health. Instead, the proposed restrictions would unnecessarily increase the cost of using the test and would restrict access to a significant new technology. Therefore, FDA is withdrawing the proposed rule and in accordance with 21 U.S.C. 360e will provide for marketing of any AFP test kit that receives approval under 21 U.S.C. 360e(a)(2) of an application for premarket approval.

In future issues of the **Federal Register**, FDA will announce its decisions on premarket approval of AFP test kits. These notices also will announce that copies of the summaries of the safety and effectiveness data upon which FDA based its decision in each case are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. The summary of safety and effectiveness data also will fully explain FDA's requirements for postapproval surveillance and physician and patient brochures for any AFP test kit that it approves. The notices also will explain how interested persons may obtain administrative review of FDA's decisions on the devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 520(e), 701(a), 52 Stat. 1055, 90 Stat. 567 (21 U.S.C. 360j(e), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the proposed rule on AFP test kits published in the **Federal Register** of November 7, 1980 (45 FR 74158), is withdrawn.

Dated: June 1, 1983.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 83–15981 Filed 6–16–83; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 131

[Docket No. 83N–0010]

Butter and Whey Butter; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard of Identity

Correction

In FR Doc. 83–4197, beginning on page 7200, in the issue of Friday, February 18, 1983, on page 7202, in the first column, in paragraphs 5.1, 5.2, 5.3, 5.4 and 5.5, "3." should read "B.".

BILLING CODE 1505–01–M

21 CFR Parts 182 and 184

[Docket No. 82N–0089]

Vitamin D_2 and Vitamin D_3; Proposed Affirmation of GRAS Status, With Specific Limitations, as Direct Human Food Ingredients

Correction

In FR Doc. 83–10161, beginning on page 16695 in the issue of Tuesday, April 19, 1983, the fourth from last line of the third column on page 16702 should read, "this use. Therefore, FDA is taking no action".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, and 7

[Notice No. 469]

Ingredient Labeling of Wine, Distilled Spirits, and Malt Beverages

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Treasury Department is proposing to reconsider prior decisions concerning ingredient disclosure on labels of wine, distilled spirits, and malt beverages under 27 CFR Parts 4, 5, and 7. This proposal is a result of a decision dated February 8, 1983, of the United States District Court for the District of Columbia in *Center for Science in the Public Interest* v. *Department of the Treasury*, Civil Action No. 82–610, which held invalid and set aside the Department's decision to repeal ingredient labeling regulations for alcoholic beverages. The district court in essence found that the Department relied upon inappropriate factors and failed to provide an adequate explanation for its decision to rescind. While the Department does not acquiesce in the court's decision, the Department has chosen to reexamine the ingredient disclosure issue and renew the rulemaking process in light of the deficiencies pointed out by the district court.

DATE: Comments must be received on or before July 18, 1983.

ADDRESS: Comments should be submitted to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 (Notice No. 469).

FOR FURTHER INFORMATION CONTACT: Imelda M. Kirk, Office of the Chief Counsel (202–566–7805), or Roger L. Bowling, FAA, Wine and Beer Branch (202–566–7626), Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385.

SUPPLEMENTARY INFORMATION:

Background

The Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e)(2), vests broad authority in the Secretary to prescribe regulations which will provide "adequate information" as to the identify and quality of alcoholic beverages. Under this authority, the Department has imposed many labeling requirements on alcoholic beverages in 27 CFR Parts 4, 5, and 7 including ingredient disclosure requirements. The Act, however, does not require ingredient disclosure. The question faced with respect to ingredient disclosure, as with any labeling requirement, is whether the information required is necessary to provide "adequately" labeled products.

The basic information requirements under the statute have been in place for almost half a century. In recent years, there have been numerous proposals to require more information about products. In addition to proposals for ingredient labeling, there have been proposals to require more detailed information about the source and type of grapes used in wine, proposals for health warnings, and most recently, proposals to require caloric and nutritional information. Under these circumstances, the Department cannot simply require that labels contain every piece of information that any individual or group of individuals may want. Further, difficult and close decisions, upon which reasonable persons might disagree, must be made. In making these determinations, it is necessary to evaluate the value and usefulness of the information and overall consumer desire for the information. It is also appropriate in some cases to evaluate and weigh the costs of making the information available.

In the case of ingredient disclosure, the Department has considered this issue on a number of occasions dating back to 1972 when the Center for Science in the Public Interest petitioned the Bureau of Alchol, Tobacco and Firearms to require ingredient labeling. In November of 1975, the Department decided against imposing ingredient labeling requriements after holding public hearings and studying the views of industry representatives, consumer groups, and non-industry experts,

including in excess of 1,000 written comments. The Department concluded that the public interest would not be served by adoption of the proposed ingredient labeling regulations at that time. 40 FR 52613, November 11, 1975. On February 2, 1979, another notice of proposed rulemaking was issued to prescribe requirements for ingredient labeling. 44 FR 6740, February 2, 1979. During the comment period, the Department received 1,873 comments from consumers, special interest groups, industry members, doctors, Government agencies, and members of Congress. Thereafter, on June 13, 1980, T.D. ATF-66 was published requiring that labels of all domestic and imported alcoholic beverages disclose either the essential ingredients or an address where this information could be obtained. Under the address option, the regulations required that the producer or other responsible party provide on request an ingredient list which complied with the labeling rules. In imposing these new rules, the Department concluded that disclosure of ingredients used in producing alcoholic beverages was of real value. 45 FR 40538, June 13, 1980. Thereafter, and before the implementation date, the Department reviewed the regulations under the standards of Exec. Order No. 12291. On May 4, 1981, the Department issued an NPR proposing to rescind the partial ingredient labeling regulations. 46 FR 24962, May 4, 1981. Upon reviewing the record, including a total of 8,068 comments, the Department was convinced that the regulations were not truly necessary, beneficial, or cost effective and on November 6, 1981, published T.D. ATF-94, which rescinded the ingredient labeling regulations. Specifically, the decision found that the ingredient labeling regulations would result in increased costs to consumers and burdens on industry which are not commensurate with the benefits which might flow from the additional label information. The Department further concluded at that time that ingredient labeling would not result in an appreciable benefit to consumers when compared to the existing label information requirements and standards of identity. 46 FR 55093, November 6, 1981. Subsequently, an action was filed in the United States District Court for the District of Columbia contesting this rescission, *Center for Science in the Public Interest* v. *Department of the Treasury*, Civil Action No. 82-610. That court set aside T.D. ATF-94 which rescinded ingredient labeling regulations. In essence, the court found the Department relied upon inappropriate factors and failed to adequately explain the reversal of the prior rule. Pursuant to this court order, on March 11, 1983, the Department reinstated ingredient labeling regulations as originally promulgated in T.D. ATF-66 and mandated compliance by February 8, 1984. 48 FR 10309, March 11, 1983. The Department has appealed from this decision.

Discussion

The Treasury Department again proposes to reconsider its prior decisions concerning ingredient disclosure. We note that, in reviewing T.D. ATF-94, the United States District Court rejected the Department's action on the ground that the revocation proposed there was not adequately explained or justified in the decision. The Treasury continues to believe that its explanation satisfied the law as it had been articulated to that point by the courts. Nonetheless, the proceeding that we are beginning today should provide us with an opportunity to spell out in more detail the reasons supporting whatever decision we eventually reach.

As is apparent, the record in T.D. ATF-94 closed before the District Court's ruling. Thus, while we will include all comments received in respect to prior ingredient labeling rulemaking proceedings in this record, we are also inviting comments from the public at this time.

In reconsidering the issue of ingredient labeling, we have reviewed the reasons advanced in favor of ingredient labeling in T.D. ATF-66 and those advanced in support of rescission of ingredient disclosure in T.D. ATF-94 in light of the rulemaking record. As a result of this review, we have serious questions as to whether the ingredient disclosure rules of T.D. ATF-66 should be retained, and are therefore proposing to rescind those rules. Any final decision to rescind will rest on a number of factors.

A. Consumers' Informed Choice

T.D. ATF-66 stated that disclosure of ingredients used in the production of alcoholic beverages is of real value as this disclosure will provide consumers with adequate information about the identity and quality of the product which will enable a consumer to make an informed choice in the purchasing of alcoholic beverages. On the other hand, T.D. ATF-94 stated that the benefits which might flow from this additional label information were not appreciable when compared to existing label information requirements and not commensurate with increased cost to consumers and burdens on the industry.

Up to this point in the long history of this issue, much of the support for ingredient information has been based upon a generalized belief that consumers have a "right to know" what is in alcoholic beverages, and that if informed, consumers would be able to make more informed choices in their purchases of alcoholic beverages. Our consideration of this issue in the past, however, has highlighted many factors mitigating against requiring ingredient disclosure solely on the basis of the "right to know" argument. First, as T.D. ATF-66 noted, there was ambiguous data on the extent to which consumers want ingredient information disclosed on a label. Second, the substantial transformation of ingredients in the fermentation and distillation processes result in a tremendous difference between the "ingredients" and the "contents" of the products. Third, unlike foods governed by statutory ingredient labeling requirements, alcoholic beverages are not consumed for nutritional purposes.

B. Health Benefits

Throughout the lengthy consideration of ingredient disclosure, another factor cited in favor of the new rules has been related to health considerations, and most particularly allergic reactions. However, in response to earlier proposals, commenters have noted that only a small portion of the population are afflicted with allergies, and that any health hazard posed by materials authorized for use in alcoholic beverages has been overstated and exaggerated. The opinion of physicians commenting on earlier proposals has been divided with respect to whether ingredient labeling would produce any health benefits.

C. Costs

T.D. ATF-66 found that costs associated with mandated ingredient disclosure would not be excessive, especially when compared with the industry's annual retail sales. On the other hand, T.D. ATF-94 concluded that increased costs to consumers were not commensurate with benefits which might flow from ingredient labeling.

The evidence presented in the record shows without a doubt that substantial costs are involved in ingredient disclosure. The record identifies the individual cost items such as: labeling costs; product laboratory analysis; recordkeeping; obsolescence of existing label inventories; and bottling mold changes. A cost-benefit study conducted in connection with T.D. ATF-66 also identified additional advertisement cost

with respect to ingredient disclosure. Ingredient labeling would also necessitate costs for the Government with respect to administration and enforcement of the regulations which also would be passed on to consumers and taxpayers.

D. Address Label Option

T.D. ATF-66 stated in order to minimize costs while still meeting policy objectives, producers, bottlers, or importers who elect to make ingredient lists available upon request, notify consumers of this availability, and who avoid implied label statements about ingredients, will not be required to list ingredients on the label.

The Department believes that there are serious questions as to whether the address label option would meet the objectives cited in T.D. ATF-66 either by way of providing meaningful, timely, and accurate information, or by way of significantly reducing the costs associated with the ingredient labeling.

Proposal

Upon reexamining the issue of ingredient labeling by looking at T.D. ATF-66 and T.D. ATF-94 and the rulemaking record of the earlier proposals, the Department is not convinced that the conclusions drawn in T.D. ATF-66 were justified.

Therefore, the Department proposes to rescind the ingredient labeling amendments to Parts 4, 5, and 7 set forth in T.D. ATF-66.

Public Participation

ATF requests comments from all interested parties. all comments received on or before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future action.

ATF will not recognize any material or comment as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

The Department specifically requests comments concerning the address label option, label disclosure of the use of FD&C Yellow Dye No. 5, and necessary lead time if the Department determines not to rescind the ingredient disclosure rules.

All comments received in respect to previous notices of proposed rulemaking on ingredient labeling of alcoholic beverages will be made part of the record of this proceeding, and need not be resubmitted.

During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Compliance With Executive Order 12291

It has been determined that this proposal is not a "major rule" within the meaning of Executive Order 21191 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to the initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable because this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant or incidental effects on a substantial number of small entities; or impose or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of 5 U.S.C. 604(b) of the Regulatory Flexibility Act that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 95-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

Disclosure

Copies of this notice of proposed rulemaking and of written comments will be available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

Drafting Information

Personnel in various offices of the Bureau of Alcohol, Tobacco and Firearms and the Department of the Treasury participated in the preparation of this document both in matters of substance and style.

List of Subjects

27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports labeling, Packaging and containers, Wine.

27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, labeling, Liquors, Packaging and containers.

27 CFR Part 7

Advertising, Beer, Consumer protection, Customs duties and inspection, Imports, labeling.

Authority and Issuance

Accordingly, the Director is issuing this notice under the authority contained in section 5 of the Federal Alcohol Administration Act, 49, Stat. 981, as amended 27 U.S.C. 205.

Signed: May 31, 1983.

W. T. Drake,

Acting Director.

Approved: June 10, 1983.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 83-16356 Filed 6-15-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

Surface Coal Mining and Reclamation Operations on Federal Lands Under the Permanent Program; State-Federal Cooperative Agreements; West Virginia

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is

proposing to adopt a cooperative agreement between the Department of the Interior and the State of West Virginia for the regulation of surface coal mining and reclamation operations on Federal lands in West Virginia under the permanent regulatory program. Such a cooperative agreement is provided for in the Surface Mining Control and Reclamation Act of 1977. This notice of proposed rulemaking provides additional information on the proposed terms of the cooperative agreement and other issues.

DATES: The public comment period on this proposed rule will extend until July 18, 1983. The public hearing will be held at the location shown in **"ADDRESSES,"** below, on July 11, 1983, beginning at 7:30 p.m.. Any person interested in making an oral or written presentation at the hearing must contact OSM at the address and phone number listed under **"FOR FURTHER INFORMATION CONTACT"** by July 7, 1983.

ADDRESSES: Written comments must be mailed to:

Administrative Record R&I–08, Office of Surface Mining, Room 5315–L, 1951 Constitution Avenue, NW., Washington, D.C. 20240
or hand carried to:
Office of Surface Mining, Administrative Record R&I–08, Room 5315, 1100 L Street, NW., Washington, D.C. 20005

Copies of the proposed agreement and of the related information required under 30 CFR Part 745 are available for inspection Monday through Friday, 8:30 a.m. to 4 p.m., excluding holidays, at the following addresses:

State of West Virginia, Department of Natural Resources, Room 630, Building 3, 1800 Washington Street, East, Charleston, West Virginia 25305, Telephone (304) 348–9160
Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C 20005

The public hearing will be held at the Office of Surface Mining, Charleston Field Office, 603 Morris street Charleston, West Virginia. If no person has contacted OSM by July 7, 1983, to express an interest in testifying at the hearing, the hearing will be cancelled. A notice announcing any cancellation will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: H. Leonard Richeson, Federal Lands Specialist, Branch of Regulatory Programs, Office of Surface Mining, 1951 Constitution Avenue N.W., Washington, D.C. 20240, Telephone: (202) 343–5866.

SUPPLEMENTARY INFORMATION: The preamble to the proposed rulemaking is divided into four parts as follows:

I. Procedural Matters
II. The State of West Virginia's Application
III. Summary of the Terms of the Proposed Cooperative Agreement
IV. Administrative Matters

I. Procedural Matters

A. Public Hearing

Individual testimony at the public hearing will be limited to 15 minutes. The hearings will be transcribed by a court reporter. Filing of a written statement at the time of giving oral testimony will be helpful and would facilitate the job of the court reporter. Submission of written statements in advance of the hearing would greatly assist OSM officials who will attend the hearing by providing an opportunity to consider appropriate questions which could be asked for clarification or to request more specific information from the person testifying.

B. Public Meetings

Representatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the proposed cooperative agreement. in order to schedule or attend such meetings, contact the individual listed under **"For Further Information Contact."** OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays. All such meetings will be open to the public. Notices of such meetings and where they will be held will be posted in advance in the Administrative Record Room, Room 5315, 1100 L Street, NW., Washington, D.C. 20005.

C. Contacts With State Representatives

The Department has previously announced (45 FR 58378, September 3, 1980) its intention to follow the "Guidelines for Contacts with Employees and Officials During Consideration of State Permanent Regulatory Programs" published at 44 FR 54444 (September 19, 1979), during the process of developing cooperative agreements with the States. As written, the guidelines apply only to the State program review and decision process. However, the Department believes that the guidelines should also be applied in the development of State-Federal permanent program cooperative agreements because of the close interrelationship between each cooperative agreement and the approved State program. The need to preserve the ability of the Department and the State to work together through the stages of the cooperative agreement and the right of the public to be informed and to have the opportunity to comment meaningfully on issues raised are principles applicable to permanent program cooperative agreement rulemakings.

This decision requires that minor changes in the guidelines be made to clarify their applicability to cooperative agreement rulemakings. Accordingly, revised guidelines for contacts with Departmental employees and officials during permanent program cooperative agreement rulemakings are given below. See the notice of September 19, 1979, 44 FR 54444, for a full discussion of the guidelines and supporting principles. The September 19, 1979, guidelines remain fully applicable to the State program review process.

1. Upon request the Department will meet with any member of the public through the end of the public comment period. Notices of scheduled meetings will be posted in a public place. The meetings will be open.

2. The Department will meet with State representatives or have telephone conversations with them, upon the initiative of either party, up to the point of the Secretary's decision to enter into a permanent program cooperative agreement with a State. These meetings will be open to the public unless the Department decides an executive session is appropriate. Advance notice of scheduled meetings will be posted in a public place. Notice of the executive sessions will be posted in a public place.

3. The Department will keep a summary record of all meetings and discussions, whether in person or by telephone, on a proposed cooperative agreement. This record will include a summary of the discussion and a list of all written information OSM receives. All such records along with all written communications relating to the cooperative agreement shall be made available to the public.

4. In those instances where the Department has conducted meetings or discussions with a State after the close of the public comment period, the Department will include summaries of the meetings in the record and, if necessary to assure an effective opportunity for public participation, provide an opportunity for the public to review the record of such meetings and discussions and to comment on them before a decision is made to enter into a permanent program cooperative agreement.

D. Public Comments

Written and oral comments should be as specific as possible.

Although all comments are invited, those most likely to influence decisions on the cooperative agreement will be those which are supported by sound reasons. OSM requests that five copies of written comments be submitted.

All written comments must be received by OSM by 5:00 p.m. local time on the date the comment period closes. Comments received after that hour will not necessarily be considered or included in the administrative record of this rulemaking. OSM cannot ensure that written comments received or delivered during the comment period to locations other than those specified above will be considered and included in the administrative record. Notices of meetings, summaries of all meetings and telephone conversations, all public comments received, and a transcript of the public hearing will be made available for public review in the Office of Surface Mining at the address noted above.

II. The State of West Virginia's Application

Section 523(c) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1201 *et seq.*, and the implementing regulations at 30 CFR Part 745 allow for the State and the Secretary of the Interior to enter into a permanent program cooperative agreement if the State has an approved State program for the regulation of surface coal mining operations on non-Federal and non-Indian lands. On August 26, 1981, a formal request for a permanent program cooperative agreement between the Department of the Interior and the State of West Virginia was received from the State of West Virginia. The purpose of this proposed rulemaking is to begin the rulemaking process for adopting such a cooperative agreement which would give West Virginia authority to administer its approved regulatory program on Federal lands in West Virginia.

Permanent program cooperative agreements are authorized by the first sentence of section 523(c), which provides that "[a]ny State *with an approved State program* may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State, provided the Secretary determines in writing that such State has the necessary personnel and funding to fully implement such a cooperative agreement in accordnace with the provision of this Act." 30 U.S.C. 1273(c) (emphasis added). The State of West Virginia has a State program which was conditionally approved by the Secretary and became effective upon publication in the **Federal Register** on January 21, 1981 (46 FR 5915).

The procedures for States to elect to enter into permanent program cooperative agreements are found in 30 CFR Part 745. For recent amendments of these rules see 48 FR 6912 (February 16, 1983). Section 745.11(b) of the regulations requires that certain information be submitted with a request for a permanent program cooperative agreement except to the extent that the information has previously been included in the State program. West Virginia specified in its request for a cooperative agreement that the information relating to the budget, other programs, organization, inspection and enforcement duties and staffing of the State regulatory authority (which is the Division of Reclamation, Department of Natural Resources (DNR)) appeared in Volume II, sections L, O, E, G, and I of the State program as approved on January 21, 1981. The written certification from the Attorney General required by 30 CFR 745.11(b)(3) was also included with the draft cooperative agreement. The Attorney General concluded that "no State statutory constraints exist which would limit the capability of the West Virginia Department of Natural Resources to fully comply with the requirements of 30 CFR Part 745."

III. Summary of the Terms of the Proposed Cooperative Agreement

A summary of the proposed cooperative agreement appears below. OSM emphasizes that the proposed cooperative agreement is subject to further change because of public comments and further discussion with the State of West Virginia.

Article I: Introduction, Purpose, and Responsible Administrative Agency

This article would set forth the legal authority for the cooperative agreement which is contained in section 523(c) of the Act. The purposes of the cooperative agreement are also listed along with the name of the responsible administrative agency within the State of West Virginia, which is the Department of Natural Resources, Reclamation Division (DNR). This article would also include a provision clarifying the separate role of the Forest Service in regulating mining on lands administered by it. Most of the lands which would be covered by this agreement are administered by the Forest Service and would be subject to regulation by the Forest Service. Of course, surface coal mining and reclamation operations would be subjected to regulation by the Federal Land Management Agency, if other than the Forest Service.

Article II: Effective Date

This Article provides that the cooperative agreement would be effective 30 days after publication as a final rule in the **Federal Register**. The agreement would remain in effect until terminated as provided in Article X.

Article III: Definitions

This Article would specify which definitions would apply. It states that the terms and phrases used in the cooperative agreement which are defined in 30 CFR Parts 700, 701, and 740 would be given the meanings set forth in those definitions.

Article IV: Applicability

Article IV would provide that, in accordance with the Federal lands program in 30 CFR Part 740, the laws, rules, terms and conditions of West Virginia's State program are applicable to Federal lands in West Virginia and that the agreement does not apply to operations on Federal lands containing leased-Federal coal.

The cooperative agreement would not apply to surface coal mining and reclamation operations on lands containing leased-Federal coal. Also excluded from the scope of the cooperative agreement would be the authorities and responsibilities reserved to the Secretary pursuant to the Act and 30 CFR 745.13.

When the State is acting as the regulatory authority, its appealable decisions and orders would be reviewed by the State reviewing authority, which is the Board of Reclamation. Appealable decisions and orders issued by the Department would be appealable to the Department's Office of Hearings and Appeals.

Article V: Requirements for Cooperative Agreement

This Article would mutually bind the Governor and the Secretary to the provisions of the cooperative agreement and the conditions and requirements contained in Article V. The responsible agency in the State of West Virginia for purposes of administering this cooperative agreement would be DNR, which has and must continue to have authority under State law to carry out this cooperative agreement.

Article V also would provide that the State may be reimbursed pursuant to section 705(c) of the Act upon application by DNR and if adequate funds have been appropriated to OSM

by Congress. Section 705(c) of the Act provides that a State with a cooperative agreement may receive an increase in its annual grant for the development, administration and enforcement of a State program on Federal lands by an amount which the Secretary determines is approximately equal to the amount the Federal Government would have expended to regulate surface coal mining and reclamation operations on the Federal lands within the State. See 30 U.S.C 1295(c). The reference in section 705(c) to section 523(d) is obviously a typographical error. The correct reference is section 523(c). The regulations implementing section 705(c) appear at 30 CFR 735.16 through 735.26. If adequate funds have not been appropriated, OSM and DNR will meet to decide on appropriate measures to insure that mining operations are regulated in accordance with the Program. Funds provided to the State are to be adjusted in accordance with Office of Management and Budget (OMB) Circular A–102 (Uniform Requirements For Assistance To State And Local Governments), Attachment E (Program Income).

Paragraph C of Article V would require the State to make annual reports to OSM with respect to compliance with this agreement. Paragraph C would also provide for a general exchange of information developed under the agreement, unless such an exchange is prohibited by Federal law.

Paragraph D of Article V would require the Division of Surface Mining to maintain the necessary personnel to fully implement this agreement.

Paragraph E of Article V would require the Division of Surface Mining to ensure itself of access to the necessary equipment, laboratories, and other facilities to perform inspections and other analyses required to carry out type requirements of the agreement.

Paragraph F of Article V would provide that the amount of fees charged to permit applicants be determined in accordance with West Virginia's approved State program. These fees would be retained by the State but would offset any Federal grant made to the State under 30 CFR Part 735 and paragraph B of Article V.

Article VI: Review of a Permit Application Package

Under this Article, an applicant would be required by DNR and the Department to submit a permit application package in an appropriate number of copies to DNR. DNR would furnish OSM a copy if OSM so requests. The term "permit application package" used in the cooperative agreement beginning in this Article, is a new term adopted by OSM in revising the Federal lands program (48 FR 6912) on February 16, 1983.

OSM adopted the term because there are requirements for mining on Federal lands that are in addition to those required by a permit application under the approved State program for non-Federal lands. For example, operations on Federal lands may be subject to requirements of the Federal Land Management Agency under Federal laws other than the Act. The package concept allows for any additional information to be submitted along with the application required by the State program.

The permit application package is to be in the form required by DNR and contain any supplemental information which may be required by the Federal land mangement agency. At a minimum, the permit application package must include the information necessary for DNR to make a determination of compliance with the State program and with any conditions or special requirements imposed by the Federal land management agency.

Paragraphs 1 through 5 of Article VI.B would describe the procedures for the review and analysis of permit application packages on Federal lands. The proposed cooperative agreement identifies DNR as responsible for the analysis, review, and approval or disapproval of the permit application package on Federal lands in West Virginia except those containing leased-Federal coal. In assuming responsibility for review, analysis, and approval or disapproval of permit applications, DNR would also be the primary point of contact for operators on behalf of both the State and the Department. Upon receipt of a permit application package, DNR would transmit a copy of the complete permit application package to the Federal land management agency with a request for review pursuant to 30 CFR 740.13(c)(4) DNR would be responsible for obtaining, in a timely manner, the views of any other Federal agencies with jurisdiction or responsibility over Federal lands affected by a permit application package on Federal lands in West Virginia.

OSM would provide technical assistance when requested if resources permit. OSM would also be responsible for determinations of compatibility and valid existing rights under 30 CFR Part 761 relating to the permit application package and for ensuring that any information OSM receives from an applicant is promptly sent to DNR. OSM would have access to DNR files for mines on Federal lands. The Secretary would reserve the right to act independently of DNR in order to carry out responsibilities under laws other than the Act. A copy of all resulting correspondence with the applicant that may have a bearing on decisions regarding the permit application package would have to be sent to the State.

DNR would prepare the required technical analysis and written findings on the permit application package. A draft of this document would be sent to the Federal land management agency, if requested. Any permit issued by DNR would include any terms or conditions imposed by the Federal land management agency. DNR would send notice to the applicant, to the Federal land management agency, and to OSM of the decision with a statement of findings and conclusions in support of the decisions.

Article VII: Inspections

This Article would specify that DNR must conduct inspections on Federal lands covered by the cooperative agreement and prepare and file inspection reports in accordance with its approved Program.

Administrative provisions of this Article include designation of DNR as the primary point of contact with the operator and a provision for reasonable notice to the State prior to a Federal inspection. However, this Article would preserve the right of the Department to conduct inspections of surface coal mining and reclamation operations on Federal lands without prior notice to DNR for the purposes of evaluating the manner in which the cooperative agreement is being carried out and insuring that performance and reclamation standards are being met.

The right of Federal and State agencies to conduct inspections for purposes outside the scope of the proposed cooperative agreement would not be affected. In particular, this Article would preserve the Department's obligation and authority to conduct inspections pursuant to 30 CFR Part 842.

This Article would also provide that personnel of the State and the Department would be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VIII: Enforcement

Proposed Article VIII would set forth the enforcement obligations and authorities of OSM and DNR. DNR would have primary enforcement authority on Federal lands in accordance with the requirements of the

cooperative agreement and the approved State program.

This Article also would specify that the parties will consult prior to revoking or suspending a permit. The Secretary's obligation to enforce violations of Federal law other than the Act would be preserved as would OSM's authority to take enforcement action to comply with Parts 843 and 845. In taking such action, OSM would apply the performance standards contained in the approved State program, but would use the Federal procedures and penalty system.

Article IX: Bonds

Under this Article, DNR would require each operator to submit a single performance bond to meet Federal and State requirements. The bond would be payable to the State and the United States. DNR would be required to obtain the consent of the Federal land management agency prior to releasing an operator's performance bond.

Paragraph B of Article IX obligates the State of West Virginia to use the West Virginia Special Reclamation Fund to complete reclamation of any surface coal mining and reclamation operation on Federal land in accordance with the approved State program and permit where there is a forfeiture of the performance bond and where the cost of reclamation exceeds the bond amount. This provision would be included because the approved State program requires only that an operator submit a minimum bond which in some cases, does not cover the full cost of reclamation. When a forfeiture occurs, the State supplements the operator's bond with funds from the West Virginia Special Reclamation Fund to complete reclamation. Thus, this provision would ensure that, similar to operations on non-Federal lands, the regulatory authority would use the West Virginia Special Reclamation Fund for reclamation activities on Federal lands.

OSM invites comments on the adequacy of this provision to ensure that reclamation occurs on Federal lands in the event of bond forfeiture.

Article X: Termination of Cooperative Agreement

Article X would provide for the termination of the cooperative agreement in accordance with 30 CFR 745.15.

Article XI: Reinstatement of Cooperative Agreement

Article XI would provide for reinstatement of the cooperative agreement in accordance with 30 CFR 745.16.

Article XII: Amendment of Cooperative Agreement

Article XII would provide that the cooperative agreement may be amended by mutual agreement of the Governor and Secretary in accordance with 30 CFR 745.11.

Article XIII: Changes in State or Federal Standards

This Article would recognize that the Secretary or the State may, from time to time, promulgate new or revised permitting or performance standards, or administrative and enforcement procedures. Such changes would be made in accordance with 30 CFR Part 732 for changes to the State program and sections 501 and 523 of the Act for changes to the permanent regulatory program and the Federal lands program.

Article XIV: Changes in Personnel and Organization

As required by 30 CFR 745.12, this Article would require the State and the Department to advise each other of changes in the organization, structure, functions, duties and funds of the offices, departments, divisions, and persons within their organizations which could affect administration or enforcement of the cooperative agreement.

Article XV: Reservation of Rights

Article XV would recognize that the Act, 30 CFR 745.13, and other authorities prohibit the Secretary from delegating certain authorities to the State. Article XV would state that the cooperative agreement shall not be construed as waiving or preventing the assertion of any rights not expressly addressed in the cooperative agreement or available to the parties.

IV. Administrative Matters

1. *E.O. 12291 and Regulatory Flexibility Act.* The Department has determined that this is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because promulgation of a State-Federal cooperative agreement between the Department of the Interior and the State of West Virginia will not result in a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies, or geographic regions. The cooperative agreement should result in cost savings to the mining industry and lessen the burden of regulatory compliance. Further, the cooperative agreement will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Department certifies that this document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 605(b). This certification was made based on an assessment of the probable impact of the cooperative agreement on small entities within the State. It was concluded that the effect of the cooperative agreement would be to reduce the cost and burden of complying with the Federal lands program found in 30 CFR Chapter VII, Subchapter D. The above findings were made by the Director, OSM and approved by the Assistant Secretary for Energy and Minerals. A copy is on file in the OSM Administrative Record Room, Room 5315, 1100 L Street, Washington, D.C. 20005.

2. *Recordkeeping and Reporting Requirements.* There are recordkeeping and reporting requirements in the proposed cooperative agreement which are the same as and required by the permanent program regulations. Those regulations required clearance from the Office of Management and Budget under 44 U.S.C. 3507 and were assigned the following clearance numbers:

Location of requirement	OMB clearance No.
Article IV.F (Required by 30 CFR Part 735)	1029-0013
Article V (Required by 30 CFR Part 740)	1029-0026
Article VI.A (Required by 30 CFR Part 840)	1029-0051
Article IX.A (Required by 30 CFR Part 740)	1029-0026

3. *National Environmental Policy Act.* Proceedings relating to adoption of a permanent program cooperative agreement are part of the Secretary's implementation of the Federal lands program pursuant to section 523 of the Act. Such proceedings are, therefore, exempt under section 702(d) of the Act from the requirement to prepare a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. *Indexing Requirements.*

List of Subjects in 30 CFR Part 948

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

For the reasons set forth herein, it is proposed to amend 30 CFR Part 948.

Dated: June 10, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

PART 948—[AMENDED]

1. Section 948.30 is added to read as follows:

§ 948.30 State-Federal Cooperative Agreement.

Cooperative Agreement

This is a cooperative agreement (Agreement) between the State of West Virginia (State) acting by and through the Governor, and the United States Department of the Interior (Department), acting by and through the Secretary of the Interior (Secretary).

Article I: Introduction, Purpose and Responsible Administrative Agency

A. *Authority:* This Agreement is authorized by section 523(c) of the Surface Mining Control and Reclamation Act (the Federal Act), 30 U.S.C. 1273(c), which allows a State with a permanent regulatory program approved under 30 U.S.C. 1253 to elect to enter into an agreement for the regulation and control of surface coal mining and reclamation operations on Federal lands within that State. This Agreement provides for such regulation within West Virginia consistent with the State and Federal Acts, the approved State program, and the Federal Lands Program (section 523(a) of the Federal Act and 30 CFR Parts 740–746).

B. *Purpose:* The purpose of the Agreement is to (1) foster State-Federal cooperation in the regulation of surface coal mining and reclamation operations on Federal lands; (2) eliminate unnecessary intergovernmental overlap and duplication; and (3) provide uniform and effective application of the West Virginia State Program (State Program) on all lands except those containing leased-Federal coal in West Virginia.

C. *Responsible Administrative Agencies:* The Department of Natural Resources, Reclamation Division (DNR) is responsible for administering this Agreement on behalf of the Governor on Federal lands throughout the State. The Office of Surface Mining Reclamation and Enforcement (OSM) is responsible for administering this Agreement on behalf of the Secretary, in accordance with the regulations in 30 CFR Chapter VII. The Federal lands in West Virginia covered by this Agreement are predominantly adminsitered by the United States Department of Agriculture, Forest Service, and include all or parts of the Monongahela National Forest, the Jefferson National Forest, and the George Washington National Forest. It is understood by all parties that the Forest Service or the applicable Federal agency will continue to govern mining operations on lands under its jurisdiction pursuant to its laws, regulations, agreements and restrictions. These requirements are in addition to the requirements discussed in this Agreement.

Article II: Effective Date

After it has been signed by the Governor and the Secretary, the Agreement shall take effect 30 days after publication in the Federal Register as a final rule. This Agreement shall remain in effect until terminated as approved in Article X.

Article III: Definitions

Terms and phrases used in this Agreement which are defined in 30 CFR Parts 700, 701 and 740 shall be given the meanings set forth in said definitions.

Article IV: Applicability

A. *Applicability to Federal Lands:* In accordance with the Federal Lands Program in 30 CFR Part 740, this Agreement makes the laws, rules, terms, and conditions of the State Program (as conditionally approved effective January 21, 1981, 30 CFR Part 948, or as hereinafter amended in accordance with 30 CFR 732.17) applicable to Federal lands within West Virginia. This Agreement does not apply to operations on Federal lands containing leased-Federal coal.

B. *Filing of Appeals:* Orders and decisions issued by DNR in accordance with the State Program that are appealable shall be appealed to the State of West Virginia's Board of Reclamation. Orders and decisions issued by the Department that are appealable shall be appealed to the Department of the Interior's Office of Hearings and Appeals.

Article V: Requirements for Cooperative Agreement

The Governor and the Secretary affirm that they will comply with all of the provisions of this Agreement and will continue to meet all the conditions and requirements specified in this Article.

A. *Authority of State Agency:* DNR has and shall continue to have authority under State law to carry out this Agreement.

B. *Funds:* Upon application by the DNR and subject to the availability of appropriations, the Department shall provide the State with the funds to defray the costs associated with carrying out responsibilities under this Agreement as provided in section 705(c) of the Act and 30 CFR 735.16. If sufficient funds have not been appropriated to OSM, OSM and DNR shall promptly meet to decide on measures that will insure that mining operations are regulated in accordance with the State Program. If agreement cannot be reached, then either party may terminate the Agreement in accordance with Article X.

Funds provided to the State shall be adjusted in accordance with Office of Management and Budget Circular A–102, Attachment E.

C. *Reports and Records:* DNR shall make annual reports to OSM pursuant to 30 CFR 745.12(d), containing information respecting its compliance with the terms of this Agreement. DNR and OSM shall exchange, upon request, information developed under this Agreement except where prohibited by Federal law. OMS shall provide DNR with a copy of any final evaluation report concerning State administration and enforcement of this Agreement.

D. *Personnel:* DNR shall provide the necessary personnel to fully implement this Agreement in accordance with the provisions of the Federal and State Acts and the State Program.

E. *Equipment and Laboratories:* DNR shall assure itself access to equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed and which are necessary to carry out the requirements of this Agreement.

F. *Permit Application Fees:* The amount of the fee accompanying an application for a permit shall be determined in accordance with Section 20–6–9(f) of the Code of West Virginia (1931), as amended. All permit and civil penalty fees collected from operations on Federal lands shall be retained by the State and deposited with the State Treasurer. The financial status report submitted pursuant to 30 CFR 735.28 shall include a report of the amount of permit application fees collected and attributable to Federal lands during the prior Federal fiscal year. This amount shall be disposed of in accordance with Federal regulations, and OMB Circular No. A–102, Attachment E.

Article VI: Review of a Permit Application Package

A. *Contents of Permit Application Package:* DNR and the Secretary shall require an operator proposing to conduct surface coal mining and reclamation operations on Federal lands covered by this cooperative agreement to submit a permit application package in an appropriate number of copies to DNR. DNR will furnish OSM a copy if OSM so requests. The permit application package shall be in the form required by DNR and include any supplemental information required by the Federal land management agency. The permit application package shall include the information required by, or necessary for, DNR to make a determination of compliance under 30 CFR 740.4(c)(2) with any conditions or special requirements imposed by the Federal land management agency and with the requirements of the State Program, including:

1. *W. Va. Code,* Section 20–6–1 *et seq.*, as amended;

2. Applicable regulations of the West Virginia Surface Mining Reclamation Regulations, 20–6–Series VIII (1981);

3. Requirements of the West Virginia DNR Reclamation Division "Technical Handbook of Standards and Specifications for Mining Operations (1981)".

B. *Review Procedures:* 1. DNR shall assume primary responsibility for the analysis, review, and approval or disapproval of permit application packages required by 30 CFR 740.13 for surface coal mining on Federal lands in West Virginia containing non-leased Federal coal. DNR shall be the primary point of contact for operators regarding decisions on the permit application package and will be responsible for informing the applicant of all joint State-Federal or Federal determinations.

2. Upon receipt of a permit application package that involves surface coal mining and reclamation operations on Federal lands covered by this agreement, DNR shall (1) transmit a copy of the complete permit application package to the Federal land

management agency with a request for review pursuant to 30 CFR 740.13(c)(4), and (2) provide OSM with relevant information to allow OSM to determine whether or not a proposed surface coal mining and reclamation operation is prohibited or limited by the requirements of section 522(e) of the Act (30 U.S.C. 1272(e)) and 30 CFR Parts 760–762 with respect to Federal areas designated by Congress as unsuitable for mining. DNR shall be responsible for obtaining, in a timely manner, the views and determinations of any other federal agencies with jurisdiction or responsibility over Federal lands affected by a permit application package in West Virginia.

3. OSM will provide technical assistance when requested if available resources allow and will process requests for determinations of compatibility and valid existing rights under 30 CFR Part 761 relating to the permit application package. OSM will be responsible for ensuring that any information OSM receives from an applicant is promptly sent to DNR. OSM shall have access to DNR files concerning mines on Federal lands. The Secretary reserves the right to act independently of DNR to carry out his responsibilities under laws other than the Federal Act. A copy of all resulting correspondence with the applicant that may have a bearing on decisions regarding the permit application package shall be sent to the State.

4. DNR shall prepare the required technical analysis and written findings on the permit application package. If requested by the Federal land management agency, a draft of these documents shall be sent to it for review and comment.

5. The permit issued by DNR shall incorporate any terms or conditions imposed by the Federal land management agency, including conditions relating to post-mining land use, and shall condition the initiation of surface coal mining operations on compliance with the requirements of the Federal land management agency. After DNR issues the decision on the permit application package, it shall send a notice to the applicant, the Federal land management agency, and OSM with a statement of findings and conclusions in support of the action.

Article VII: Inspections

DNR shall conduct inspections on Federal lands covered by this agreement and prepare and file inspection reports in accordance with the approved Program.

A. *Inspection Reports:* DNR shall, within 15 days of conducting any inspection on Federal lands, file with OSM an inspection report describing (1) the general conditions of the lands under the permit; (2) whether the operator is complying with applicable performance and reclamation requirements; and (3) the manner in which specific operations are being conducted.

B. *DNR Authority:* DNR shall be the point of contact and primary inspection authority in dealing with the operator concerning operations and compliance with the requirements covered by this Agreement, except as described in this Agreement and the Secretary's regulations. Nothing in this Agreement shall prevent inspections by authorized Federal or State agencies for purposes other than those covered by this Agreement.

C. *OSM Authority:* For the purpose of evaluating the manner in which this Agreement is being carried out and to insure that performance and reclamation standards are being met, OSM may conduct inspections of surface coal mining and reclamation operations on Federal lands. In order to facilitate a joint Federal-State inspection, OSM will ordinarily give DNR notice of its intent to conduct an inspection. When OSM is responding to a citizen complaint of an imminent danger to the health or safety of the public or of a significant, imminent environmental harm pursuant to 30 CFR 842.11(b)(1)(i), it will contact DNR if circumstances and time allow, prior to the Federal inspection. OSM may conduct any inspections necessary to comply with 30 CFR Part 842. If an inspection is made without DNR inspectors, OSM shall provide DNR with a copy of the inspection report within 15 days after inspection. The Secretary reserves the right to conduct inspections without prior notice to DNR to carry out his responsibilities under the Act.

D. *Witness Availability:* Personnel of the State and Interior shall be mutually available to serve as witnesses in enforcement actions taken by either party.

Article VIII: Enforcement

A. *DNR Enforcement:* DNR shall have primary enforcement authority on Federal lands covered by this agreement in accordance with the State Program and this Agreement. During any joint inspection by OSM and DNR, DNR shall take appropriate enforcement action, including issuance of orders of cessation and notices of violation.

B. *Notification:* DNR shall promptly notify the Federal land management agency of all violations of applicable laws, regulations, orders, and approved permits subject to this Agreement and of all actions taken with respect to such violations.

C. *Secretary's Authority:* (1) This Agreement does not affect or limit the Secretary's authority to enforce provisions of laws other than the Act. (2) During an inspection made solely by OSM or any joint inspection where DNR and OSM fail to agree regarding the propriety of any particular enforcement action, OSM may take any enforcement action necessary to comply with 30 CFR Parts 843 and 845. Such enforcement action shall be based on the performance standards included in the regulations of the approved Program and shall be taken using the procedures and penalty system contained in 30 CFR Part 843 and 845.

Article IX: Bonds

A. *Performance Bond:* DNR shall require all operators on Federal lands covered by this agreement to submit a performance bond to cover the operator's responsibilities under the Federal Act and the State Program, payable to both the United States and West Virginia. The performance bond shall be of sufficient amount to comply with the requirements of both State and Federal law, and release of the performance bond shall be conditioned upon compliance with all applicable requirements. DNR may release the operator from any obligation under the performance bond with the concurrence of the Federal land management agency. If this Agreement is terminated, (1) the bond will revert to being payable only to the United States to the extent that Federal lands are involved, and (2) the bond will be delivered by DNR to OSM if only Federal lands are covered by the bond.

B. *Forfeiture:* In the event of forfeiture by an operator of the performance bond for surface coal mining and reclamation operations on Federal lands covered by this agreement, the State shall use funds received from bond forfeiture and, where necessary, funds from the West Virginia Special Reclamation Fund (pursuant to Section 20–6–12–(h) of the West Virginia Surface Coal Mining and Reclamation Act) to ensure that reclamation is accomplished in accordance with the State program and the approved permit.

Article X: Termination of Cooperative Agreement

This Agreement may be terminated by the Governor or the Secretary under the provisions of 30 CFR 745.15.

Article XI: Reinstatement of Cooperative Agreement

If this Agreement has been terminated in whole or in part, it may be reinstated under the provisions of 30 CFR 745.16.

Article XII: Amendment of Cooperative Agreement

This Agreement may be amended by mutual agreement of the Governor and the Secretary in accordance with 30 CFR 745.14.

Article XIII: Changes in State or Federal Standards

A. *Time for Changes:* The Secretary or the State may from time to time promulgate new Federal or State regulations, including new or revised permitting or performance standards, or administrative and enforcement procedures. OSM and DNR shall immediately inform each other of any final changes in their respective laws or regulations as provided in 30 CFR Part 732. Each party shall, if it is determined to be necessary to keep this Agreement in force, change or revise its regulations and request necessary legislative action. Such changes shall be made under the procedures of 30 CFR Part 732 for changes to the Program and section 501 of the Federal Act for changes to the Federal lands program.

B. *Copies of Changes:* The State and OSM shall provide each other with copies of any changes to their respective laws, rules, regulations, and standards pertaining to the enforcement and administration of this Agreement.

Article XIV: Changes in Personnel and Organization

DNR and the Secretary shall, consistent with 30 CFR Part 745, advise each other of changes in the organization, structure, functions, duties, and funds of the offices, departments, divisions, and persons within their organizations which could affect administration and enforcement of this

Agreement. Each shall promptly advise the other in writing of changes of key personnel, including the head of a department or division, or changes in the functions or duties of persons occupying the principal offices within the structure of the program. DNR and OSM shall advise each other in writing of changes in the location of offices, addresses, telephone numbers, and changes in the names, location and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible.

Article XV: Reservation of Rights

In accordance with 30 CFR 745.13, this Agreement shall not be construed as waiving or preventing the assertion of any rights that have not been expressly addressed in this Agreement that the State or the Secretary may have under other laws or regulations.

Approved: _____
Governor of West Virginia _____
Date _____
Secretary of the Interior _____
Date _____

[FR Doc. 83-16344 Filed 6-16-83; 8:45 am]
BILLING CODE 4310-05-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 11

[Docket No. 11-C]

Collection of Claims by the Government Under the Debt Collection Acts

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This rule sets forth procedures for collection of debts due the United States under program administered by FEMA and also establishes standards for compromise and waiver of such debts. The regulation is needed to implement the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365) and previously existing Federal claims collection statutes (31 U.S.C. 3711 *et seq.*).

DATE: Comments are due August 16, 1983.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Counsel, Room 835, 500 C Street SW., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: George W. Watson, Associate General Counsel, Telephone (202) 287-0376.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 gave Federal agencies new powers in collection of debts due the Federal Government and also set up procedural safeguards for debtors to ensure the accuracy of the amounts claimed to be due. The proposed rule amends the previously existing regulation for collection of claims by FEMA. The proposed rule also provides for making periodic interagency reports required by statute.

An environmental assessment is not necessary as this rule is procedural and has no effect on the quality of the human environment. The rule is not a major rule as defined in Section 1(b) of Executive Order 12291, nor will it have a significant economic impact on a substantial number of small entities. Hence, regulatory impact analyses are not necessary. Section 11.36 and 11.52-11.54 contain collection of information requirements which have been submitted to the Office of Management and Budget for review under Section 3504(h) of the Paper Work Reduction Act. Comments on this information collection should be submitted to the Office of Information and Regulatory Affairs, OMB, Room 3201, New Executive Office Building, Washington, D.C. 20503. Attention, FEMA Desk Officer.

List of Subjects in 44 CFR Part 11

Administrative practices and procedures, Claims.

Accordingly, Title 44 CFR Chapter I, Subpart C is proposed to be amended by revising the Table of Contents for Subpart C and by revising Subpart C to read as follows:

PART 11—CLAIMS

* * * * *

Subpart C—Collection of Claims by the Government Under the Debt Collection Act of 1982

Sec.

11.30 Scope of Regulations.
11.31 Adoption of joint standards.
11.32 Subdivision and joining of claims.
11.33 Authority of offices to attempt collection of claims.
11.34 Referral of claims to the Comptroller, Federal Emergency Management Agency.
11.35 Authority of offices to compromise claims or suspend or terminate collection action.
11.36 Claims files.
11.37 Quarterly report of collection action.
11.38 Annual reports to the Director, Office of Management and Budget and the Secretary of the Treasury.
11.39 Accounting control.
11.40 Record Retention.
11.41 Suspension or revocation of eligibility.
11.42 Demand for payment of claims.
11.43 Collection from non-Government entities by administrative offset.
11.44 Collection of claims against Federal agencies or State or local government by administrative offset.
11.45 Collection by salary offset.
11.46 Liquidation of Collateral.
11.47 Collection in installments.
11.48 Interest and penalties.
11.49 Omission not a defense.
11.50 Standards for compromise of claims.
11.51 Standards for suspension or termination or collection action.
11.52 Referral of delinquent debtors to consumer reporting agencies.
11.53 Securing debtor addresses from the Department of Treasury.
11.54 Contracts with debt collection agencies.
11.55 Referral to GAO or Justice Department.
11.56 Analysis of costs.
11.57 Automation.
11.58 Prevention of overpayments, delinquencies and defaults.
11.59 Office of General Counsel.
11.60 Sale of Debts due The United States arising under programs administered by the Agency.

Authority: 31 U.S.C. 3711 et seq.

§ 11.30 Scope of regulations.

(a) *Scope.* This regulation implements policies and procedures used by the Director of the Federal Emergency Management Agency (the Agency or FEMA) to effectuate collections under the Debt Collection Act of 1982 (31 U.S.C. 3711 *et seq.*) (the Act). The Act requires the Director or his designee to: (1) Attempt collection of all claims of the United States for money or property arising out of activities of the Agency and (2) authorizes the Director or his designee, for claims not exceeding $20,000 exclusive of interest, to compromise such claims or to suspend or terminate collection action where it appears that no person is liable on such claim or has the present or prospective financial ability to pay a significant sum thereon or that the cost of collecting such claim is likely to exceed the amount of recovery.

(b) *Definitions.* For purposes of this subpart, "office" means one of the following: (1) Training & Fire Programs Directorate (2) Emergency Operations (3) Federal Insurance Administration, (4) National Preparedness Programs Directorate (5) State & Local Programs & Support Directorate, (6) Resource Management & Administration Directorate, (7) Office of Regional Operations, and (8) Office of Comptroller.

§ 11.31 Adoption of joint standards.

All administrative actions to collect claims arising out of activities of the Agency shall be performed in accordance with the applicable standards prescribed either in 4 CFR Parts 101 through 105 or any standards promulgated jointly by the Attorney General and the Comptroller General. Such standards are adopted as a part of this subpart and are supplemented in

this subpart. Additional guidance will be found in the GAO Policy & Procedures Manual for Guidance of Federal Agencies and in the Treasury Fiscal Requirements Manual.

§ 11.32 Subdivision and joining of claims.

(a) A debtor's liability arising from a particular transaction or contract shall be considered as a single claim in determining whether the claim is one not exceeding $20,000 exclusive of interest for the purpose of compromise or termination of collection action. Such a claim may not be subdivided to avoid the monetary ceiling established by the Act.

(b) Joining of two or more single claims in a demand upon a particular debtor for payment totaling more than $20,000 does not preclude compromise or termination of collection action with respect to any one of such claims that does not exceed $20,000 exclusive of interest.

§ 11.33 Authority of offices to attempt collection of claims.

The head of each office shall designate a claims collection officer who shall attempt to collect in full all claims of the Agency for money or property arising out of the activities of such office. Each claims collection officer shall establish and currently maintain a file with regard to each claim for which collection activities are undertaken. Insofar as it is feasible, claims collection personnel shall have personal interviews or telephone contact with the debtor.

§ 11.34 Referral of claims to the Comptroller, Federal Emergency Management Agency.

(a) Authority of the Comptroller, Federal Emergency Management Agency.

(1) The Comptroller, Federal Emergency Management Agency, is designated as the Agency Claims Officer and shall exercise the powers and perform the duties of the Director to compromise, or to suspend or terminate collection action on all Agency claims not exceeding $20,000 exclusive of interest, except as provided in § 11.35 and paragraph (b) of this section. In addition, the Comptroller is delegated all authority which may be exercised by the Director, Federal Emergency Management Agency, in relation to:

(i) Disclosure to a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

(ii) Instituting salary offset procedures in accordance with 5 U.S.C. 5514(a).

(iii) Instituting administrative offset procedures in accordance with 31 U.S.C. 3716.

(iv) Charging of interest and penalties in accordance with 31 U.S.C. 3717.

(v) Entering into contracts for collection of claims in accordance with 31 U.S.C. 3718, except that the execution and administration of such contracts is delegated to Federal Emergency Management Agency contracting officers appointed under provisions of 41 CFR subpart 1–1.4.

(vi) Prescribe claims collection procedures and manage claims collection activities within the Agency.

(2) When initial attempts at collection by the office originating such claim have not been fully successful, the claim file shall be forwarded to the Agency Claims Officer for further administrative collection procedures. Claims shall be referred to the Agency Claims Officer well within the applicable statute of limitations (28 U.S.C. 2415 and 2416).

(b) *Exclusions.* There shall be no compromised or terminated collection action with respect to any claim: (1) As to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim; (2) based in whole or in part on conduct in violation of the anti-trust laws; (3) based on tax statutes; or (4) arising from an exception made by the General Accounting Office in the account of an accountable officer. Such claim shall be promptly referred to the Justice Department, or GAO, as appropriate, after the Agency Claims Officer has consulted with the Inspector General and the Office of General Counsel.

§ 11.35 Authority of offices to compromise claims or suspend or terminate collection action.

Where it appears that the cost of collecting a claim of less than $600 will exceed the amount of recovery, the claims collection officer is authorized to compromise the claim or to terminate collection action.

§ 11.36 Claims files.

Each claims collection officer is responsible for obtaining current credit data about each person against whom a claim is pending in his office. The files shall be kept up-to-date by the Agency Claims Officer for claims referred to the Agency Claims Officer for collection. Such credit data may take the form of: (a) A commercial credit report, showing the debtor's assets and liabilities and his income and expenses, (b) the individual debtor's own financial statement, executed under penalty of perjury, reflecting his assets and liabilities and his income and expenses, or (c) an audited balance sheet of a corporate debtor. The file should also contain a checklist or brief summary of action taken to collect or compromise a claim. All claims files relating to claims against individuals are to be safeguarded in accordance with 5 U.S.C. 552a, popularly known as the "Privacy Act of 1974;" 31 U.S.C. 3711 *et seq.*, popularly known as the "Debt Collection Act of 1982;" 44 CFR Part 6 and this subpart.

§ 11.37 Quarterly report of collection action.

The Agency Claims Officer shall make a quarterly report to the Director and to all offices that have referred claims for collection. The report should contain the following information as a minimum:

(a) All outstanding claims referred to the Agency Claims Officer for administrative collection, including the name and address of the debtor, the amount of the claim, the date the claim accrued, the basis of the claim, the office referring the claim, and the current program of collection activities.

(b) All claims referred to the Office of General Counsel for legal guidance.

(c) All claims compromised or on which collection has been suspended or terminated or referred to the General Accounting Office of the Department of Justice for further collection action during the month. The collection action taken and the basis for the action should be indicated.

(d) All claims referred to the Department of Justice under § 11.55 of this part.

(e) Claims returned to this Agency by the Justice Department for further collection action because handling by the Department of Justice was not warranted.

§ 11.38 Annual reports to the Director, Office of Management and Budget, and the Secretary of the Treasury.

(a) The Agency Claims Officer shall gather data on loans, accounts receivable, and claims which are required by 31 U.S.C. 3719 and shall transmit them to the Director, Federal Emergency Management Agency. Such data shall include:

(1) The total amount of loans and accounts receivable owed to the Agency and when the funds owed to the Agency are due to be repaid;

(2) The total amount of receivables and number of claims that are at least thirty days past due;

(3) Total amount written off as uncollectable, actual, and allowed for;

(4) The rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(5) The total number of claims and total amount collected;

(6) The number of claims and the total amount of claims referred to the Department of Justice for settlement or collection and the total number of claims and the total amount of claims settled or collected by that Department;

(7) For each program or activity administered by the Agency, the data described in paragraphs (a)(1) through (6) of this section; and

(8) Such other data as the Director, Office of Management and Budget, shall prescribe by regulations issued under authority of 31 U.S.C. 3719.

(b) Data described in paragraph (a) of this section shall be collected on a calendar year basis and transmitted to the Director, Federal Emergency Management Agency not later than the end of January of the year following the year for which the data described in paragraph (a) of this section, were collected. The Director, Federal Emergency Management Agency, shall report these data to the Secretary of the Treasury and the Director, Office of Management and Budget in accordance with 31 U.S.C. 3719. If the Secretary of the Treasury and the Director, Office of Management and Budget prescribe, by regulation, a different annual reporting cycle, the Agency's reporting cycle, described in the first sentence of this subsection shall be changed to conform with the cycle prescribed by the Department of the Treasury and Office of Management and Budget regulation.

§ 11.39 Accounting control.

Each office shall process all claims collections through the Agency Claims Officer and report the collection, compromise, suspension, and termination of all claims to that Officer for recording.

§ 11.40 Record retention.

The file of each claim on which administrative collection action has been completed shall be retained by the appropriate officer not less than 1 year after the applicable statute of limitations has run.

§ 11.41 Suspension or revocation of eligibility.

(a) Where a contractor, grantee, or other participant in programs sponsored by the Agency fails to pay his debts to the Agency within a reasonable time after demand, the fact shall be reported by the Agency Claims Officer to the Inspector General and to the Acquisition Management Division, which shall place such defaulting participant's name on the Agency's list of debarred, suspended and ineligible contractors and grantees The participant will be so advised.

(b) The failure of any surety to honor its obligations in accordance with 6 U.S.C. 11 is to be reported at once to the Agency Claims Officer, who shall so advise the Treasury Department. That Department will notify this Agency when a surety's certificate of authority to do business with the Government has been revoked or forfeited.

§ 11.42 Demand for payment of claims.

(a) *Initial demand.* An initial demand shall be made in writing and sent by certified mail, return receipt requested, to the debtor identifying the claim, and advising that the full amount due should be paid by a specified due date, not less than 30 days for mailing of the demand. If the debtor is other than a State or local government or an agency of the United States, the initial demand notice shall also advise the debtor that interest, calculated at rates provided by 31 U.S.C. 3717(a), shall be assessed if the claim is not paid in full by the due date. Interest shall be charged on the outstanding balance due at the rate prescribed by the Secretary of the Treasury in accordance with 31 U.S.C. 3717(a), beginning on the date that the notice was mailed to the debtor. The debtor shall also be advised that if any portion of the debt remains unpaid 90 days after the due date, then additional penalties, prescribed in 31 U.S.C. 3717(e)(2) of 6 per centum per annum shall be charged on the unpaid balance.

(b) *Subsequent demands.* If the debt is not paid by the due date or if a repayment program, acceptable to the Agency Claims Officer, has not been arranged with the debtor, then an initial demand shall be made followed by two progressively stronger written demands at not more than 30 day intervals, will be made unless a response to the initial or subsequent demands indicates that further demands would be futile and that the debtor's response does not require rebuttal.

(c) *Claims arising from contracts executed on or before October 25, 1982.* If the claim arises from a contract executed before October 25, 1982, then the initial and subsequent demands shall mention nothing about the imposition of penalties or interest, prior to rendering of judgment by a court of competent jurisdiction.

(d) *Waiver of subsequent written Demands.* If there is valid reason, the sending of second and third demand letters may be waived. Such reasons may include, but are not to be limited to, statute of limitations being about to run.

§ 11.43 Collection from non-Government entities by administrative offset.

(a) *General.* The Claims Collection Officer may effectuate collection of debts owed by persons or entities, other than Federal agencies or State or local governments, by means of offsets against monies due from the United States under provisions of 31 U.S.C. 954 and the procedures set forth below. The procedures, prescribed by this subsection, shall not be used if the debtor has executed a written agreement, satisfactory to the Agency Claims Officer, for the payment of the debt so long as the debtor adheres to the provisions of the agreement. Before utilizing the procedures of this section, the Agency Claims Officer, or his designee, shall examine the debt to see whether the likelihood of collecting such a debt and the best interests of the United States justify the use of administrative offset. If the debt is over 6 years old but is not 10 years old, the Agency Claims Officer shall examine the debt and decide whether utilizing these procedures is cost effective. Further, administrative offset procedures shall not be used on debts over six years after they arise unless the facts material to the debt were not known to the Government and could not have been reasonably discovered by the officials responsible for collecting the debt.

(b) *Written notice.* After the Agency Claims Officer or his designee has examined the debt under procedures set forth in paragraph (a) of this section, a notice shall be sent by certified mail, return receipt requested, to the debtor advising him of:

(1) Nature and amount of the debt determined by the Agency to be due, and of intention to collect by administrative offset,

(2) Rights available under this section,

(3) Opportunity to inspect and copy the records relating to the debt,

(4) Opportunity for review within the Agency with respect to the debt, and

(5) Opportunity to enter into an agreement with the Agency Claims Officer with respect to the debt. Such agreement may include voluntary but nonrevocable withholding of monies due from the United States to the debtor.

(c) *Review within the Agency.* The debtor may request, within fifteen calendar days after receipt of the written notice specified in paragraph (b) of this section, review within the Agency as to the existence or amount of the debt or terms of repayment. The review shall be conducted by a member of the staff of the Office of General Counsel not involved in collection of

debts under the Agency program which gave rise to the debt. The staff member, with the concurrence of the Agency Claims Officer, may determine that no debt is due, the amount of the debts should be reduced, that terms of repayment should be set, or that the demanded amount should be paid in full. The staff member may negotiate with the debtor concerning a written agreement for the repayment of the debt. However, such agreement shall be subject to approval by the Agency Claims Officer.

(d) If no written agreement is executed, if the debtor does not request review within the Agency, or if the review within the Agency determines that a debt is due, then administrative offset against monies payable by the United States shall be effectuated in accordance with appropriate regulations. Efforts shall be made to coordinate offset collections with other agencies, including use of the Army Holdup List. However, if a statute either prohibits or explicitly provides for collection through administrative offset of the debt or the type of debt involved then the provisions of that statute rather than the provisions of this section shall be used for such offset.

(e) If the debtor has a judgment against the United States, then notice shall be provided to the General Accounting Office for offset in accordance with 31 U.S.C. 372.8

§ 11.44 Collection of claims against Federal agencies or State or local government by administrative offset.

Claims against Federal agencies and against State or local governments may be collected from monies due from the United States to the agency or government utilizing offset principles of common law. See *U.S. v. Munsey Trust Co.*, 332 U.S. 234 (1947). Prior to utilizing this procedure for collection, the Agency Claims Officer shall notify the debtor agency or State or local government of the nature of the claim, the amount due and of the Agency's intent to collect interest on unpaid balances due. Interest shall accumulate at rates prescribed by the Department of the Treasury pursuant to 31 U.S.C. 3717(a). The notice shall also advise the debtor Federal agency or State or local government of the right to inspect and copy records relating to the claim and shall give the name, business address and telephone number of the official having cognizance over the claim. A bill for collection shall be sent to the Federal agency or to the State or local government.

§ 11.45 Collection by salary offset.

(a) *General.* Where an individual is an employee of the Federal Government or a member of the Armed Forces or a reserve component of the Armed Forces or is receiving retired or retainer pay for service as a Federal employee and where the individual is indebted to the United States under programs administered by the Agency and where the individual fails to satisfy his indebtedness voluntarily after the Agency has made demands in accordance with § 11.42 of this subpart, the Agency Claims Officer may institute collection action by salary or pay offset procedures.

(b) *Notice to debtor.* At least 30 days prior to initiating salary offset, the Agency claims collection officer or his designee shall send notice by certified mail, return receipt requested, to the debtor advising him of:

(1) Nature and amount of indebtedness determined by the Agency to be due, the date that the debt was due, and a statement that FEMA has complied with applicable statutes, regulations and procedures.

(2) Agency intention to initiate proceedings to collect the debt by deductions from pay.

(3) Rights available under 5 U.S.C. 5514(a).

(4) Debtor's opportunity to inspect and copy Government records relating to the debt.

(5) Opportunity to enter into a written agreement under terms satisfactory to the Agency Claims Officer, to establish terms for the repayment of the debt, and

(6) Opportunity for a hearing, descriged in paragraph (c) of this section, concerning the existence or the amount of the debt or, if no repayment schedule has been established (in accordance with paragraph (b)(1) of this section) concerning the terms of the repayment schedule.

(c) *Hearing.* The debtor shall file a petition for hearing on or before the fifteenth day after receipt of notice, referred to in paragraph (b) of this section, addressed to the Agency Claims Officer, Federal Emergency Management Agency, Washington, D.C. 20472. The postmark or receipt date, if the mail is not used, shall establish the date of petition.

(1) The hearing official shall be a person of grade GM–14 or higher, not under the supervision or control of the Director, Federal Emergency Management Agency. The Director may enter into interagency support agreements with other Federal agencies or departments for providing hearing officials.

(2) The hearing shall be informal but the debtor shall be given the basic safeguards of due process. The debtor shall have the right to be represented by an attorney. A summary record shall be made of the proceedings at the hearing. The hearing shall, insofar as possible, be conducted at a location and time convenient to the debtor.

(3) As soon as practicable, but in no event later than 60 days after the filing of the petition for hearing, the hearing official shall render a final decision. If a hearing is requested, no further action shall be taken to collect the debt until the final decision is rendered.

(d) *Amount deducted.* The amount deducted from pay for any period shall not exceed 15 percent of disposable pay. However, the debtor may voluntarily agree to the deduction of a greater amount of pay. Disposable pay means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

§ 11.46 Liquidation of collateral.

Where the Agency holds security or collateral that may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, such procedures should be followed if the debtor fails to pay his debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure.

§ 11.47 Collection in installments.

Claims with accrued interest and penalties should be collected in full in one lump sum whenever this is possible. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment with applicable interest may be accepted in regular installments in accordance with a written agreement approved by the Agency Claims Officer or his designee. If possible, installment payments shall be sufficiently large to complete collection in the three years. Installment payments should not be less than $25.00 per month. The Agency may require the debtor to execute a confess-judgment, negotiable note for the amount of the indebtedness.

§ 11.48 Interest and penalties.

(a) *Interest.* Interest shall be charged on the outstanding balance due on claims at the rate published by the Secretary of the Treasury under provisions of 31 U.S.C. 3717(a). The interest rate in effect at the time that the

claim becomes due shall be the rate charged throughout the duration of the claim until the claim is paid in full. The interest shall run from following dates:

(1) If the initial demand for the claim was mailed on or after October 25, 1982, then the date of mailing to the debtor (using the most current address available to the Agency Claims Officer) or

(2) If the initial demand for the claim was mailed before October 25, 1982, then from the date that a demand letter was mailed after October 25, 1982.

(b) *Exceptions to interest charges.* However, no interest, described in paragraph (a) of this section, shall be charged if:

(1) The amount due is paid within 30 days of the mailing of the demand. However, the Agency Claims Officer for good cause shown, as documented by a memorandum in the claims file, may extend this 30 day period, or

(2) The applicable statute, regulation required by statute, loan agreement or contract either prohibit the charging of interest or explicitly fix interest or charges which apply to the claim involved.

(c) *Penalty charges.* Except in the situations described in paragraph (b) of section, a penalty charge of 6 per centum per annum shall be charged on the unpaid portion of a claim which remains unpaid 90 days after the date described in paragraph (a) of this section, if no repayment schedule has been agreed upon by FEMA and the debtor.

(d) *Processing and handling costs for delinquent claims.* The debtor shall also pay the extraordinary costs of processing delinquent claims. Extraordinary costs are deemed to include, but not be limited to, costs of employing commercial firms to locate the debtor; costs, not to exceed one-third of the debt due, of employing contractors for collecting services; costs of selling collateral or property to satisfy the debt, etc.

(e) *Standards for waiver of interest, penalties and charges.* Interest, penalties and delinquent claims charges may be waived, either in whole or in part, if the Agency Claims Officer or his designee finds that: (1) the debtor is financially unable to pay, (2) the Agency's enforcement policy will be adequately served if there is a waiver in whole or in part or (3) the debtor has shown good cause, satisfactory to the Agency Claims Officer, that the claim was not timely paid. If waiver is granted, the administrative claims file shall be adequately documented.

(i) The Agency Claims Officer, with the concurrence of the General Counsel, may waive interest, penalties and administrative costs based on criteria set forth in paragraphs (e)(1)(ii) through (iv) of this section. When such charges are waived, the Agency Claims Officer shall prepare a memorandum for the file stating the reasons for not collecting such charges.

(ii) If the costs of collection exceed the projected recovery then interest, penalties and administrative costs may be waived.

(iii) If the debtor has a *bona fide* dispute as to facts or has raised valid legal issues, then charges may be waived.

(iv) If the debtor is unable to pay, as shown by complete and sworn statements as to his assets and projected income, then charges may be waived.

(f) *Nonapplicability.* The provisions of this section do not apply to debts and claims owed by Federal agencies and State and local governments. Interest on such debts and claims owed by such entities shall be charged in accordance with applicable statute or, if nonexistent, then in accordance with principles of common law.

(g) When a debt is paid in installments, the payments shall first be applied to collection charges and penalty charges, second to accrued interest and third to outstanding principal.

§ 11.49 Omission not a defense.

Failure to comply with any standard prescribed in 4 CFR Chapter II, or in this subpart shall not be available as a defense to any debtor.

§ 11.50 Standards for compromise of claims.

(a) *Compromise.* A claim may be compromised: (1) If the debtor is not able to pay the full amount within a reasonable period of time; (2) if the debtor refuses to pay the claim in full and the Agency is unable to enforce collection within a reasonable time by enforced collection proceeding; (3) if there is real doubt concerning the Agency's ability to prove its case in court for the full amount claimed; (4) if the cost of collecting the claim does not justify the enforced collection of the full amount; (5) if, in connection with statutory penalties or forfeitures established as an aid to enforcement and to compel compliance, the Agency's enforcement policy will be adequately served by acceptance of the sum to be agreed upon; or (6) for other reasons deemed valid by the General Counsel.

(b) *Inability to pay.* If a debtor is unable to pay the full amount of the claim within a reasonable time or if the debtor refuses to pay and the Government is unable to collect the amount of the debt through enforced proceedings then the Agency may compromise the claim either in whole or in part. The Agency Claims Officer may require that the debtor provide sworn information as to assets, actual or potential sources of income, liabilities and other financial data.

(c) Compromises payable in installments will not normally be permitted by the Agency.

(d) *Litigative probabilities.* If there is a *bona fide* dispute as to facts or if there is a valid legal defense raised which may limit or eliminate the possibility of recovery, then the Agency Claims Officer may, after receiving a legal analysis from the General Counsel, compromise the action in whole or in part.

(e) *Documentary evidence of compromise.* No compromise of a claim shall be final or binding on the Agency unless it is in writing and signed by the appropriate officer who has authority to compromise the claim pursuant to this subpart.

§ 11.51 Standards for suspension or termination of collection action.

(a) *Suspension of collection action.* Collection action shall be suspended temporarily on a claim when the debtor cannot be located after diligent effort but there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim, making consideration for its size and the amount which may be realized. Collection action may be suspended temporarily on a claim when the debtor owns no substantial equity in realty and is presently unable to make payment on the Agency's claim or effect a compromise, but his future prospects justify retention of the claim for periodic review and action, and, (1) the applicable statute of limitations has been tolled or started anew, or (2) future collection can be effected by offset notwithstanding the statute of limitations. Suspension as to a particular debtor should not defer the early liquidation of security for the debt. Standards prescribed in 4 CFR Part 104 shall be used in making determinations as to suspension as termination of collection efforts.

(i) *No substantial recovery possible.* If, at the time that collection is attempted, debtor is without assets or actual or potential income or if the debtor may have exemptions under the bankruptcy laws which make enforced collection of the debt not cost-effective,

then collection action may be suspended. However, interest and other charges will accumulate unless waived.

(ii) *Debtor cannot be located.* If the debtor cannot be located or is outside the United States, then collection action may be suspended until the debtor is located. The statute of limitations will be tolled during those periods that the debtor is outside the United States.

(b) *Termination of collection action.* Collection action may be terminated and the Agency file closed for the following reasons: (1) No substantial amount can be collected; (2) the debtor cannot be located; (3) the cost will exceed recovery; (4) the claim is legally without merit; or (5) the claim cannot be substantiated by evidence.

(i) *No substantial recovery possible.* If there is little likelihood that collection efforts will result in any substantial recovery, then collection efforts may be terminated. Costs of recovery may be a factor in determining whether any recovery would be substantial. Normally, costs of recovery would be more important in cases of small debts than in cases of large ones.

(ii) *Debtor cannot be located.* Every effort, including, but not limited to, use of governmental records, Internal Revenue Service taxpayer information, private contractor skip tracer and credit agencies, shall be made to locate debtors in advance of the running of the statute of limitations. If the debtor cannot be located, then the Agency Claims Officer may determine, with the concurrence of the General Counsel, that collection efforts may be terminated.

(iii) *Litigative possibilities.* The criteria and procedures of § 11.50(d) of this subpart may be used to terminate collection efforts if it appears unlikely that the Government would prevail if it were to litigate collection of the debt.

(c) *Enforcement Policy.* Statutory penalties and forfeitures are used as an aid to secure compliance with FEMA requirements and to compel payment. These may be waived if the Agency's enforcement policy in terms of securing payment and securing compliance with FEMA regulations would be served by accepting a sum agreed upon. Mere accidental or technical violations will be dealt with less severely than willful or substantial violations.

§ 11.52 Referral of delinquent debtors to consumer reporting agencies.

(a) *General.* This section implements 31 U.S.C. 3711(f) concerning reporting of debtors having overdue debts to consumer reporting agencies.

(b) *Procedures.* When a Claim is unpaid for 120 days after the initial demand letter has been sent and where the debtor has not repaid the claim nor has the debtor entered into an agreement for repayment satisfactory to the Agency Claims Officer or his designee, or the claim is not subject to administrative offset (as described in § 11.43, of this subpart), the Agency Claims Officer may report the claim to consumer reporting agencies if:

(1) The Agency Claims Officer or his designee has determined that the debtor's claim is overdue,

(2) Notice has been sent certified mail, return receipt requested, to the debtor informing him that:

(i) Payment of the claim is overdue,

(ii) The Agency intends to disclose the debtor's debt records to a consumer reporting agency within a stated period, not less than 60 days after the mailing of such claim,

(iii) Specified items of information being released shall be listed in the notice. Such items will normally include the debtor's name, taxpayer account number, last known address, other information necessary to establish the identity of the individual nature, amount and status of the outstanding claim, and programs under which the claim arose, and

(iv) The debtor has a right to a full explanation of the claim, to dispute any information in the records concerning the claim, and to have an administrative review.

If the debtor petitions for administrative review, then no further action on referring claims information to consumer reporting agencies shall be udertaken until the administrative review is completed.

(c) *Administrative review.* The debtor shall send with his petition arguments in writing and documentary evidence to the Agency Claims Officer, Office of the Comptroller, Federal Emergency Management Agency, Washington, D.C. 20472. These shall be reviewed by the Agency Claims Officer or an official designated by him. The reviewing official shall prepare a reply, within 60 days after receipt of the petition, either accepting the debtor's assertions in whole or in part or rejecting them. If the debtor's assertions are rejected in whole or part, then the debt data, described in paragraph (b)(2)(iii) of this section (with correction made as indicated by the reviewing official) shall be sent to consumer reporting agencies.

(d) *Information released.* Information released to consumer reporting agencies shall be limited to the following items:

(i) Name of debtor, address, taxpayer identification number, and other information necessary to establish the identity of the debtor,

(ii) Amount, status and history of the debt, and

(iii) Program under which the claim arose.

§ 11.53 Securing debtor addresses from the Department of Treasury.

(a) If the Agency Claims Officer is unable to obtain a current address for a debtor, then a written request shall be sent to the Secretary of the Treasury asking for the debtor's most current mailing address from the Department of the Treasury taxpayer identity information files for Agency use in collecting claims. Any information so received from the Secretary of the Treasury shall be safeguarded in accordance with provisions of 26 U.S.C. 6103(p)(4) and 26 CFR Parts 301 and 601.

(b) Taxpayer identity information (which includes IRS current address and social security number) shall be released to consumer reporting agencies only for the purpose of preparation of commercial credit reports for use by Federal agencies in accordance with section 3 of the Debt Collection Act (31 U.S.C. 3711(f)). A notice to this effect shall be placed on each page containing taxpayer identity information which is sent to consumer reporting agencies.

§ 11.54 Contracts with debt collection agencies.

(a) *General.* The Agency Claims Officer may request the Agency's Acquisition Management Division to enter into contracts for the recovery of indebtedness owed to the United States arising under programs administered by the Agency. Such contract, may be entered into with persons or organizations and shall be handled in accordance with the Federal Procurement Regulations (41 CFR Part 1) and the Agency's procurement regulation (41 CFR Part 44).

(b) *Debt Collection Contract Provisions.* Contracts entered into under authority of this section shall have provisions relating to:

(1) Protection of data relating to individuals which shall not be less than that provided under the terms of the Privacy Act (5 U.S.C. 552a).

(2) Protection of data derived from Department of the Treasury taxpayer identity information files shall be in accordance with 26 U.S.C. 6103(p)(4) and 26 CFR Parts 301 and 601.

(3) Authority to terminate collection action, settle or compromise claims shall remain with the Director of the Agency or the Agency Claims Officer rather than with the Contracting Officer.

(4) Resolution of disputes relating to the claim shall remain with the Agency Claims Officer or the Agency Director. Resolution of disputes arising under the contract or with the contractor shall remain with the Agency Contracting Officer who shall handle such disputes in accordance with the Contract Disputes Act (Pub. L. 95–563).

(5) Judicial enforcement of the claim shall be handled by the U.S. Department of Justice.

(6) The contractor shall adhere to Federal and State laws and regulations pertaining to debt collection practices including the Fair Debt Collection Practices Act (15 U.S.C. 1692 *et seq.*).

(7) Contracts, entered into under provisions of this section, shall be subject to competition to the maximum practicable extent.

(8) The contractor shall be required to strictly account for all amounts collected.

(c) *Collection Fees.* Contracts entered into under this section may provide that fees payable to the contractor may be payable from the amounts collected from the debtor as determined by the Contracting Officer.

§ 11.55 Referral to GAO or Justice Department.

(a) *Referral to the Department of Justice.* With the exception of debts described in subsection (b) below, those debts which cannot be collected or compromised or terminated in accordance with 4 CFR Parts 103 and 104 and §§ 11.50 and 11.51 of this subpart, shall be referred to the Department of Justice for collection action. All such referrals shall be done by the Agency Claims Officer, who shall consult with the FEMA office of General Counsel. The referral shall be accompanied by a copy of the complete claims file. In addition, the following information shall be provided:

(1) *Current address of debtor.* Effort shall be made to locate the debtor if he is missing. If the debtor is a corporation, then the name and address of the agent upon whom service of process may be made, shall be provided.

(2) Credit data which may be in the form of a credit report or a statement, under oath, of the debtors assets and liabilities.

(3) History of prior collection actions.

(4) Data required by the GAO Claims Collection Litigation Report form.

If the debt is less than $600, exclusive of interest, then referral shall not be made to the Department of Justice.

(b) *Referral to the General Accounting Office.* Claims arising from audits exceptions taken by the General Accounting Office (GAO) shall be referred to GAO before referring such claims to the Department of Justice. If the merits of the claim or the propriety of a proposed compromise, suspension or termination are in doubt, then the matter should be referred to GAO prior to referral to the Department of Justice.

(c) *Prompt referral.* Such referrals shall be made as early as possible consistent with aggressive collection action, and, in any event, well within the statute of limitation for bringing suit against the debtor. Ordinarily, claims referrals will be made to the Department of Justice within six months after FEMA has determined that a debt is owing in an amount certain.

§ 11.56 Analysis of costs.

The Agency Claims Officer shall provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to the points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts below which collection efforts need not be taken. Cost and recovery data should also be useful in justifying adequate resources for an effective collection.

§ 11.57 Automation.

The Agency Claims Officer shall work to automate the Agency's debt collection operations to the extent that it is cost effective and feasible.

§ 11.58 Prevention of overpayments, delinquencies, and defaults.

The Agency Collection Officer shall establish procedures to identify the causes of overpayments, delinquencies, and defaults and the corrective actions needed. All debts or loans, when first established, may be reported to commercial credit bureaus.

§ 11.59 Office of General Counsel.

The Office of General Counsel shall provide legal advice on claims collection matters to all claims collection officers and the Agency Collection Officer, as needed.

§ 11.60 Sale of debts due the United States arising under programs administered by the Agency.

Where debts due the United States arising under programs administered by the Agency prove to be uncollectable or unresolvable through procedures described in §§ 11.33 through 11.35, 11.41 through 11.48, and 11.50 through 11.55 of this Subpart and where the stated value of the debt is less than $20,000, excluding penalties and interest then the Agency may contract to sell or assign such debts under competitive sales procedures. The Agency may sell or assign debts valued at $600, or less, excluding penalties and interest, after decision by the Agency Claims Officer. Where the debt exceeds $600, but is less than $20,000, exclusive of interest and penalties, the Agency may sell or assign such debts only after the Agency Claims Officer has coordinated such action with the Department of Justice and the General Accounting Office.

Dated: June 10, 1983.

Louis O. Giuffrida,

Director.

[FR Doc. 83-16250 Filed 6-16-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 83–436; RM–4230; FCC 83–220]

Use of Omnidirectional Antennas with Operational-Fixed Stations Operating on Assignments in 450–470 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend Part 90 of the Commission's Rules to allow the use of omnidirectional antennas on 450–470 MHz operational-fixed links if they communicate with at least three receiving stations separated by at least 160° of azimuth. Allowing such use will reduce the number of frequencies required by such systems and will increase spectrum usage efficiency.

EFFECTIVE DATE: Comments are due by June 22, 1983 and replies by July 7, 1983.

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

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634–2443.

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Proposed Rule Making

In the matter of amendment of Subpart K of Part 90 of the Commission's Rules and Regulations to Permit the Use of Omnidirectional Antennas with Operational-Fixed Stations Operating on Assignments in

the 450–470 MHZ Band; PR Docket No. 83–486, RM–4230.

Adopted: May 12, 1983.
Released: May 23, 1983.

By the Commission.

1. The Central Committee on Telecommunications of the American Petroleum Institute (Central Committee), has petitioned the Commission to amend Subpart K of Part 90 of the Rules and Regulations.[1] The Central Committee requests amendment of Section 90.261 of the Rules to allow the use of omnidirectional antenna with operational-fixed stations operating in the 450–470 MHz band that communicate with at least three receiving locations separated by 160° of azimuth.[2] Oppositions to the petition were submitted by the Forestry Conservation Communications Association (FCCA) and the Associated Public-Safety Communications Officers, Inc. (APCO).

2. The Central Committee's petition contends that petroleum and natural gas companies extensively utilize UHF assignments for operational-fixed stations for supervisory, control, telemetry, and voice operations. It requests rule amendments that would allow operation of these UHF operational-fixed stations with omnidirectional antennas under the same conditions allowed for the 154 MHz "splinter" frequences governed by Section 90.65(c)(16) of the Rules and Regulations.[3]

3. The argument presented for the use of omnidirectional antennas is that the location of drilling rigs, whether onshore or offshore, is determined by the shape of a given oil or gas field, and that frequently wells are located in a circular or non-linear placement. Telemetry information from each well is sent to a "master" UHF fixed station utilizing a polling procedure. These "master" stations are often used in conjunction with existing microwave systems to relay the telemetry data to a central processing point. Presently, since the Rules require directional antennas for each fixed link, accessing each drilling rig requires a separate sysem utilizing different frequency pairs. The use of an omnidirectional antenna would allow polling of the remote sites by the master station using only a single frequency pair, thus resulting in more efficient spectrum utilization. The petitioner also suggests that any rule amendment apply to all persons eligible for UHF operational-fixed assignments, and that those assignments continue to be on a secondary basis to the mobile service, regardless of the antenna employed in a particular instance.

4. The FCCA, in its opposing comments, argues that:

> When the Commission changed the Rules to allow secondary UHF operational-fixed assignments for the Public Safety and Special Emergency Radio Services within the Industrial (except Business) and Land Transportation Radio Services (and vice versa)[4] the Commission's interest was in discouraging such use to the extent possible. The secondary, non-interference basis to voice operations in the opposite service tended to make the reliability of maintaining these systems so tenuous so as to make their use a last resort, at least within Public Safety.

A similar argument was made by APCO. In its comments APCO maintained that the predecessor of the current § 90.261 was intentionally designed to keep to a minimum the use of 450–470 MHz frequencies for point-to-point operations.

5. APCO, after noting API's admission that its members have made extensive use of UHF assignments for secondary operational-fixed stations[5], takes exception to API's conclusion that the sharing of these channels[6] has been extraordinarily beneficial to users in all of the Private Radio Services[7]. APCO argues that its membership has not favored this interservice sharing and refers to a petition for rulemaking which it filed with the Commission on March 16, 1982, which was subsequently denied.[8]

6. Throughout the various proceedings concerning the fixed use of the 450–470 MHz band, the Commission has always concluded there is some need for such use. Notwithstanding APCO and FCCA's contentions as to the undesirability of sharing frequencies even on a secondary, non-interference basis, the instances of actual interference have been de minimus. As was noted in dismissing the APCO petition on this subject: "* * * the number of interference cases resulting from fixed station operations authorized under Section 90.261 has been minimal, and generally have been expeditiously resolved."[9] The requirement for fixed systems, particularly those handling data, has increased substantially since the allocation in Docket 13847 was made in 1968. Many of the fixed systems employing telemetry and/or voice communications are located in either offshore or very remote areas which do not have common carrier service. To employ wideband microwave for these fixed links would be very costly and spectrally wasteful because of the narrow bandwidths required. Consequently, we agree there is some merit in amending the present requirement that fixed stations operating in this band must only utilize directional antennas. We are therefore proposing to amend Section 90.261 of the Rules as indicated in the attached Appendix, to allow the use of omnidirectional antennas to be employed by 450–470 MHz fixed stations that communicate with at least three receiving locations that are encompassed in a sector of at least 160° of asimuth. Such use is to be on a secondary basis.

Regulatory Flexibility

7. The Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 do not apply to the Rules proposed in this *Notice of Proposed Rule Making* because they will not have a significant economic impact on a substantial number of small entities. The Secretary shall cause a copy of this *Notice of Proposed Rule Making*, including the above certification, to be published in the Federal Register, and to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 605(b) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.* (1981).

8. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a notice of proposed rule making until 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)

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[1] Petition for Rule Making, RM–4230, filed October 13, 1982.

[2] Section 90.261 of the Rules specifies that 450–470 MHz fixed systems may operate only on a secondary basis and shall only employ directional antennas with a front-to-back ratio of at least 15 dB.

[3] Section 90.65(c)(16) states "Operational-fixed stations must employ directional antennas having a front-to-back ratio of at least 20 dB. Omnidirectional antennas having unity gain may be employed for stations communicating with at least three receiving locations separated by 160° of azimuth."

[4] *Second Report and Order*, Docket 13847, FCC 68–128, released February 9, 1968 (11 FCC 2d 848).

[5] API Petition, paragraph 4.

[6] 47 CFR 90.261.

[7] API Petition, paragraph 6.

[8] This petition which requested the Commission to eliminate use of Public Safety base/mobile frequencies for secondary fixed operation by industrial entities (see § 90.261 of the Commission's Rules and Regulations 47 CFR § 90.261, was dismissed by the Chief, Private Radio Bureau on June 25, 1982, because APCO had not presented sufficient evidence of interference problems.)

[9] *Id.*

between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding, must prepare a written summary of that presentation. On the day of that oral presentation, a 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.

9. Authority for issuance of this Notice of Proposed Rule Making 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 the procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before June 22, 1983, and reply comments on or before July 7, 1983. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In researching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

10. In accordance with the provisions of § 1.419 of the Commission's Rules, 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 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

11. For further information on this proceeding, contact Eugene Thomson, 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 Tricarico,

Secretary.

Appendix

PART 90—[AMENDED]

Part 90 of the Commission's Rules and Regulations is amended as follows:

1. Section 90.261 is revised to read as follows:

§ 90.261 Assignment and use of frequencies in the band 450–470 MHz for fixed operations.

The following frequences may be assigned for fixed operations, on a secondary basis to land mobile operations to eligibles in the services indicated. All such use of these frequencies for fixed systems is limited to locations 85 or more miles (136.79 or more km.) from the center of any urbanized area of 600,000 or more population except that the distance may be 65 miles (104.6 km) if the output power does not exceed 20 watts. All such fixed systems are limited to a maximum of two frequencies and must employ directional antennas with a front-to-back ratio of at least 15 db, except that omni-directional antennas having unity gain may be employed for stations communicating with at least three receiving locations that are encompassed in a sector of at least 160° in azimuth. For two-frequency systems, the separation between transmit-receive frequences is 5 MHz. Fixed stations located more than 136 km (85 miles) from the center of urbanized areas of 600,000 or more population and operation on frequencies no longer available for that use may continue indefinitely until such time as modification involving addition of new facilities is proposed. Such use is, however, on a secondary basis to land mobile operations and harmful interference may not be caused to land mobile stations. The centers of urbanized areas are determined from the appendix, page 226, of the U.S. Commerce publication "Air Line Distance Between Cities in the United States." Urbanized areas of 600,000 or more population are defined in the U.S. Census of Population 1970, Vol. 1, table 20, pages 1–74.

[FR Doc. 83-16121 Filed 6-16-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting

Supplemental Proposals for Migratory Game Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements **Federal Register** Document 48 FR 14700 published on April 5, 1983, which notified the public that the U.S. Fish and Wildlife Service proposes to establish hunting regulations for certain migratory game birds during 1983–84, and provided information on certain proposed regulations.

This proposed rulemaking provides supplemental proposals and minor corrections for both the "early" and "late" season migratory bird hunting regulations frameworks. The early hunting seasons open prior to October 1 and include mourning doves; white-winged doves; band-tailed pigeons; woodcock; common snipe; rails and gallinules; September teal; sea ducks; early duck seasons in Florida, Iowa, Kentucky, and Tennessee; some sandhill crane seasons; migratory bird hunting seasons in Alaska, Puerto Rico, and the Virgin Islands; and extended falconry seasons. Late seasons open about October 1 or later and include most waterfowl and sandhill crane seasons, and those not previously selected for other species. The Service annually prescribes hunting regulations frameworks within which the States select specific seasons. The effect of this proposed rule is to facilitate establishment of early and late season migratory bird hunting regulations for the 1983–84 season.

DATES: The comment period for proposed migratory bird hunting seasop frameworks for Alaska, Puerto Rico, and the Virgin Islands will end on June 22, 1983; that for other early season proposals will end on July 15, 1983; and that for late season proposals on August 19, 1983. A Public Hearing on the proposed early season frameworks will be held on June 22, and one on late season frameworks will be held August 2, 1983, both starting at 9 a.m.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. The Public Hearings will be held in the Auditorium of the

Department of the Interior Building on C Street, between 18th and 19th Streets, NW., Washington, D.C. Notice of intention to participate in this hearing should be sent in writing to the Director (FWS/MBMO), U.S. fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments received on the supplemental proposed rulemaking will be available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: The annual process for developing migratory game bird hunting regulations deals with regulations for early and late seasons. Early seasons include those which open before October 1, while late seasons open about October 1 or later. Regulations are developed independently for early and late seasons. The Early season regulations cover mourning doves; white-winged doves; band-tailed pigeons; rails; gallinules; woodcock; common snipe; sea ducks in the Atlantic Flyway; teal in September in the Central and Mississippi Flyways; early duck seasons in Florida, Iowa, Kentucky, and Tennessee; sandhill cranes in North Dakota and South Dakota; doves in Hawaii; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; and some special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and teal in regular season; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and other special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are announced in a **Federal Register** document published in April and open to public comment. Following termination of the comment period and after a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory elements. Following another public comment period, and after consideration of additional comments, the Service publishes the final frameworks in the **Federal Register**. Using these frameworks, State conservation agencies then select hunting season dates and options. States may prescribe more restrictive seasons and options than those offered in the Service's frameworks.

The final regulations, reflected in amendments to Subpart K of 50 CFR 20, then appear in the **Federal Register**, becoming effective upon publication.

The regulations schedule for this year is as follows. On April 5, 1983, the Service published for public comment in the **Federal Register** (48 FR 14700) a proposal to amend 50 CFR 20, with comment periods ending as noted above. The proposal dealt with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. This document is the second in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations. All comments on the April 5 proposal received through May 10, 1983, have been considered in developing this document. Comment periods on this second document are specified above under DATES. Final regulatory frameworks for migratory game bird hunting seasons for Alaska, Puerto Rico, and the Virgin Islands are scheduled for **Federal Register** publication on or about July 7, 1983, and those for early seasons for other areas of the United States on July 26, 1983.

On June 22, 1983, a public hearing will be held in Washington, D.C., as announced in the **Federal Register** of April 5, 1983 (48 FR 14700), to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, and sandhill cranes. Proposed hunting regulations will be discussed for these species and for common snipe; rails; gallinules; migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mounting doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; special September duck seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. Statements or comments are invited.

This supplemental proposed rulemaking describes a number of changes which have been proposed by commentors on the original framework proposals published on April 5, 1983, in the **Federal Register**. One minor error is corrected.

Review of Public Comments and the Service's Response

Written Comments Received

Twenty-six respondents commented by May 10, 1983, on the Service's initial proposals in the **Federal Register** dated April 5, 1983 (48 FR 14700). These include correspondence from 5 individuals, 3 organizations, 12 State agencies, and 6 communications from waterfowl flyway councils. The responses represent a broad spectrum of public interest. In some instances, the communications did not specifically mention the open comment period or regulatory proposals. However, because they were received or sent during the comment period and/or generally relate to migratory bird hunting regulations, they are treated as comments. Where the Service indicates acceptance of a new recommendation, it becomes a supplemental proposal subject to public comment.

Comments Received at Public Hearing

Comments received at the June 22, 1983, public hearing will be addressed in the next supplemental proposal to be published in the **Federal Register** in early July.

Supplemental Proposals

The April 5, 1983 **Federal Register** notice discussed correspondence received from the White Earth Reservation Business Committee, White Earth, Minnesota, requesting that Indian Reservations with treaty hunting and fishing rights be permitted to propose seasons outside the frameworks recommended for States. Since then, two additional letters have been received from the same organization. One letter reiterated the view that the Reservation should rightly be permitted to select seasons outside the current framework that applies to the State but within the framework possible under the Migratory Bird Treaty Act. The second letter requested specific season dates and bag limits for waterfowl and upland migratory bird species for the 1983–84 season. The rationale for making the latter request now was to provide sufficient time for the Service and the White House Reservation to arrive at a mutually agreeable decision on framework matters for the 1983–84 season.

The question of migratory bird hunting on Indian Reservations outside the frameworks that apply to the State in which the Reservation is located is presently under review. Included in this review is an examination of the possibility of modifying present zoning

policies for application to Indian Reservations. Thus, the requests from the White Earth Reservation are under consideration but no specific actions are proposed at this time pending completion of the review.

One individual wrote in opposition to continuing the 1980–84 experiment involving stabilized duck season lengths and bag limits now under way in the United States and Canada. He noted an absence of ducks in his hunting area and recommended reduced season lengths and "sensible" bag limits until the breeding duck counts rose above 10 million. Another person recommended closure of all waterfowl hunting in the United States and Canada because of reduced breeding populations.

Drought conditions have existed since 1980 on much of the important duck breeding habitat in the prairie portions of North America. Production has been below average during this period and diminished full flights of ducks were predicted and have occurred. The 1982 duck breeding population in surveyed areas was calculated to be 32 million, or 10 percent below the 1963–82 average. Recent changes noted in duck breeding populations are similar to those recorded in previous drought periods when regulations were not stable and do not appear to be a result of stabilized hunting regulations. The Fish and Wildlife Service and the Canadian Wildlife Service are carefully monitoring the status of ducks during the experiment and will take precautionary measures if the need dictates.

The following comments, proposals, modifications, clarifications or corrections and Service responses are numbered to correspond with the numbered items published in the **Federal Register** dated April 5, 1983.

2. *Framework dates for ducks and geese in the continental United States.* Michigan requested that the opening framework date for goose hunting be advanced from October 1 to September 15 to allow hunting, particularly in the Upper Peninsula, of early migrating Canada geese. Last July, the Upper Region Regulations Committee of the Mississippi Flyway Council approved a 3-year experiment of a September 26 opening for geese in 10 counties in the western part of the Upper Peninsula, and has again endorsed the concept.

The Lower Region Regulations Committee of the Mississippi Flyway Council, one State, and 2 individuals recommended that the closing framework date for duck hunting in southern States of the Mississippi Flyway be extended from January 20 to January 31.

The Central Flyway Council recommended that the season framework for hunting snow geese in the northeast Kansas counties of Brown, Doniphan, Atchison, Levenworth, Jefferson and Wyandotte be from the Saturday nearest October 1 through the Sunday nearest February 15. In previous years the dates were October 1 and January 20. Season length would continue to be 86 days within these dates. Reasons given in support of the recommendation were (1) major numbers of snow geese do not arrive in this area until late in the season, and (2) snow goose depredation complaints are increasing. It was noted also that the extended framework adheres to the Mid-Continent Snow Goose Management Plan, and similar hunting frameworks have been provided in Louisiana and New Mexico to help alleviate crop depredations.

Response. The Canada geese most likely to be harvested in the western part of the Upper Peninsula of Michigan belong to the Mississippi Valley Population (MVP). A new management plan for this population is being prepared, and is intended to be in place in 1984. Pending completion of the new plan, a special committee of the Mississippi Flyway Council (the MVP Committee) is preparing interim management guidelines, including harvest guidelines, for 1983. Levels of harvest are a major concern with the MVP and may be affected by the Michigan proposal. Therefore, the Service is of the view that the proposal should be considered by the MVP Committee along with harvest proposals from other concerned States. Accordingly, the Service defers any specific proposal for change in framework dates at this time.

The duck season framework was extended experimentally to January 31 in the State of Mississippi during the 1979–82 seasons and a program to evaluate the effects on harvest was conducted. A final report is currently in preparation. No change in duck season frameworks is proposed at this time pending completion of the report and a review and evaluation.

The Service is willing to consider, in consultation with the Council and the State, changes that may be needed to improve the management of snow geese in northeast Kansas, but further documentation and evaluation of problems and possible solutions is needed. In particular, the nature and extent of depredations, one of the major reasons for the recommended change in this case, appears to be lacking documentation. The Service is of the view that the recommended changes should be deferred pending further evaluation of depredations and other snow goose management problems.

3. *Black duck.* The Service announced on September 17, 1982 (47 FR 41254) that a program to further restrict harvest of black ducks would be initiated in 1983, and that this program would be developed in cooperation with State, Provincial, and Federal wildlife agencies in both Canada and the United States. Since that time the Service has met with respresentatives of the Canadian Wildlife Service, Provinces of eastern Canada, and States of the Atlantic and Mississippi Flyways to further discuss the status of black ducks and reductions in black duck harvests. The results of these meetings were reported in the **Federal Register** on April 5, 1983 (48 FR 14707–08). For convenience, that report is briefly summarized as follows:

States of the Atlantic Flyway, where black ducks are harvested at levels higher than 5,000 per year, would develop proposals for regulations changes that would reduce black duck harvest by 25 percent or more in 1983 and beyond. One or more of the following methods would be used:

1. Reduce black duck bag limits.
2. Adjust season dates to avoid periods when black ducks are most vulnerable.
3. Reduce black duck hunting days.
4. Redirect hunting to other species.

The Mississippi Flyway Council would develop regulatory strategies to reduce black duct harvest.

The Canadian Wildlife Service would consider additional harvest restriction on black ducks in Canada for 1984.

Hunter education programs would be undertaken jointly by the Service and the States commencing in 1983. These programs will emphasize the decline in black duck numbers, the purpose of harvest restrictions, and the identification of black ducks in the field by hunters.

Proposals for regulatory changes would be reviewed at Flyway Council meetings and forwarded to the Service. After considering these recommendations, the Service would develop proposed regulations for taking black ducks and publish them in the **Federal Register** for public comment.

Comments Received and Service Responses

In accordance with recommendations made by the Atlantic Flyway Council at its meeting in Kansas City on March 19, 1983, States of the Atlantic Flyway submitted recommendations regarding black duck hunting regulations for 1983 directly to the Service. In addition,

Upper and Lower Region Regulations Committees of the Mississippi Flyway Council submitted recommendations to the Service regarding changes in black duck hunting regulations for implementation in 1983. Service comments on these recommendations are presented below along with the recommendations.

In a letter forwarded to the Service by its legal counsel in response to the April 5, 1983, **Federal Register** (48 FR 14707–14708), the Humane Society of the United States (HSUS) asserted that the Service has failed to determine the percentage reduction in harvest that is necessary to achieve restoration of the black duck population; that a "full and complete" environmental impact statement is required, rather than an environmental assessment; and that the process of developing black duck regulations proposals as announced in the **Federal Register** in 1982 and 1983 (47 FR 41254 and 48 FR 14708) does not permit adequate public comment.

The New York Department of Environmental Conservation also responded to the April 5, 1983, **Federal Register** statement on black ducks and recommended that all States of the Atlantic Flyway participate in changes in harvest regulations on black ducks, regardless of harvest greater or less than 5,000 per year.

Response. In regard to the comments of HSUS, the more restricitive black duck hunting regulations currently being developed for 1983 are aimed at determining the extent to which reducing the harvest will contribute to halting the downward trend in black duck numbers in the mid-winter survey. The decline reflected by the mid-winter survey has occurred gradually over a long period of time. It has not occurred uniformly in all parts of the black duck range. The Service has stated on previous occasions (e.g. 47 FR 36581, 47 FR 41253, and 48 FR 14707) that the precise cause of the decline is not clear. Observations and investigations in both Canada and the United States in recent years indicate that a combination of factors is involved. Land use changes inimicable to black ducks in important segments of the breeding grounds, deterioration and loss of black duck habitat there and elsewhere, competition and hybridization with the mallard, which has extended its range eastward into the range of the black duck, all appear to be major factors that have affected the status of black ducks. Comprehensive analyses of banding and other data do not demonstrate that current levels of harvest are the major factor affecting the numbers of black ducks, although they may be a contributing factor in some areas and some situations. Therefore, the Service believes it is incorrect to assume, as HSUS apparently does, that hunting is the major cause of the black duck decline and that some specified level of harvest restriction will achieve a "restoration of the black duck." There is no demonstrable cause and effect relationship between harvest level and the size of the continental black duck population.

The procedures the Service is following in developing black duck regulations options and proposals for 1983 were discussed and described in the **Federal Register** in 1982 (47 FR 41253). In particular, the intention of the Service to discuss and develop a comprehensive, coordinated program of harvest restrictions with the Flyway Councils and the Canadian Wildlife Service, and the need for such a program was clearly described. It is believed that the procedures provide adequate opportunity for public review and comment before any decisions are made, and that the requirements of the National Environmental Policy Act are being observed.

The Service notes the comment by the New York Department of Environmental Conservation. In the Atlantic Flyway only Georgia and Florida have not proposed regulatory restrictions. The harvest of black ducks in these States is small. Nevertheless, both States intend to inform hunters about the black duck situation and encourage them to avoid shooting black ducks.

The Service is preparing a draft environmental assessment, which will be made available for public review and comment in conjunction with comment on this proposed rule.

Proposed Regulations for Taking Black Ducks

The Service proposes for public comment the following regulations for the taking of black ducks in the 1983–84 season. Except where the following comments indicate that the State's proposals have not been adopted by the Service, the Service's proposal is based on recommendations from States of the Atlantic Flyway and from the Upper and Lower Regulations Committees of the Mississippi Flyway Council. Service comments follow each proposal.

Mississippi Flyway

In States and areas where the point system is used, the black duck will have a point value of 100. In States and areas not using the point system, the daily bag limit on black ducks will be one.

Comment. Most States of this flyway select the point system of harvest and in recent years the point value of the black duck has been 70. An increase in the point value of black ducks from 70 to 100 should reduce the harvest of black ducks. Eleven percent of the harvest of black ducks in this flyway in recent years occurred as the second black duck in bags containing two black ducks.

Atlantic Flyway

Connecticut: South (Coastal) Zone: during the first segment of a split season, no black ducks will be permitted; during the second segment of the season, one black duck will be permitted per day. North (Inland) Zone: one black duck will be permitted per day throughout the entire season. Season openings will be planned to disperse and redirect hunting activity away from black ducks.

Comment: In previous years the State has permitted two black ducks per day in a duck bag of four per day through the season in both zones. Twenty percent of the daily bag of black ducks occurred as the second black duck in bags containing two black ducks. The Service believes that the combination of no black ducks during part of the season and reduced bag limits during the remainder will meet the 25 percent reduction guidelines.

Delaware: Prior to October 15 no black ducks will be permitted in the duck bag. After January 1 or the Saturday closest to January 1 (whichever is later) the duck season will be closed.

Comment: The State has had a season divided into 3 segments with a one black duck daily limit throughout in recent years. The above proposal would prohibit black duck hunting during the first segment of the duck season. The Service believes that this proposal will meet the 25 percent reduction guideline.

Florida: In previous years, Florida has used the point system and the black duck has had a point value of 70. Due to the infrequent occurrence of black ducks in the State, no regulatory changes are proposed; however, hunters in eight counties where black ducks are taken are being informed of the black duck situation and are being encouraged to learn to better identify black ducks and avoid taking them.

Comment: The Service agrees that this is an appropriate plan for Florida.

Georgia: In previous years, the daily bag limit on black ducks in Georgia has been one. Due to the infrequent occurrence of black ducks in the State, no regulatory changes are proposed; however, hunters in the State are being

informed of the black duck situation and encouraged to learn to better identify black ducks and avoid taking them.

Comment: The Service agrees that this is an appropriate plan for Georgia.

Maine: North Zone: one black duck will be permitted per day. South Zone: during the first segment of a split season, no black ducks will be permitted; during the second segment, two black ducks will be permitted per day.

Comment: Prior to 1982, Maine selected a bag limit of two black ducks per day Statewide throughout the hunting season. The regulation outlined above was implemented by the State in 1982 and represents a significant restriction in relation to hunting seasons prior to 1982. The Service believes that this restriction will meet the 25 percent reduction guideline when compared to regulations in effect prior to 1982.

Maryland: No taking of black ducks will be permitted prior to November 1 or after January 10. The black duck will have a point value of 70, but only one per day will be permitted in the daily bag.

Comment: Maryland utilizes the point system and in previous years the black duck has had point value of 70 which permitted a bag of two black ducks per day. Under the restrictions proposed there would be a closed season on black ducks during the first part of a split season and a 70 point, one black duck per day, bag limit for the remainder of the season. The harvest of black ducks during the first part of the split season has accounted for an average of 16 percent of the State black duck harvest. In addition, 21 percent of the black duck bag in Maryland has occurred as a second black duck in bags containing two black ducks. The Service believes this proposal will meet the 25 percent reduction guideline.

Massachusetts: Western Zone: one black duck will be permitted per day and the season will open no earlier than October 14. Central Zone: one black duck will be permitted per day and the season opening will coincide with the Coastal Zone opening and opening of the pheasant hunting season. Coastal Zone: two black ducks will be permitted per day and the season opening will coincide with the opening of the pheasant hunting season. In addition, no hunting of black ducks will be permitted after January 1, and during a ten day interval in the second part of the split season in this zone no black ducks will be permitted in the daily bag.

Comment: Prior to 1982, the limit on black ducks in Massachusetts was two per day Statewide; in 1982 it was reduced to one per day except in the Coastal Zone, and this will be continued in 1983. About 24 percent of the harvest of black ducks prior to 1982 occurred as a second black duck in bags containing two black ducks. The adjustment of opening dates for waterfowl hunting to coincide with the opening of pheasant seasons will reduce further waterfowl hunting activity and the harvest of black ducks but it is difficult to predict how much. Nevertheless, it is believed that this could be as effective in reducing the black duck harvest as more conventional approaches. The Service believes this proposal will meet the 25 percent reduction guideline when compared to regulations in effect prior to 1982.

New Hampshire: Inland Zone: one black duck will be permitted per day. Coastal Zone: during the first part of a split season no hunting of black ducks will be permitted; during the second part of the split season two black ducks will be permitted per day.

Comment: In previous years New Hampshire has permitted a bag limit of two black ducks per day Statewide throughout the season. The Service believes that this proposal will meet the 25 percent reduction guideline.

New Jersey: Northern Zone: the black duck will have a point value of 70. In Coastal and Southern Zones, the black duck will have a point value of 70 but only one black duck will be permitted in the daily bag. The formerly split season of the Coastal Zone will become a continuous season in 1983.

Comment: New Jersey uses the point system and in previous years the point value for black ducks has been 70, which permitted a bag of two black ducks per day. Twenty-six percent of the harvest of black ducks in New Jersey has occurred as a second black duck in bags containing two black ducks. The Service agrees that the proposal presented above should achieve a reduction in the number of black ducks harvested but it appears unlikely that the reduction would amount to 25 percent. New Jersey has been requested to consider and recommend to the Service further restrictions on the harvest of black ducks. The Service will propose for public comment at a later date another plan for reducing the harvest of black ducks in New Jersey.

New York: Long Island Zone: a daily bag limit of one black duck per day will be permitted throughout the season. Western Zone: during the first part of a split season, a daily bag limit of one black duck per day will be permitted; during the second part, the season will be closed on black ducks. Northeastern Zone: during the first part of a split season, one black duck will be permitted in the daily bag; during the second part, the season will be closed on black ducks. Southeastern Zone: during the first part of a split season, one black duck will be permitted in the daily bag; during the second part, the season will be closed on black ducks.

Comment: In recent years the bag limit on black ducks has been one per day in all parts of the State except Lake Champlain and Long Island, where it was two per day. In 1982 the bag limit in the Lake Champlain Zone was reduced to one per day. This would be continued in 1983 and, in addition, the bag limit in the Long Island Zone would be reduced from two to one per day; in the Western, Northeastern and Southeastern zones no hunting of black ducks would be permitted during the last part of the season. The Service believes that this proposal will meet the 25 percent reduction guideline.

North Carolina: Hunting of black ducks will be prohibited during those portions of the duck season occurring prior to December 17; during the remainder of the season one black duck per day will be permitted until January 20.

Comment: The duck hunting season in North Carolina is divided into three segments with the first two segments occurring prior to December 17. In all three segments the bag of black ducks was one per day in 1982. The Service believes the proposal will meet the 25 percent reduction guideline.

Pennsylvania: Lake Erie Zone: one black duck will be permitted in the daily bag between October 22 and December 3; on all other duck hunting days no black ducks will be permitted. Northwest Zone: one black duck will be permitted in the daily bag between October 24 and December 3; on all other duck hunting days no black ducks will be permitted. North Zone: one black duck will be permitted in the daily bag between October 20 and November 19; on all other duck hunting days no black ducks will be permitted. South Zone: one black duck will be permitted in the daily bag between November 7 and December 3; on all other duck hunting days no black ducks will be permitted.

Comment: In previous years the bag limit on black ducks in Pennsylvania has been two per day throughout the season. Seventeen percent of the black duck harvest has occurred as the second black duck in bags containing two black ducks. Under this proposal the number of black duck hunting days will be reduced in each of the four hunting zones in the State for periods ranging from 7 to 23 days as compared to 1982.

The Service believes this proposal will meet the 25 percent reduction guideline.

Rhode Island: The daily bag limit on black ducks will be one.

Comment: In recent years Rhode Island has used the point system and the point value for black ducks was 70, which permitted a bag of two black ducks per day. In 1982 the point system was eliminated and the bag limit on black ducks was reduced to one per day. The harvest of black ducks in Rhode Island averages less than 5,000 per year. Guidelines for black duck restrictions in 1983 exempt Rhode Island from changes in regulations. Nevertheless, Rhode Island proposes to continue with the restriction implemented in 1982.

South Carolina: From November 23 to November 26, no black ducks will be permitted in the daily bag. On all other duck hunting days the daily bag limit of black ducks will be one.

Comment: In recent years, the duck season in South Carolina has been divided into 3 segments; a limit of one black duck was permitted in the daily bag during all 3 segments. This proposal removes the black duck from the daily bag during the second segment of the season. About 25 percent of the black duck harvest in South Carolina normally occurs in this segment. The Service believes this proposal will meet the 25 percent reduction guideline.

Vermont: No black ducks will be permitted in the daily bag during the first 5–7 days of the hunting season; one per day will be permitted during the remainder of the duck hunting season.

Comment: A high proportion of the black duck harvest in Vermont occurs during the first 5–7 days of the duck season. The Service believes this plan, plus a change from two black ducks daily to one daily, implemented by the State in 1982, will meet the 25 percent reduction guideline.

Virginia: The State has proposed two options for consideration: *First Option*—Eastern Shore: a daily limit of two black ducks; remainder of State, a daily bag limit of one black duck. *Second Option*—Eastern Shore: black duck has point value of 70; remainder of State, black duck has point value of 70, but only one black duck is permitted in the daily bag.

Comment: Virginia has used the point system in recent years and the point value for the black duck has been 70. The Service believes that neither of the options proposed above would achieve a 25 percent reduction in harvest of black ducks. Virginia has been requested to consider and recommend to the Service further restrictions on harvest of black ducks. The Service will propose for public comment at a later date another plan for reducing harvest of black ducks in Virginia.

West Virginia: The daily bag limit of black ducks will be one.

Comment: About 22 percent of the harvest of black ducks in West Virginia has occurred as second black ducks in bags containing two black ducks. In recent years this State has harvested an average of 1200 black ducks and under the guidelines for 1983 is not required to make a change. Nevertheless, the State is proposing to remove the second black duck from the daily bag limit, and this will reduce the harvest of black ducks.

7. *Extra teal option.* New York noted that the April 5, 1983 **Federal Register** failed to include green-winged teal in the extra teal option for the Atlantic Flyway.

Response. The omission was an oversight. The proposal for the extra teal option should read: (a) States in the Mississippi and Central Flyways selecting neither a teal nor an early duck season in September nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits. (b) States in the Atlantic Flyway (except Florida) not selecting the point system may select an extra teal limit for 9 consecutive days during the regular duck season of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession.

8. *Experimental September duck seasons.* The Lower Region Regulations Committee of the Mississippi Flyway Council recommended that all States in the Lower Region be allowed the option of selecting duck seasons in September to permit harvest of early migrating and resident species of ducks.

Response. Experimental September duck seasons are under way in Iowa, Florida, Kentucky, and Tennessee along with programs to evaluate the effect on harvest in those States. The Service does not favor operational expansion of such September seasons to include entire regions or flyways until reports on the experimental seasons currently under way have been completed and evaluated.

9. *Special Scaup Seasons.* Michigan requested consideration of a special late duck season for scaup, goldeneyes, buffleheads, mergansers and sea ducks.

The season would extend for 5 to 16 days following the regular duck season. Point system regulations would apply with each of the above-listed species counting 25 points in a 100-point bag limit.

Response. Action on this request for a new type of special late duck season is deferred pending further evaluation and a review and recommendation from the Mississippi Flyway Council.

12. *Canvasback and redhead ducks.* The Lower Region Regulations Committee of the Mississippi Flyway Council recommended the abolishment of canvasback closures and the establishment of 100 point value for canvasback in the Lower Region.

The Central Flyway Council again recommended the elimination of canvasback closures and establishment of Flyway-wide use of "restrictive daily bag and possession limits" in the Central Flyway.

Michigan requested that canvasback area closures in Arenac, Bay, Tuscola, Huron, Wayne and Monroe counties be abolished because canvasbacks no longer use these areas in large numbers and the closures serve no useful purpose. For similar reasons, Wisconsin renewed its request for removal of canvasback closed areas involving Lakes Poygan, Winneconne and Butte des Morts.

The Upper Region Regulations Committee of the Mississippi Flyway Council reaffirmed its previous recommendations regarding canvasback and redhead management guidelines as described in the June 15, 1982, **Federal Register** (47 FR 25923).

Response. As noted in the April 5, 1983, **Federal Register** (48 FR 14700) the Service has underway a study of canvasback management needs and strategies. An environmental assessment is in preparation and will be available for review later this year. Also, additional harvest information from the 1982–83 season and 1983 breeding population survey data will become available in early July. Consequently, the Service defers consideration of specific changes in the hunting frameworks for the canvasback pending completion of the assessment and receipt of 1983 survey data. No changes are proposed at this time for redheads.

13. *Zoning.* The Lower Region Regulations Committee of the Mississippi Flyway Council recommended approval of a proposal to divide Arkansas into a north and south zone with the option of splitting seasons in each zone. One individual from Arkansas requested that zoning not be permitted for Arkansas, but if it is permitted the dividing line be different from that proposed by the State.

The State of Wisconsin and the Wisconsin Conservation Congress requested a north and a south hunting zone for Wisconsin.

Indiana requested the option of splitting seasons in the existing north and south zones.

The Upper Region Regulations Committee of the Mississippi Flyway Council reaffirmed its opposition to any additions or changes in duck hunting zones during the period of stabilized regulations. The Committee took no action on zoning proposals made for Wisconsin and Indiana, and disapproved a request by Missouri for 3 zones.

The Upper Region Regulations Committee of the Mississippi Flyway Council recommended that Illinois be permitted the option of either changing their southern zone boundary line for goose hunting to include Carlyle Lake in the Southern zone or split the season in the Central zone. The option selected will hinge on results of a public hearing to be held by the Illinois Department of Conservation.

Maryland proposed the State be divided into two separate duck hunting zones. The inland zone would be west of U.S. Route 1 from the Pennsylvania border to I–95 and then south on I–95 to the Virginia border. The area east of this line would comprise the coastal zone.

The Central Flyway Council recommended changing the boundary between the eastern and western dark goose management areas in Nebraska as follows: Beginning at the Nebraska-Kansas State line on Highway U.S. 281, north to Nebraska State Highway 2, west on State Highway 2 to U.S. Highway 183, then north on U.S. Highway 183 to the Nebraska-South Dakota State line.

The Pacific Flyway Council recommended that California be allowed to determine season dates and bag limits for the northeast zone within current frameworks independent of season selection for adjacent areas of Oregon. In the past, seasons and bag limits for the northeast zone of California were required to be the same as those selected by Oregon. Both States agree that the rationale for having the same regulations in adjacent areas of Oregon and California are no longer valid.

Massachusetts requested a modification of their experimental zones to permit later hunting in tidal areas of the Taunton River and some inland rivers for late migrating diving ducks and some black ducks. A reduction in Statewide black duck harvest would still occur for the 1983–84 season. Massachusetts proposes to maintain the existing boundary for the coastal zone but divide the inland zone into a western zone and a central zone, using a boundary of Interstate 91 south from the Vermont line to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202 and south on Route 202 to the Connecticut line. The western zone would adopt a continuous season commencing on or about October 15. The central zone would have a split season opening October 20 and closing either October 29 or November 5. The remaining days of season would be used between mid-November and Christmas. Coastal zone dates would remain basically unchanged from 1982 (October 20–29 and November 22 to December 31). The coastal zone boundary would be modified to read, "From the New Hampshire line southward on I–95 to Route 1, south on Route 1 to I–93 south on I–93 to Route 3, south on Route 3 to Route 6 west on Route 6 to Route 28. West on Route 28 to I–195, west on I–195 to the Rhode Island line *except the waters, and the lands 150 yards above the high water mark, of the Assonet River to the Rt. 24 bridge and the Taunton River to the Center St.-Elm St. bridge shall be in the coastal zone.* (Recommended modification underlined.) The Atlantic Flyway Council endorsed the Massachusetts proposal.

Response. The Service concurs with the zoning proposal for Arkansas pending receipt of an evaluation plan that meets previously established criteria. This plan should be received and approved prior to the Service Regulations Committee meeting on August 1, 1983.

In the absence of a recommendation by the Upper Region Regulations Committee of the Mississippi Flyway Council, no action is proposed at this time to establish or modify zoning experiments in Wisconsin and Indiana.

Action is deferred on the proposal to modify goose seasons or boundaries in Illinois pending receipt of a specific proposal from Illinois.

Action on the Maryland zoning proposal is deferred pending receipt of a detailed plan meeting the zoning criteria described in the **Federal Register** of April 5, 1983.

The Service concurs with the boundary change recommended by the Central Flyway Council for defining eastern and western dark goose management areas in Nebraska.

The Service concurs with the recommendation of the Pacific Flyway Council to allow California to independently establish regulations for the northeast zone.

The Service concurs with the zoning modification proposed for Massachusetts.

14. *Goose and brant seasons.* Michigan asked that the 107 day season on resident Canada geese which cause depredation and other problems in the southeastern part of the State be continued and expanded to the southwestern part of the State.

The Pacific Flyway Council recommended the experimental Canada goose and crane season in Lincoln County, Wyoming, be continued because it appears to be successfully alleviating depredation problems.

Pennsylvania proposed the addition of 2 sections to the area where a 90-day Canada goose season is prescribed. One section lies north and adjacent to the present area, and the other section is the Susquehanna River north from the present 90-day area to the confluence of the north and west branches of the river. The 2 new sections would increase the 90-day hunting area from 10 percent of the State to 12 percent of the State. The purpose of the expansion is mainly to aid in the control of nuisance Canada geese and, to a minor degree, increase hunting opportunity for migrant Canada geese along the Susquehanna River.

Response. The Service defers action on the Michigan request pending a recommendation from the Mississippi Flyway Council.

The Service concurs with the Pacific Flyway Council's recommendation to continue the experimental goose and crane season in Wyoming.

The Service defers action on the Pennsylvania request pending receipt of a recommendation from the Atlantic Flyway Council.

15. *Tundra (Whistling) swans.* The Pacific Flyway Council recommended expansion of the tundra swan hunting area in Nevada to include with Churchill County the adjacent counties of Lyon and Pershing, and to increase the allowable harvest from 500 to 650 swans. This request is based on increased numbers of the Western Population of tundra swans in these two counties. The Central Flyway Council recommended the inititation of hunting seasons of Eastern Population tundra swans in Montana, North Dakota and South Dakota. Hunting by permit only is recommended with permits to take up to 500 tundra swans in Montana, 1,000 in North Dakota and 500 in South Dakota.

The Atlantic Flyway Council reaffimed its support for a tundra swan hunting season and full implementation of the Tundra Swan Management Plan for the Eastern Population.

New York commented that hunting of tundra swans can be justified on the basis of population status regardless of the occurrence of depredations.

Response. The Service concurs with the proposal for minor expansion of harvest of Western Population tundra swans in Nevada, but is of the view that proposals to initiate hunting of Eastern Population tundra swans should be deferred at this time. There appears to be substantial public opposition to recreational hunting of this population of swans. When the relatively small amount of recreational opportunity that would be provided by a hunting season is weighed against this opposition it appears that few benefits, if any, would accrue to waterfowl management or waterfowl hunting.

16. *Sandhill cranes.* The Central Flyway Council recommended extension of the closing date for the crane season framework from January 31 to February 28. The Council also recommended continuation of 1982–83 Central Flyway frameworks and regulations for open areas and season lengths except as follows: (1) in North Dakota the open area would include all the State west of U.S. Highway 281 and the season would be 58 days; (2) in Texas the open area would be west of a line from Brownsville along U.S. Highway 77 to Victoria, the U.S. Highway 87 to Placedo, then Farm Road 616 to Blessing, then Texas Highway 35 to Alvin, then Texas Highway 6 to U.S. Highway 290, then U.S. 290 to Sonora, the U.S. Highway 277 to Abaline, then Texas Highway 351 to Albany, the U.S. Highway 283 to Vernon, and then U.S. Highway 183 to the Oklahoma boundary.

The Central and Pacific Flyway Councils recommended continuation of the experimental hunting season in Wyoming.

The Central Flyway Council recommended continuation of the experimental hunting season in New Mexico with minor changes.

The Pacific Flyway Council recommended continuation of crane hunting seasons in Alaska and Arizona.

Response. The Service concurs with the above sandhill crane recommendations which are consistent with management plans for the Mid-Continent, Rocky Mountain, and Pacific Flyway populations. In North Dakota the open area would be expanded to cover approximately the western two-thirds of the State as compared to 10 mid-State counties in 1982, and the season increased to a maximum of 58 days as compared to a maximum of 16 days in 1982. However, it is anticipated that most of the harvest will continue to be in the mid-State area and that only minor incidental take will occur elsewhere. It is estimated that the change would result in an increase of apporoximately 10 percent in harvest (300-400 birds).

The change in Texas would provide for crane hunting in a new area in the southwest part of the State. This area has a wintering population of 60,000–100,000 cranes. It is estimated that about 1,000 birds would be harvested and that the harvest would help alleviate crop depredations now being caused by these cranes.

21. *Woodcock.* Two states commented on a proposed continuation of a delayed opening of the woodcock hunting season in the Estern Region as discussed in the April 5, 1983, **Federal Register** (48 FR 14700). Maine indicated concurrence with a delayed opening but recommended that the date not be later than October 1, and suggested consideration of a reduction in the bag limit throughout the flyway. New York expressed the view that it should be exempted from a delayed opening because woodcock breeding population indices have increased during the last 15 years and were above average in 1982 even though a weather-related decline was recorded. New York indicated a desire to open the 1983 season in its northern zone on September 20.

Response. A final proposal by the Service on woodcock opening framework dates is deferred pending review of 1982 hunter harvest and 1983 singing ground survey data, and a review of woodcock management strategies in the Eastern Region with authorities in the United States and Canada.

22. *Band-tailed pigeons.* Both the Pacific and Central Flyway Councils recommended elimination of a special State permit now required for hunting band-tailed pigeons.

Response. The Service concurs with this recommendation and proposes to eliminate the permit requirement. The primary purpose of the permit was to facilitate the collection of information on harvest levels and hunter participation. Sufficient information has now been collected to satisfy management needs.

23. *Mourning doves.* Illinois proposed the establishment of north and south dove hunting zones with U.S. Highway 36 the boundary line. A season length of 45 days and daily bag and possession limits of 15 and 30 doves would apply in the north zone, and 70 days with 12 and 24 doves in the south zone. Illinois noted that substantial differences in weather conditions exist in northern and southern parts of the State which strongly influence migration and distribution of mourning doves.

Texas proposed a modification of its present option for 3 zones. A small area now in the Rio Grande Zone would be included in the Panhandle Zone. The proposed change would allow an aggregate daily bag of 15 mourning and white-winged doves including no more than 2 white-winged doves during a 45-day season in a small portion of the Panhandle Zone. The proposed area is that portion of Texas south and west of Interstate Highway 10 from the New Mexico State line in El Paso County east to Fort Hancock in Hudspeth County. This area would be included in the Panhandle Zone where hunting would open on September 1. Texas noted that mourning doves often leave this area by mid-September, but the presence of white-winged doves makes an aggregate bag limit desirable. The present 4-day season with 10 white-winged doves daily would be discontinued in this area, possibly resulting in a lowered harvest of white-winged doves. No changes are expected in mourning dove harvest.

Alabama advised that consideration is being given to adjusting the boundary dividing the 2 dove hunting zones in the State, and that a proposal will be forwarded at a later date.

Response. The Service concurs with the Illinois and Texas proposals because no detrimental effect on mourning doves or, in Texas, white-winged doves is likely to occur. The Service will consider a proposal from Alabama to adjust its dove zone boundary.

25. *Alaska.* The Pacific Flyway Council recommended the bag limit for dark geese in Alaska's Game Management Unit 9E be restricted to 1 bird daily and 2 in possession to aid in achieving population increases of Pacific white-fronted geese and cackling Canada geese.

Response. The Service concurs with the proposed restriction.

Public Comment Invited

Based on the results of migratory game bird studies now in progress and with due consideration for any data or views submitted by interested parties, the possible amendments resulting from this supplemental rulemaking will specify open seasons, shooting hours, and bag and possession limits for designated migratory game birds in the United States, including Alaska, Puerto Rico, and the Virgin Islands.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public,

other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and, on the other hand, the unavailability before mid-June of specific, reliable data on this year's status of some migratory shore and upland game bird populations. Therefore, the Service believes that to allow comment periods past the dates specified earlier is contrary to the public interest.

Comment Procedure

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in the rulemaking process by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments received will be available for public inspection during normal business hours at the Service's office in Room 536, Matomic Building, 1717 H Street, NW., Washington, D.C.

All relevant comments on proposals for Alaska, Puerto Rico, and the Virgin Islands received no later than June 22, 1983; on early season proposals (except Alaska, Puerto Rico, and the Virgin Islands) received no later than July 15, 1983; and those on late season proposals received by August 19, 1983, will be considered. The Service will attempt to acknowledge comments, but substantive response to individual comments may not be provided.

Flyway Council Meetings

Department of the Interior representatives will be present at the following meetings of flyway councils:

Atlantic Flyway—Bar Harbor, ME (Bar Harbor Motor Inn) July 28–29.

Mississippi Flyway—Little Rock, AR (Excelsior Hotel), July 28–29.

Central Flyway—Rapid City, SD (Howard Johnson Motor Inn), July 27–28.

Pacific Flyway—Reno, NV (Reno Hilton), July 27.

Although agendas are not yet available, these meetings usually commence at 8:30 to 9 a.m. on the days indicated.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of these documents are available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical."

Section 7 consultations are presently under way regarding both the early and late season regulatory proposals. It is possible that the findings from the consultation, which will be included in a biological opinion, may cause modification of some of the regulatory measures proposed in this document. Any modifications that may be desirable will be reflected in the final frameworks for Alaska, Puerto Rico, and the Virgin Islands, scheduled for publication in the **Federal Register** on or about July 1, 1983; those for other early seasons on or about July 26, 1983; and for later seasons on or about September 1, 1983.

Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. Examples of such consideration include areas closed to dove and pigeon hunting for protection of the Puerto Rican plain pigeon and the Puerto Rican parrot, both of which are classified as endangered. Also, an area in Alaska, 2 areas in California, and one in Oregon are closed to Canada goose hunting for protection of the endangered Aleutian Canada goose.

The Service's biological opinions resulting from its consultation under Section 7 are considered public documents and are available for public inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Regulatory Flexibility Act and Executive Order 12291

In the **Federal Register** dated April 5, 1983, (48 FR 14700), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. This information is included in the present document by reference. As noted in the above **Federal Register** publication, the Service plans to issue its Memorandum of Law for the migratory bird hunting regulations at the same time the first of the annual hunting rules is finalized. This rule does not contain any information collection requiring approval by OMB under 44 U.S.C. 3504H.

Authorship

The primary author of this proposed rulemaking is Richard D. Bauer, Office of Migratory Bird Management, workng under the direction of John P. Rogers, Chief.

List of Subjects in 50 CFR Part 20

Hunting, Wildlife, Exports, Imports, Transportation.

Dated: June 13, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-16345 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 30613-107]

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 8 to the fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska. Measures contained in this amendment have been adopted by the North Pacific Fishery Management Council to protect small, concentrated Tanner crab stocks from overharvest, provide for an equal start in the fishery by the participants, reduce the incidental take of Pacific halibut, and provide for fishing seasons that are biologically and economically optimal.

DATE: Written comments must be received on or before July 29, 1983.

ADDRESSES: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service (NMFS), P.O. Box 1668, Juneau, Alaska 99802, or delivered to Room 453, Federal Building, 709 West 9th Street, Juneau, Alaska. Copies of the amendment may be obtained from the North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510, telephone 907–274–4563.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, NMFS, Kodiak Field Office), 907–486–4791.

SUPPLEMENTARY INFORMATION: .

Background

The Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP) was developed by the North Pacific Fishery Management Council (Council) and approved and implemented by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), under the Magnuson Fishery Conservation and Management Act, Pub. L. 94–265 as amended, 16 U.S.C. 1801–1887, (Magnuson Act). The FMP was published in the **Federal Register** on May 16, 1978 (43 FR 21170). Following initial implementation of the FMP in December 1978, the Assistant Administrator has approved and implemented seven amendments to the FMP that had been developed by the Council.

On May 16, 1983, the Secretary of Commerce received Amendment 8, which was initially approved by the Council at its September 1982 meeting. A notice of its availability has been published in the **Federal Register** (48 FR 22602; May 19, 1983), inviting written data, views, or comments on the amendment by July 29, 1983. Regulations are proposed to implement the following management measures:

A. Establish vessel pot limits in the Kodiak District in Registration Area J and in Registration Area E (Prince William Sound); rescind an existing vessel pot limit in Registration Area H (Cook Inlet). Amendment 8 also deletes vessel pot limits in Registration Area A (Southeastern Alaskan-Yakutat) that have not been implemented with Federal regulations.

B. Rescind the provision that allows storing crab pots on the fishing grounds for 72 hours before the start of a season.

C. Establish a size limit for *Chionoecetes opilio* Tanner crab of 3.1 inches (78 mm).

D. Prohibit the use of side-loading pots in the Yakutat District of Registration Area A.

E. Revise fishing seasons in four districts of Registration Area J and one district in Registration Area A.

In addition to regulations implementing the above measures, a regulation is proposed that would modify the definition of a Tanner crab pot. Regulations are also proposed that would describe and implement certain management districts that were incorporated into the original FMP, but never implemented. Those descriptions pertain to the Southeastern and Yakutat Districts of Registration Area A and the Eastern and Western Aleutian Districts of Registration Area J.

Purpose of the management measures

A. Pot Limit Revisions

Pot limits are used in the management of crab fisheries as a measure to protect small concentrated crab stocks and as a management tool to slow their harvest, thereby allowing closer monitoring of the exploitation rate. The Council, in reviewing pot limits for each management area, has determined that pot limits are necessary in Registration Area E and the Kodiak District of Registration Area J, but are unnecessary in Registration Areas A and H. Limitations on the number of Tanner crab pots are currently provided for by the FMP in Registration Areas A and H. However, due to fleet expansion onto other fishing grounds, which has decreased effort in Registration Areas A and H, pot limits are no longer necessary in these areas, and are therefore eliminated.

In Registration Area E, the number of Tanner crab pots would be restricted to 175 pots per vessel except for the portion of the Northern District east of 146°40′ W. longitude where only 100 pots per vessel may be fished. The State of Alaska has the same pot limitation in State waters.

In the Kodiak District of Registration Area J, Tanner crab fishermen have concentrated their effort in relatively small areas of the Continental Shelf and along submarine canyons and gullies where Tanner crab are most abundant. Ground preemptions and gear conflicts that have resulted from concentrated fishing effort are a major source of concern among Kodiak fishermen. To alleviate this problem the Council proposes a 250-pot limit per vessel for the Kodiak District to reduce the amount of gear that may be concentrated in a given area. The State of Alaska has already established the same limit.

B. Rescind the 72-Hour Pre-Season Pot Storage Provision

A current regulation allows the storage of crab pots with bait and bait containers removed and doors secured open on the fishing grounds for 72 hours before the start of a fishing season. The original purpose of this regulation was to give fishermen whose boats had limited pot-carrying capacity sufficient time to move their pots to the fishing grounds prior to the opening of Tanner crab seasons.

The Council has voted to rescind the regulation, because it is difficult to enforce. Compliance with the 72-hour provision can only be ascertained by raising each crab pot to the surface; otherwise, only the floating marker buoy is visible. Effective enforcement of the 72-hour provision would require the use of several patrol boats at great expense to adequately sample thousands of crab pots that could be placed on several thousand square miles of fishing grounds. Fishermen who may fish illegally could gain up to 3 days of fishing time over those who complied with the 72-hour provision. The State of Alaska also recognized that its 72-hour provision was largely unenforceable and rescinded it in State waters.

Another current regulation allows fishermen to store their pots in a non-fishing condition on the grounds for 72 hours after a season closes. This regulation is not being changed. However, recognizing that both pre-season and post-season pot storage regulations may need to be changed in the future, the Council has adopted a framework measure authorizing the establishment of such regulations under specified circumstances. The Council, in adopting this measure, has amended the FMP to incorporate the following:

The placement of gear, which is in a non-fishing condition, on the fishing grounds up to seven days before the opening of a Tanner crab season, and the leaving of such gear on the fishing grounds for up to seven days after the close of any such season, may be authorized if such early placement and late removal is justified in light of (1) the biological impacts of Tanner crab and other

species; (2) the enforcement problems and costs borne by the public as opposed to the industry; (3) the extent that gear conflicts will result; and (4) the availability of unloading facilities for disposal of Tanner crab catches and of gear storage areas outside the fishing grounds.

C. Limit the Minimum Size of Male C. Opilio Tanner Crab to 3.1 Inches (78 mm) Carapace Width

King crab and *C. bairdi* Tanner crab stocks in the Bering Sea and Aleutian Islands area have generally declined in recent years, thereby increasing harvest pressure on newly developed fisheries such as the fishery for *C. opilio* Tanner crab. The Council has set a minimum carapace size limit of 3.1 inches (78 mm) to protect these stocks from possible overharvest. This size is that at which 50 percent of the male crab population is sexually mature, plus one year's growth. While the proposed size limit is smaller than the 4-inch minimum size now preferred by the processing industry, it would accommodate changes in market demand and serve as a guide to the industry on the size of *C. opilio* considered biologically safe for commercial harvest.

D. Prohibit the Use of Side-Loading Crab Pots in the Yakutat District

Large concentrations of small halibut are known to occur in the Yakutat District of Registration Area A; small halibut are frequently captured in crab pots.

In response to this situation, the Council funded a study of the Pacific halibut catch rate by both side-loading and top-loading crab pots. The study was conducted during August 1980 by the International Pacific Halibut Commission and the Alaska Department of Fish and Game. The study concluded that side-loading pots catch significantly larger numbers of Pacific halibut than do top-loading pots, although the average catch of Tanner crab is almost the same for both gear types. This study also indicated that side-loading crab pots equipped with "Tanner boards" to reduce the size of the tunnel opening, significantly reduced the number of large Pacific halibut captured when compared to pots not equipped with such boards. However, these pots still captured small Pacific halibut.

Since the incidental catch of Pacific halibut (especially juveniles) is extremely high in the Yakutat District, a regulation to reduce the incidental take of Pacific halibut is necessary. The Council proposes to prohibit side-loading Tanner crab pots in the Yakutat District as a conservation measure that would reduce the incidental catch of Pacific halibut. The State of Alaska implemented a similar measure in 1982.

E. Revise Certain Fishing Seasons

Tanner crab fishing seasons are established during periods when crabs are not molting or reproducing, and at times when the meat content is high and handling mortality is low. These periods may last up to nine months, far exceeding the time required to harvest the available catch. To meet the objectives of the FMP, the Council may consider social and economic factors in addition to biological factors in establishing fishing seasons.

At the joint meeting between the Council and the Alaska State Board of Fisheries in March 1982, the fishing industry submitted requests to revise seasons in five districts. The Council has determined that these season revisions are appropriate and proposes them as listed below. Seasons that are not proposed to be changed are also listed below for completeness.

Area	Current season	Proposed change
Registration Area J:		
Kodiak District (all sections except Semidi Island).	Feb. 10 to Apr. 30.	
Semidi Island Section.	Feb. 10 to May 15.	
South Peninsula District.	Dec. 15 to May 15.	Feb. 10 to May 15.
Chignik District	Dec. 15 to May 15.	Feb. 10 to May 15.
Eastern Aleutian District.	Feb. 15 to June 15.	
Western Aleutian District.	Jan. 15 to June 15.	Nov. 10 to June 15.
Bering Sea District.		
Harvest of *C. bairdi*.	Feb. 15 to June 15.	
Harvest of *C. opilio*.	Feb. 15—Closure by Field Order.	Feb. 15 to Aug. 1.
Registration Area H:		
Southern District	Dec. 1 to Apr. 30.	
Central, Kamishak Bay, Barren Islands, Outer, and Eastern Districts.	Dec. 1 to May 30.	
Registration Area E	Nov. 15 to May 31.	
Registration Area A:		
Southeast District	Dec. 1 to May 1	
Yakutat District	Feb. 1 to May 1	Feb. 1 to May 15.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97–453, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 30 days of receipt of the amendment and regulations. At this time the Secretary has not determined that the amendment these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an environmental assessment for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. You may obtain a copy of the environmental assessment from the Council at the address listed above.

The Council has determined that approval and implementation of this rule would be carried out in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program, as required by Section 307(c) of the Coastal Zone Management Act of 1972 and its implementing regulation at 15 CFR Part 930, Subpart C.

The NOAA Administrator has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The General Counsel of the Department of Commerce has certified to the Small Business Administration that the rule to implement Amendment 8 will not have a significant economic impact upon a substantial number of small domestic entities for the purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The following is a summary of the analysis presented in a regulatory impact review on the impacts of the proposed rule.

Any new entrant from outside the Yakutat district could incur about $14,000 in expenses to employ all top-loading pots, assuming 75 pots per boat at a cost of $185 per pot. New entrants are not likely in this district, because economic returns are not adequate presently to encourage new entry at this time. Tanner crab stocks are currently depressed; the 1981–82 catch of 70,400 pounds was the lowest in 10 years. Therefore, any impacts of this regulation would likely be limited to the estimated 9 to 16 fishermen who traditionally fish this district. Because most of the pots used are already top-loading, only about 5 to 25 percent of the pots used by these fishermen would need to be replaced. Hence, as few as 9 and as many as 16 fishermen may need to spend $700 to $3,500 each to employ a full complement of top-loading pots. This regulation is expected to conserve 528 to 2,646 fish each year, conferring a discounted annual benefit of as much as $15,384 to Pacific halibut fishermen.

Limiting the number of crab pots to 250 per vessel in the Kodiak District of Registration Area J would not have a significant beneficial or adverse impact on fishermen, because this limit is considered an upper limit by fishermen

in that district. The overall average number is actually about 130. Limiting the number of crab pots to 175 and 100 per vessel in two areas of Registration Area E, as discussed above, should not have a significant beneficial or adverse impact on fishermen. Fishermen already abide by the same pot limits, imposed by the State of Alaska, when fishing in State waters in both Registration Areas.

Rescinding the vessel pot limits in Registration Areas A and H should not have a significant beneficial or adverse impact. Fisheries in these areas are monitored closely and overfishing is not a sufficient problem to warrant a gear restriction of this type.

Rescinding the 72-hour pre-season pot storage provision should be beneficial to fishermen by providing each fisherman a fair start in the fishery. Establishment of a minimum size limit for *C. opilio* Tanner crab would not have a significant adverse impact on fishermen because the minimum size accepted by the processing industry is four inches. Over half of the male crabs should have had the opportunity to mate at least once before being subject to fishing mortality. This protection afforded breeding stocks would reduce the chance of adversely impacting *C. opilio* stocks.

The proposed season changes would not impose a significant adverse impact on fishermen or processors. These groups requested these changes and would benefit by them, because meat recovery should improve and processing requirements, would be better coordinated with those of other fisheries.

This proposed rule is exempt from the procedures of E.O. 12291 under Section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97–453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule is being reported to the Director, Office of the Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: June 14, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

PART 671—[AMENDED]

For the reasons set forth in the preamble, 50 CFR Part 671 is proposed to be amended as follows:

1. In § 671.2, the definition of Tanner crab pot is revised to read as follows:

§ 671.2 Definitions.

* * * * *

Tanner crab pot means a live-capture pot with either (1) side-loading, rigid tunnel eye-openings that are individually a maximum of 5 inches (13 cm) in one dimension, and tunnel eye opening perimeters that individually are larger than 30 inches (76 cm), or (2) a single top-loading horizontal opening of any size.

* * * * *

2. In § 671.22, paragraph (b) is revised to read as follows:

§ 671.22 Size and restrictions.

* * * * *

(b) *Male Tanner crab.* No male Tanner crab of the species *C. bairdi* measuring less than 5.5 inches (140 mm) across the greatest width of the carapace may be retained, except that male Tanner crab of the species *C. bairdi* in Federal registration area E (Prince William Sound) may be retained if they measure 5.3 inches (135 mm) or greater across the greatest width of the carapace. No male Tanner crab of the species *C. opilio* measuring less than 3.1 inches (78 mm) across the greatest width of the carapace may be retained. The width measurement of Tanner crab is determined by measuring the greatest straight line distance across the carapace, including the spines, perpendicular to an imaginary line drawn between a point mid-way between the eyes and the midpoint of the posterior portion of the carapace.

* * * * *

3. In § 671.26, the section heading and the heading of paragraph (b) are revised, paragraph (e)(3) is removed, paragraphs (f)(1)(v)(A)–(C)(*2*) are redesignated as paragraphs (f)(1)(vi)(A)–(C)(*2*), new paragraphs (d)(3)(iii), (f)(1)(v), and (f)(2)(vi) are added, and paragraphs (a), (b)(3)(ii), (c), (f)(1)(iv), (f)(2) (iv) and (v), and (f)(3) are revised to read as follows:

§ 671.26 Seasons, general gear restrictions, and registration areas.

* * * * *

(a) *Season dates.* All season dates in this section are inclusive. Time periods begin at 12:00 noon and end at 12:00 noon on the dates specified, based on local time zones, unless otherwise specified.

(b) *General gear restrictions.* * * *

(3) * * *

(ii) Tanner crab pots with all doors secured fully open and with all bait and bait containers removed may be stored in water depth greater than the maximum permissible storage depth for 72 hours after the season closure where the pots are fished.

* * * * *

(c) *Registration Area A*—(1) *Districts.* The following districts within Registration Area A are established:

(i) *Southeast District:* All waters between Dixon Entrance and a line projected southwest from the westernmost tip of Cape Fairweather.

(ii) *Yakutat District:* All waters between a line projected southwest from the westernmost tip of Cape Fairweather and the longitude of Cape Suckling (143°53' W. longitude).

(2) *Seasons.* (i) Tanner crab may be taken in the Southeast District from December 1, through May 1, subject to adjustment by the Secretary of Commerce under § 671.27.

(ii) Tanner crab may be taken in the Yakutat District from February 1, through May 15, subject to adjustment by the Secretary of Commerce under § 671.27.

(3) *Gear.* Tanner crab may be taken in the Yakutat District with top-loading pots only.

(d) * * *

(3) * * *

(iii) During any Tanner crab season an aggregate of no more than 175 Tanner crab pots may be fished from any registered Tanner crab vessel, except in that portion of the Northern District east of 148°40' W. longitude no more than 100 Tanner crab pots in the aggregate may be fished from any registered Tanner crab vessel.

(f) * * *

(1) * * *

(iv) *Eastern Aleutian District:* All waters of Registration Area J between the longitude of Scotch Cap light and 172° W. longitude and south of 54°36' N. latitude.

(v) *Western Aleutian District:* All waters of Registration Area J west of 172° W. longitude and south of 54°36' N. latitude.

* * * * *

(2) * * *

(ii) In the South Peninsula District from 12:00 noon February 10 through 12:00 noon May 15 only.

(iii) In the Chignik District from 12:00 noon February 10 through 12:00 noon May 15 only.

(iv) In the Eastern Aleutian District from 12:00 noon February 15 through 12:00 noon June 15 only.

(v) In the Bering Sea District from 12:00 noon February 15 through 12:00 noon June 15 only except that Tanner crab other than *C. Bairdi* may be taken or possessed from 12:00 noon February 15 until 12:00 noon August 1.

(3) *Gear.* In the Kodiak District, no more than 250 Tanner crab pots may be fished from any registered Tanner crab fishing vessel during the open Tanner crab season.

[FR Doc. 83-16338 Filed 6-14-83; 4:46 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 118
Friday, June 17, 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

Soil Conservation Service

Eau Claire River Plan (Lake Altoona) Critical Area Treatment RC&D Measure, Wisconsin; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650): the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Eau Claire River Plan (Lake Altoona) Critical Area Treatment RC&D Measure, Eau Claire County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Cliffton A. Maguire, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wisconsin, 53711, telephone 608–264–5351.

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, Cliffton A. Maguire, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns critical area treatment. Conservation practices incude streambank stabilization, lakeshore protection, and critical area planting.

The Notice of 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 contracting Cliffton A. Maguire.

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 program and projects is applicable.)

Dated: May 31, 1983.

Cliffton A. Maguire,

State Conservationist.

[FR Doc. 83-1600 Filed 6-16-83; 8:45 am]

BILLING CODE 3410-16-M

Environmental Statement; Gooseberry Beach RC&D Measure, Rhode Island

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500): and the Soil Conservation Service Guidelines (7 CFR Part 650): the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Gooseberry Beach RC&D Measure, Newport 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 stabilize a three acre area of dunes from erosion. The planned works of improvement include planting approximately one-half acre of beach grass, install 2,800 feet of snow fence to reduce blowing sand and control foot access through the dunes, and construct a 90 foot section of boardwalk to provide direct access for beachgoers.

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 the implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: June 10, 1983.

Richard N. Duncan,

State Conservationist.

[FR Doc. 83-16196 Filed 6-16-83; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Order Establishing International Cargo Rate Flexibility Policy

The Board, by Policy Statement PS–109, effective February 27, 1983, adopted a policy of not suspending international cargo rate changes within a specified zone, except in extraordinary circumstances. That policy, implemented by Regulation ER–1322, effective February 27, 1983 (14 CFR Part 221), eliminates the requirement of economic justification for international cargo rates which are within Board established zones of flexibility. As stated in ER–1322, the board has taken action to allow air carriers to respond

more quickly to changing costs and competitive conditions.

In establishing the SFRL for the two-month period starting June 1, 1983 we have projected nonfuel costs based on the year ended December 31, 1982 and have determined fuel prices on the basis of experienced monthly fuel cost levels and reported weekly fuel cost trends.

By Order 83-6-11 cargo rates may be increased by the following adjustment factors over the April 1, 1962, level:

Atlantic	.9366
Western Hemisphere	.9965
Pacific	.9249

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: John D. Coakley, (202) 673-5196.

By the Civil Aeronautics Board: June 3, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-16339 Filed 6-16-83; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.) Week Ended: June 10, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures, such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
June 8, 1983	41,524	Aerial Transit Company, c/o Arthur D. Bernstein, Galland, Kharasch, Calkins & Morse, 1054 Thirty-first Street, NW., Washington, D.C. 20007. Application of Aerial Transit Company, pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in scheduled foreign air transportation of property and mail: Between Miami, Florida and (a) Georgetown in the Cayman Islands; (b) Grand Turk, South Caicos, and Providenciales in the Turks and Caicos Islands; (c) Kingston, Jamaica; (d) Belize City, Belize. Applicant also herein requests authority to perform the following foreign charter air transportation of property and mail: Between any point in any state of the United States, or the District of Columbia, or any territory or possession of the United States, and (a) Any point in Canada; (b) Any point in Mexico; (c) Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, the Leeward and Windward Islands, the Netherlands Antilles, and any other foreign place located in the Gulf of Mexico or the Carribean Sea; (d) Any point in Central and South America; (e) Any point in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via a Transpacific routing; and (f) Any point in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India. Conforming Applications, Motions to Modify Scope and Answers may be filed by July 6, 1983.
June 9, 1983	41,526	Key Airlines, Inc., c/o Theodore I. Seamon, Seamon, Wasko & Ozment, 1211 Connecticut Avenue, NW., Suite 300, Washington, D.C. 20036. Application of Key Airlines, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority, other than between points in the State of Alaska, to engage in interstate and overseas charter air transprotation (including inclusive tour charters) of persons and their accompanied baggage, property, and mail between any point in any State of the United States or the District of Columbia or any territory or possession of the United States and any other point in any State of the United States or the District of Columbia or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by July 7, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-16341 Filed 6-16-83; 8:45 am]

BILLING CODE 6320-01-M

Application of Northern Air Lines, Inc., for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting Northern Air Lines, Inc., Fitness Investigation to detemine whether the applicant is to provide the scheduled interstate and overseas air transportation it proposes.

DATES: Persons wishing to file requests for additional evidence or petitions to intervene in the Northern Air Lines Fitness Investigation shall file their requests and petitions in Docket 41414 by June 27, 1983 and serve such filings on all persons listed below.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 41414.

In addition, copies of such filings should be served on all persons listed in paragraph 4 of the order.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5345.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-6-36, is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-6-36 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Bureau of Domestic Aviation: June 13, 1983.

Phyllis T. Kaylor,

Secretray.

[FR Doc. 83-16342 Filed 6-16-83; 8:45 am]

BILLING CODE 6320-01-M

Order Establishing Standard Foreign Fare Level

The International Air Transportation Competition Act (IATCA), P.L. 96-192,

requires that the Board establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. the SFFL thus computed becomes the benchmark for measuring the statutory nonsuspend zone similar to the zone of reasonableness established by the Airline Deregulation Act and set forth in sec. 1002(d) of the Federal Aviation Act of 1958, as amended. Order 80–2–69 established the first interim SFFL and subsequent Order 83–4–47 established the currently effective two-month SFFL applicable through May 31, 1983.

In establishing the SFFL for the two-month period starting June 1, 1983 we have projected nonfuel costs based on the year ended December 31, 1982 and have determined fuel prices on the basis of experienced monthly fuel cost levels and reported weekly fuel cost trends.

By Order 83–6–10 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic	1.1177
Latin America	1.1869
Pacific	1.1623
Canada	1.2765

Copies of the board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

For Further Information Contact: Robert I. Stein, (202) 673–5116.

By the Civil Aeronautics Board: June 3, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83–16340 Filed 6–16–83; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

National Technical Information Service

Intent To Grant Exclusive Patent License; Hopkins Agricultural Chemical Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Hopkins Agricultural Chemical Company, having a place of business at Madison, Wisconsin, an exclusive right to manufacture, use and sell products embodied in the invention, "Encapsulation by Entrapment Within Polyhydroxy Polymer Borates," U.S. Patent Application Serial No. 352,662 (filed February 26, 1982). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101–4.1. The proposed license may be granted unless, within sixty days from the date of this Notice. NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Dated: June 10, 1983.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, Department of Commerce, National Technical Information Service.

[FR Doc. 83–16298 Filed 6–16–83; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Issuance of Proposed Remedial Orders and Proposed Order of Disallowance to Gulf Oil Corp.; Opportunity for Objection, and Quantification of Gulf Overcharges

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY:

I. Introduction

Gulf Oil Corporation ("Gulf") of Houston, Texas is a major refiner engaged in the production and the refining of crude oil, and the marketing of petroleum products. Gulf was therefore subject to the Mandatory Petroleum Price and Allocation Regulations which were in effect through January 27, 1981.

The Office of Special Counsel ("OSC") of the Economic Regulatory Administration of the Department of Energy ("DOE") conducted an audit of Gulf and determined that the firm violated these regulations. OSC found that, as a result of these violations, Gulf's customers were overcharged and its banks of unrecouped costs were overstated (which in turn resulted in additional overcharges).

Pursuant to 10 CFR 205.192, OSC hereby gives notice of five Proposed Remedial Orders ("PROs") and a Proposed Order of Disallowance ("POD") issued to Gulf and of an opportunity for objection thereto. In accordance with that section, a copy of one or more of the PROs or POD with confidential information deleted, may be obtained from the DOE. OSC also provides information on the total Gulf overcharges for a number of PRO proceedings.

II. Quantification of Gulf Overcharges

With the publication of this Notice, OSC is engaged in administrative litigation with respect to the following Gulf PROs and POD which allege violations of the applicable refiner pricing, natural gas liquids, and transfer pricing regulations.

1. PRO No. RGFM0046 (Office of Hearings and Appeals Case No. BRO–0211)
2. PRO No. RGFB00108 (48 FR 23691 (May 26, 1983))
3. PRO No. RGFB00104 (48 FR 23691 (May 26, 1983))
4. PRO No. RGFM02104 (48 FR 23691 (May 26, 1983))
5. PRO No. RGFL00077 (48 FR 23691 (May 26, 1983))
6. PRO No. RGFM01906 (48 FR 23691 (May 26, 1983))
7. PRO No. RGFK00303 (identified below)
8. PRO No. RGFL01403 (identified below)
9. PRO No. NGFP00101 (identified below)
10. PRO No. RGFM01401 (identified below)
11. PRO No. RGFL01701 (identified below)
12. PRO No. RGFH01893 (identified below)

While the full amount of Gulf's liability will ultimately be determined in the administrative litigation, OSC has made an attempt to quantify the *overcharge* exposure which might result from the specifically identified violations set forth in the 11 PROs. Based on presently available information, OSC has preliminarily calculated that the Gulf violations set forth in the 11 PROs resulted in overcharges of approximately $39 million, plus interest. OSC recognizes that the final amount of the refiner's liability may vary depending on the outcome of the litigation.

OSC will propose as a remedy for Gulf's violations that the refiner make refunds of the applicable overcharges, plus interest, to the customers specifically identified the the PROs and POD and to such other persons as the Office of Hearings and Appeals may determine. OSC will propose that Gulf

make payment to the Treasury of the United States of the balance of the overcharges, plus interest. OSC will further propose that Gulf refile certain of its Refiner's Monthly Cost Allocation Reports and take such other remedial action as may be directed by the Office of Hearings and Appeals.

III. Issuance of Proposed Remedial Orders and Proposed Order of Disallowance

1. Proposed Remedial Order No. RGFK00303

OSC found that Gulf improperly attempted to utilize in a refiling for the period January 1, 1976 through November 30, 1976 an amendment of the "B" factor which did not become effective until December 1, 1976. The effect of applying the amended "B" factor formula, instead of the "Yi" pre-amendment formula, was that Gulf illegally increased its stated purchase product costs by $11,886,000 during the period January through November of 1976.

As a remedy for the violation, the PRO directs that Gulf reduce its banks of unrecouped increased costs claimed in violation of the regulations and recompute the amount of increased product costs which the refiner reported as being available for recovery in each month of measurement.

2. Proposed Remedial Order No. RGFL01403

OSC found that for the period 1978 through 1980 Gulf improperly passed through or banked increased marketing costs in excess of the applicable cents per gallon limitations. This violation resulted in the refiner illegally increasing its non-product costs by $77,661,000.

As a remedy for the violation, the PRO directs that Gulf reduce its reported marketing cost increases by the amount of the refiner's overrecovery and overstatement of these costs.

3. Proposed Remedial Order No. NGFP00101

OSC found that Gulf erroneously computed for the period July 1975 through December 1976 its gas plant modernization and expansion price increments for natural gas liquids and natural gas liquid products. As a result of its failure to comply with 10 CFR § 212.164(e)(1), Gulf improperly increased the costs available for recovery by $1,356,874.

As a remedy for the violation, the PRO directs that Gulf reduce on a monthly basis the improperly computed increased non-product costs, recompute these costs in accordance with 10 CFR Part 212, Subparts E and K, and refile its reports accordingly.

4. Proposed Remedial Order No. RGFM01401

OSC found that, in various refilings of its monthly cost allocation reports, Gulf improperly retroactively reallocated certain increased costs. Specifically, OSC found that, in the resubmitted forms, Gulf improperly purported to re-reallocate, in 17 months of the audit period, increased costs which had previously been reallocated to the gasoline cost pool to the general refiner products, aviation jet fuel or propane categories. OSC further found that, for 47 months of the audit period, Gulf retroactively increased the amount of costs reallocated to gasoline from general refinery products, aviation jet fuel and propane above the amounts reallocated by the original filings.

As a remedy for the violation, the PRO directs that Gulf refile its reports and recompute the available increased costs, recoveries and banks for each of the product categories affected by the PRO.

5. Proposed Remedial Order No. RGFL01701

OSC found that Gulf improperly allocated increased costs among covered and exempt products for the period January 1976 until January 28, 1981. Specifically, Gulf improperly included the refinery yield of petroleum coke, petroleum wax and asphalt in the refinery yield of general refinery products during this period, with the result that increased crude and non-product costs allocable only to exempt products were erroneously allocated to covered general refinery products. This action resulted in the impermissible reallocation of these unrecouped increased costs to gasoline through the "H" factor. Gulf also improperly reported these increased costs as part of the costs allocable to gasoline for the period December 1, 1979 to January 28, 1981. Additionally, Gulf incorrectly refiled its reports using the "R" factor instead of the "V" factor to allocate costs in January through June 1976. As a result of these violations, Gulf overstated its products costs by $258,838,000.

As a remedy for the violation, the PRO directs that Gulf adjust its calculation of costs allocable to general refinery products and reallocable to gasoline, adjust its recoveries, and adjust its bank of unrecovered costs for each month of the audit period.

6. Proposed Order of Disallowance No. RGFH01893

In 1979, Gulf reported transactions between affiliated entities in which it imported crude oil originating from countries where it lifted equity crude oil, received crude oil on a preferential basis, or imported crude oil received in exchange for such crude oil. Costs claimed in these transactions are subject to disallowance where Gulf's weighted average (by volume) costs of all crude oil of the same type exceeds the DOE's maximum price for the crude type in the month.

As a result of its audit, OSC determined that Gulf overstated its costs by $6,369,517.19. As a remedy for this violation, the POD stated that Gulf's costs should be disallowed by the amounts which exceed DOE's representative prices in the months in which the costs were incurred.

IV. Notice of Objection

In accordance with 10 CFR § 205.193, any aggrieved person may file a Notice of Objection to any of the above described PROs or POD with DOE's Office of Hearings and Appeals within 15 days after the date of this publication. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the PRO or POD. If a Notice of Objection is not filed in accordance with § 205.193, the respective PRO or POD may be issued as a final Remedial Order or Order of Disallowance.

All Notices of Objection, Statements of Objections, Responses, Replies, Motions, and other documents required to be filed with the Office of Hearings and Appeals shall be sent to: Office of Hearings and Appeals, Department of Energy, Room 3304, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

No confidential information shall be included in a Notice of Objection.

Copies of all Notices of Objection, Statements of Objections and all other pleadings filed by an aggrived person or other participant shall be served on the following persons in each of the identified PRO or POD proceedings:

(1) PRO Nos. RGFK00303, NGFP0101, RGFM01401: David L. Anderson, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, Room 5109, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

(2) PRO Nos. RGFL01403, RGFL01701:

Paul M. Geier, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, Room 5109, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

(3) PRO Nos. RGFK00303, RGFL01403, RGJM01401, RGFL01701: Robert J. McKee, Jr., Director, Philadelphia Field Office, Economic Regulatory Administration, Department of Energy 1421 Cherry Street, 10th Floor, Philadelphia, Pennsylvania 19102.

(4) PRO No. NGFP 00101: James O. Neet, Jr., Chief Counsel, Dallas Field Office, Economic Regulatory Administration, Department of Energy, Mockingbird Towers, Suite 200-E, 1341 West Mockingbird Lane, Dallas, Texas 75247.

(5) POD No. RGFH01893: Ronald L. Olson, Ann C. Grover, Associate Solicitors, Economic Regulatory Administration, Department of Energy, Room 5109, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Requests for copies of one or more of the PROs or POD with confidential information deleted shall be directed to: Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585.

Issued in Washington, D.C., June 10, 1983.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 83-16259 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-140]

A. E. Staley Manufacturing Company; Application for Certification of the Use of Natural Gas To Displace Fuel oil

A. E. Staley Manufacturing Company (Staley), 2200 East Eldorado Street, Decatur, Illinois 62525, filed an application on June 8, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at Sagamore Operations of A. E. Staley, By-Pass 52, Lafayette, Indiana, and A. E. Staley manufacturing Company, 3300 U.S. 52 South, Lafayette, Indiana, pursuant to 10 CFR part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its appliclation, Staley indicates that the volume of natural gas for which it requests certification is approximately 2,503,535 Mcf per year (1,206,690 Mcf at the facility located on By-Pass 52 and 1,296,845 Mcf at the facility located at 3300 U.S. 52 South). This volume is estimated to displace the use of approximately 397,400 barrels of No. 6 fuel oil (1 to 2 percent sulfur) per year (191,550 barrels at the facility located on By-Pass 52 and 205,850 barrels at the facility located at 3300 US 52 South).

The eligible seller is IGC Energy, Inc., 1630 N. Meridian Street, Indianapolis, Indiana 46202. This gas will be transported by panhandle Eastern Pipeline Company, P.O. Box 1642, Houston, Texas 77001 and Michigan Wisconsin Pipeline Company, One Woodward Avenue, Detroit, Michigan 48226. The local distribution company is Indiana Gas Company, Inc., 1630 N. Meridian Street Indianapolis, Indiana 46202.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, with ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this appliclation may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's Interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessaary.

If ERA determines that an oral presentation is necessary, further notice will be given to Staley and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 13, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16308 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-115]

Avon Products, Inc.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Avon Products, Inc. (Avon) 9 West 57th St., New York, New York 10019, filed an application on May 23, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Springdale, Ohio facility, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Avon indicates that the volume of natural gas for which it requests certification is approximately 150 million cubic feet per year. This volume is estimated to displace the use of approximately 26,100 barrels of No. 2 fuel oil (0.2 percent sulfur) per year.

The eligilbe sellers are Exxon U.S.A., P.O. Box 2810, Houston, Texas 77001; Texas Gas Transmission Corporation, 3800 Frederica Street, P.O. Box 1160, Owenboro, Kentucky 42301; and Ohio Gas Marketing Corporation, 3933 Price Road, Newark, Ohio 43055. The gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, W. Virginia 25315; Cincinnati Gas and Electric Co., P.O. Box 960, Cincinnati, Ohio 45202; and by the Union Light, Heat and Power Co., P.O. Box 32, Covington, Kentucky 41012.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a

group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If the ERA determines that an oral presentation is necessary, further notice will be given to Avon and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 13, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16310 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-172]

Genstar Stone Products Company; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Genstar Stone Products Co., Executive Plaza IV, Hunt Valley, Maryland 21031, filed an application on June 7, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Beaver Dam Road and Church Lane Manfacturing Facilities in Cockeysville, Maryland, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Genstar Stone Products Co. indicates that the volume of natural gas for which it requests certification is approximately 230,000 Mcf per year (54,487 Mcf at Beaver Dam Rd. and 173,684 Mcf at Church Lane). This volume is estimated to displace the use of approximately 1,540,000 gallons of #6 fuel oil (1.0 percent sulfur) per year (369,600 gallons at Beaver Dam Rd. and 1,170,000 gallons at Church Lane).

The eligible sellers are Exxon U.S.A., P.O. Box 2810, Houston, Texas 77001; Target Explorations, Inc., 301 Clark Building, Columbia, MD 21044; and Yankee Resources, Inc., Suite 800, 1105 Schrock Rd., Columbus, Ohio 43229. This gas will be transported by Columbia Gas Transmission Corp., P.O. Box 1273, Charleston, West Virginia 25325 and by Baltimore Gas and Electric Co., P.O. Box 1475, Baltimore, Maryland 21203, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oran presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Genstar Stone Products Co. and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 13, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16306 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-119]

Gold Bond Building Products Co.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Gold Bond Building Products Company (Gold Bond), 2001 Rexford Road, Charlotte, North Carolina 28211, filed an application on May 23, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its Baltimore, Maryland and Lorain, Ohio Plants, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Natural Gas Division docket Room, RG-43, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Gold Bond indicates that the volume of natural gas for which it requests certification is approximately 1,458,000 Mcf per year. This volume is estimated to displace per year the use of approximately 180,340 barrels of No. 2 fuel oil (1.0 percent sulfur) 112,790 at Baltimore and 67,550 at Lorain; and 64,725 barrels of No. 6 fuel oil (2 percent sulfur) 40,550 at Baltimore and 24,175 at Larain.

The eligible sellers are Enercorp Resources, Inc., One Elizabethtown Plaza, Elizabeth, New Jersey 07207 (for the Baltimore plant) and Park-Ohio Industries, 777 East 79th Street, Cleveland, Ohio 44103 (for the Lorain plant). The gas will be transported for both plants by Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, P.O. Box 1273, Charleston, West Virginia 25325; and by Baltimore Gas & Electric, 1508 Woodlawn Road, Baltimore, Maryland 21207 (Baltimore plant), and Columbia Gas of Ohio, 109 North Front Street, Columbus, Ohio 43215 (Lorain plant), each a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Gold Bond and any person filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 13, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16309 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket NO. 83-CERT-170]

Pemco Products, a Division of Mobay Chemical Corp.; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Mobay Chemical Corporation (Pemco Products), 5601 Eastern Avenue, Baltimore, Maryland 21224, filed an application on June 7, 1983, with the Economic Regulatory Administration (ERA) for certification of an eligible use of natural gas to displace fuel oil at its manufacturing facility in Baltimore, Maryland, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Pemco Products indicates that the volume of natural gas for which it requests certification is approximately 240,000 Mcf per year. This volume is estimated to displace the use of approximately 31,000 barrels of No. 2 fuel oil (0.5 percent sulfur) per year.

The eligible sellers are Target Explorations, Inc., 301 Clark Building, Columbia, Maryland 21044; Exxon U.S.A. P.O. Box 2810, Houston, Texas 77001; and Yankee Resources, Inc., Suite 800, 1105 Schrock Road, Columbus, Ohio 43229. This gas will be transported by Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 25325; and by Baltimore Gas & Electric Company, P.O. Box 1475, Baltimore, Maryland 21203, a local distribution company.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG-42, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten (10) calendar days of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary, further notice will be given to Pemco Products and any person filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., on June 13, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-16307 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5389-001]

City of Seattle, Washington; Surrender of Preliminary Permit

June 13, 1983.

Take notice that City of Seattle, Washington, Permittee for the proposed Illabot Creek Project No. 5389, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 5389 was issued on December 10, 1981, and would have expired on November 30, 1983. The project would have been located on Illabot Creek in Skagit County, Washington.

The Permittee filed the request on May 23, 1983, and the surrender of the preliminary permit for Project No. 5389 is deemed accepted as of May 23, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-16234 Filed 6-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-364-000]

Columbia Gas Transmission Corp.; Application

June 10, 1983.

Take notice that on June 2, 1983, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP83-364-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 35,000 dt equivalent of natural gas per day for The National Steel Group (National Steel), a unit of National Steel Corporation, from existing points of interconnection between Applicant and Kentucky West Virginia Gas Company (Kentucky-West) in Kentucky to an existing point of delivery, located in Hancock County, West Virginia, to Columbia Gas of West Virginia, Inc. (Columbia of West Virginia), an existing wholesale customer of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to implement the terms of an agreement between Applicant and National Steel dated May 20, 1983, whereby Applicant has agreed to transport up to 35,000 dt equivalent of natural gas per day for National Steel for an initial term of two years. Applicant proposes a rate as may be set forth in its FERC Gas Tariff which is currently 40.11 cents per dt and proposes to retain certain quantities of gas for company and unaccounted-for uses.

Applicant states that up to 35,000 dt equivalent of natural gas per day would be received from Kentucky-West at interconnections with Applicant's pipeline and would be redelivered for National Steel's account at existing interconnection with the pipeline system of Columbia of West Virginia for ultimate redelivery to National Steel at its plant in Weirton, West Virginia. No new facilities are required to effectuate the transportation service proposed herein, it is asserted.

Applicant states National Steel has notified its employees that the Weirton facilities would be offered for sale to its employees if a satisfactory agreement could be reached and that a corporate entity would be created to implement the employee purchase plan. In order to finance the buy-out, the employees must demonstrate that the facility can become a viable operation through significantly reduced compensation and the initiation of cost-cutting measures, it is asserted. The gas to be transported hereunder is part of the proposed cost-cutting measures, Applicant submits.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 27, 1983, file with the Federal Energy

Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-16235 Filed 6-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-363-000]

Kentucky West Virginia Gas Co.; Application

June 10, 1983

Take notice that on June 2, 1983, Kentucky West Virginia Gas Company (Applicant), P.O. Box 1388, Ashland, Kentucky 41101, filed in Docket No. CP83-363-000, an application, as amended June 9, 1983, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of National Steel Corporation (National Steel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on behalf of National Steel pursuant to a transportation agreement dated May 13, 1983, up to 20,000 dt equivalent of natural gas per day for use at National Steel's steelmaking plant in Weirton, West Virginia, from interconnections established between the facilities of Applicant and National Steel's supplier at points on Applicant's system in Kentucky to the existing interconnection between Columbia Gas Transmission Corporation (Columbia) in Floyd County, Kentucky, or other interconnections as may be established from time to time by mutual agreement among Applicant, National Steel and Columbia. It is stated that Columbia would in turn transport the gas to Weirton under a separate transportation agreement.

Applicant proposes to charge National Steel 36.2 cents per dt equivalent of gas transported.

It is stated that National Steel may transfer its steelmaking plant in Weirton, West Virginia, to ownership independent of National Steel during the term of the agreement. In contemplation of such transfer, Applicant requests that it be granted authorization to transport gas for National Steel or its transferee.

Applicant further states that the gas to be transported for National Steel and the subsequent owner of the Weirton Steel steelmaking plant is being purchased in Kentucky by National Steel and subsequently would be purchased by its transferee.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 27, 1983, file with the Federal Energy Regulatory commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-16236 Filed 6-16-83; 8:45 am]

BILLING CODE 6717-01-M

Kentucky West Virginia Gas Co.; Application

[Docket No. CP83-362-000]

June 10,1983.

Take notice that on June 2, 1983, Kentucky West Virginia Gas Company (Applicant), P.O. Box 1388, Ashland, Kentucky 41101, filed in Docket No. CP83-362-000 an application, as amended June 9, 1983, pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport and deliver up to 15,000 dt equivalent of natural gas per day to effectuate a direct sale to National Steel Group, a unit of National Steel Corporation (National Steel), for use at its steelmaking plant in Weirton, West Virginia, with authority to continue the transportation and delivery of gas associated with such sale to National Steel's successor or assignee, all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

Applicant proposes to deliver said gas to the transmission facilities of Columbia Gas Transmission Corporation (Columbia) in Kentucky, after which Columbia and Columbia Gas of West Virginia, Inc., the current supplier, would transport the gas to Weirton under separate transportation agreements. Applicant states that the sales agreement dated May 13, 1983, in contemplation of the impending transfer of the plant at Weirton, provides for National Steel's subsequent assignment of rights and obligations, including the addition of a take-or-pay obligation and a weekly billing arrangement, to such subsequent ownership (independent of National Steel) during the term of the agreement. It is further stated that the agreement is structured so that

Applicant will serve National Steel on an interruptible basis until the transfer is consummated, after which the agreement would be assigned (by National Steel) to the subsequent owner, and the service would continue on a firm basis for a period of two years and, by the parties' agreement, on a year-to-year basis thereafter. It is also stated that the gas to be sold to National Steel and its transferee is available as surplus from Applicant's system suply because of recent declines in gas sales experienced by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 27, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16237 Filed 6-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4471-001]

Public Utility District No. 1 of Ferry County, Washington; Surrender of Preliminary Permit

June 13, 1983

Take notice that Public Utility District No. 1 of Ferry County, Washington, Permittee for the proposed Barstow Project No. 4471, has requested that its preliminary permit be terminated. The permit was issued on August 31, 1981, and would have expired on July 31, 1984. The project would have been located on the Kettle River in Ferry and Stevens Counties, Washington.

The Permittee filed its request on March 14, 1983, and the surrender of the preliminary permit for Project No. 4471 is deemed accepted as of March 14, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-16238 Filed 6-16-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 459-017]

Union Electric Co.; Application for Approval of Revised Exhibit S

June 14, 1983

Take notice that Union Electric Company, Licensee for the Osage Project, FERC No. 459, on April 12, 1983, filed an application for approval of a revised Exhibit S, pursuant to the requirements of the license issued on April 9, 1981.

Correspondence with the Licensee should be directed to: Mr. James J. Cook, Attorney, Union Electric Company, P.O. Box 149, St. Louis, Missouri 63166.

The Osage Project is located on the Osage River in Benton, Camden, Miller and Morgan Counties, Missouri. The revised Exhibit S contains a report on the effect of the project upon the fish and wildlife resources in the project area and a Fish and Wildlife Management plan for the project.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motions to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025-26 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before July 25, 1983.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-16239 Filed 6-16-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of April 29 Through May 6, 1983

During the Week of April 29 through May 6, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office

of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 13, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Apr. 29 through May 6, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 29, 1983	Gentry & Wagner, Knoxville, Tenn	HFA-0143	Appeal of an information request denial. If granted: The April 18, 1983, Information Request Denial issued by Oak Ridge Operations would be rescinded and Gentry & Wagner would receive access with no fee requirement to the transcript in the matter of *James E. Young v. Department of Energy*, Merit Systems Protection Board Case Nos. AT351D8211323 and AT04328310035.
May 2, 1983	Economic Regulatory Administration/Entrada Arco San Francisco, Calif.	HRW-0021	Proposed remedial order finalization. If granted: The Economic Regulatory Administration has requested that a Proposed Remedial Order issued to Entrada Arco (Case No. SF-15298) on November 28, 1980 be issued as a final Remedial Order.
Do	Economic Regulatory Administration/James Clawson Chevron, San Francisco, Calif.	HRW-0020	Proposed remedial order finalization. If granted: The Economic Regulatory Administration has requested that a Proposed Remedial Order issued to Entrada Arco (Case No. OC-13-266) issued to James Clawson Chevron on November 28, 1980 be issued as a final Remedial Order.
Do	Judith A. Stutsman, Fresno, Calif	HFA-0144	Appeal of an information request denial. If granted: The March 30, 1983, Information Request Denial issued by the Office of Naval Petroleum and Oil Shale Reserves would be rescinded and Judith A. Stutsman would receive access to the names and addresses of witnesses questioned in the preparation of the investigation report regarding an accident involving a truck owned by Hayter Trucking Company.
Do	Sabine Refining & Trade Company, Washington, D.C	HRD-0130	Motion for discovery. If granted: Discovery would be granted to Sabine Refining & Trade Company in connection with the Statement of Objections submitted in response to the Proposed Remedial Order issued to it (Case No. HRO-0130).
Do	Siebe Norton, Inc., Shrewsbury, Mass	HFA-0142	Appeal of an information request denial. If granted: The March 31, 1983, Information Request denial issued by the Albuquerque Operations Office would be rescinded and Siebe Norton, Inc. would receive access to the Summary Sheet for bids received in response to Rockwell International's Rockey Flats Plant Solicitation No. 77112 BF.
Do	Tugalo Gas Company, Toccoa, Ga	HRA-0006, HRS-0031.	Appeal of a modified remedial order and request for stay. If granted: The March 31, 1977, Remedial Order issued to Tugalo Gas Company by the Economic Regulatory Administration Region IV regarding the firm's sales of propane would be rescinded. The firm would receive a stay of the March 31, 1977, Remedial Order pending a final determination on its appeal.
May 3, 1983	Enver Masud, Des Moines, Iowa	HFA-0145	Appeal of an information request denial. If granted: The April 4, 1983, Information Request Denial issued by the Director of Personnel would be rescinded and Enver Masud would receive access to information regarding vacancy announcements ERM 80-2, ERM 80-3, and ERM 80-61.
May 4, 1983	Charles Barnes, Lawrence, Kans	HFA-0146	Appeal of an information request denial. If granted: The April 1, 1983, Information Request Denial issued by the Office of Nuclear Energy would be rescinded and Charles Barnes would receive a waiver of fees for copies of Kerr-McGee Oil Industries documents.
Do	Department of Interior, Washington, D.C	HEE-0067	Exception from the certification rules. If granted: The Department of Interior would receive an exception from certain certification requirements applicable to first sellers of crude oil set forth in 10 CFR, Part 212, with respect to its sales of offshore crude oil.
May 6, 1983	John T. Howe, Inc., Lake Ariel, Pa	HEE-0068	Exception to the reporting requirements. If granted: John T. Howe, Inc. would no longer be required to file forms EIA-782 and EIA-172.
Do	Powerine Oil Company, Washington, D.C	HRD-0131	Motion for discovery. If granted: Discovery would be granted to Powerine Oil Company in connection with the Statement of Objections submitted in response to the July 22, 1982, Proposed Remedial Order issued to it (Case No. HRO-0085).

REFUND APPLICATIONS RECEIVED

[Week of Apr. 29 to May 6, 1983]

Date	Name of refund proceeding/name refund application	Case No.
5/3/83	Sid Richardson/Gulf Oil Corp	RF26-6.
/5/6/83	Sid Richardson/James F. Hoover	RF26-5.
5/5/83	Texas Oil & Gas/Mobile Oil Corp	RF29-3.
5/2/83	Teneeco Oil/Southern Fuel Co	RF7-108.
5/3/83	Texas Oil & Gas/Gulf Oil Corp	RF29-2.
5/3/83	Amoco refund applications	RF21-8364.
5/6/83		RF21-10090.

NOTICE OF OBJECTION RECEIVED

[Week of Apr. 29, 1983 to May 6, 1983]

Date	Name and location of applicant	Case No.
5/2/83	Southland Refining Co., Washington, D.C.	BYX-0199.
5/4/83	Raypak, Inc., and Teledyne Laars, Pomona, Calif.	HXE-0055

[FR Doc. 16281 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of May 6 Through May 13, 1983

During the Week of May 6 through May 13, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office

of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 13, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 6 through May 13, 1983]

Date	Name and location of applicant	Case No.	Type of submission
May 9, 1983	Osborne Energy Corporation, Washington, D.C.	HRD-0132, HRH-0132	Motion for Discovery and request for evidentiary hearing. If granted: Discovery would be granted and an Evidentiary Hearing would be convened in connection with the Statement of Objections submitted by Osborne Energy Corporation in response to the Proposed Remedial Order issued to it (Case No. HRO-0116).
Do	Texaco, Inc., Washington, D.C.	HRR-0057	Request for modification/rescission. If granted: The May 4, 1983, Decision and Order issued to Texaco, Inc. (Case No. HRZ-0147) would be modified to include Admission No. 3 and Admission No. 4, regarding the West Cote Blanche Bay overcharge entity.
May 10, 1983	Economic Regulatory Administration/San Francisco, Calif.	HRW-0022	Remedial order finalization. If granted: The Economic Regulatory Administration has requested that a Proposed Remedial Order issued to Lee Garrett on January 23, 1981, be issued a final Remedial Order.
May 11, 1983	Decision Planning Corporation, Los Angeles, Calif.	HFA-0147, HES-0032	Appeal of an information request denial. If granted: The April 7, 1983, Decision and Order (Case No. HFA-0113) issued to Systematic Management Services would be modified regarding the release of two documents submitted by Decision Planning Corporation to the DOE Chicago Operations Office. Decision Planning Corporation would receive a stay of the April 7, 1983, Decision and Order pending a determination on its appeal.

REFUND APPLICATIONS RECEIVED

[Week of May 6 to May 13, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
5/9/83	Amoco refund applications	RF21-10991.
5/13/83		RF21-11122.

[FR Doc. 83-16262 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has issued a Decision and Order concerning second stage refund procedures to be implemented for distribution of the consent order funds remitted to the DOE by Palo Pinto Oil & Gas

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20461, (202) 633-9834.

SUPPLEMENTARY INFORMATION: The Decision and Order which appears below establishes procedures for distribution of the consent order funds remitted to the DOE by Palo Pinto Oil & Gas, which remain after payment of a refund to Gulf Oil Corporation, the sole applicant which directly purchased products from Palo Pinto involved in the consent order. The escrowed funds not refunded to Gulf, amounting to $266,904 plus interest, shall be distributed for the benefit of unidentifiable end-users downstream in the distribution chain of Palo Pinto products who were injured by the alleged violations involved in the consent order.

In this Decision, the Office of Hearings and Appeals (OHA) apportioned the Palo Pinto consent order fund among the fifty states, territories, and possessions of the United States according to the percentage of national Gulf gasoline distribution in each state or territorial jurisdiction. In this manner, refund shares will be proportionate to the level of injury sustained by end-users within each jurisdiction. Upon approval by the OHA of a plan submitted by a jurisdiction which will provide restitutionary benefits to consumers of natural gas liquids products within that jurisdiction, the refund amount apportioned to that jurisdiction will be disbursed. As discussed in the Decision below, the DOE has concluded that the state governments are appropriate bodies to formulate a distribution plan in these proceedings because they will provide effective and efficient restitution to petroleum products consumers in the relevant market areas.

Dated: June 10, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 9, 1983.

Decision and Order of the Department of Energy

Second-Stage Refund Procedures

Name of Petitioner: Palo Pinto Oil & Gas
Date of Filing: December 5, 1980
Case Number: HQF-0014

I. Background

Under the procedural regulations of the Department of Energy (DOE), the Office of Hearings and Appeals (OHA) implemented special procedures for the purpose of distributing $529,000 obtained through a consent order entered into by the DOE and Palo Pinto Oil & Gas (Palo Pinto). *See* 10 CFR Part 205, Subpart V. The consent order settled all disputes between the firm and the DOE relating to alleged overcharges in sales of natural gas liquid products (NGLPs) during the period September 1973 through December 1978. *See* FR 41288 (1979). The funds were held in an interest bearing escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their distribution.

The OHA established a two-stage process for distribution of the Palo Pinto consent order monies. *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) (hereinafter referred to as the November 20 Order). During the first stage, determinations would be rendered on the merits of refund applications from parties which could establish that they purchased NGLPs produced by Palo Pinto. If consent order funds remained after distribution to direct purchasers, the November 20 Order indicated that

second-stage procedures would be implemented to refund monies to other unidentifiable parties who may have been injured by the alleged overcharges. The first stage of the Palo Pinto refund proceeding has recently been completed. *Palo Pinto Oil & Gas/Gulf Oil Corp.*, 10 DOE ¶ 85,049 (1983) (hereinafter referred to as *Palo Pinto/Gulf*). In that proceeding we determined that based upon its demonstration of injury resulting from the alleged Palo Pinto overcharges, Gulf Oil Corporation (Gulf) should receive a refund of $262,096 plus a proportionate share of the interest in the escrow account.

In the *Palo Pinto/Gulf* Decision we also considered an Application for Refund filed by the Controller of the State of California (the Controller) as a representative of all that state's end-users of NGLPs originally sold by Palo Pinto. The Controller also requested that his Application be treated as a notice of claim on behalf of other states which would be eligible for refunds upon a favorable disposition of the Controller's claim.

In *Palo Pinto/Gulf*, we determined that the funds not distributed to Gulf, namely $266,904 plus interest, should be distributed to ultimate consumers. We found that these other parties in the distribution chain for the NGLPs sold by Palo Pinto would have absorbed the remainder of the alleged overcharges in the form of higher prices for the Palo Pinto NGLPs or products produced with those NGLPs. Finally, we determined that California's state government and other eligible state governments which submitted materials indicating that they could act as appropriate conduits for refunds intended to benefit the injured end-users within their respective jurisdictions would be appropriate refund recipients. We requested that the Controller submit a plan which would suggest a methodology for dividing refund monies among the states. In the present proceeding we will evaluate the Controller's proposal and establish procedures for filing second-stage refund claims.

II. California's Proposal

On February 3, 1983, the Controller of the State of California, joined by the Attorneys General of Alabama, Illinois, Michigan and Pennsylvania, and the New York State Energy Office (hereinafter referred to jointly as California), filed a proposal for dividing the remainder of the Palo Pinto consent order fund. California's proposal recommends that OHA divide the remaining funds among the 50 states and United States territories and possessions (hereinafter referred to as states) on the basis of each state's proportionate share of nationwide Gulf gasoline consumption. Under the proposal, each state would receive a refund equal to the principal amount remaining in the Palo Pinto consent order fund, multiplied by the ratio of Gulf's gasoline sales within that state to Gulf's nationwide sales of gasoline, plus an appropriate share of the accrued interest. California asserts that a distribution based on each state's proportionate share of Gulf gasoline sales is appropriate for two reasons. First, California maintains that the eventual impact of the alleged Palo Pinto overcharges not absorbed by Gulf may well have been absorbed by consumers of Gulf's motor gasoline. In this regard California asserts that NGLPs are used as a feedstock in gasoline production, as a gasoline blending component, and as a refinery fuel. California further claims that certain of Gulf's NGLP costs would have been included in the firm's cost banks for gasoline pricing purposes. Second, California contends that a gasoline sales distribution plan is the most feasible distribution scheme, given the availability of relevant, publicly accessible data. According to California, information relating to Gulf's sales of gasoline is the most comprehensive data available to the public concerning Gulf's marketing practices. Specifically, the data upon which California proposes to base the distribution plan is each state's share of Gulf gasoline consumption during 1974. (*1*) This information is obtained from data published in the *National Petroleum News* (NPN), *Mid-May 1975 Factbook*.

California proposes that funds received by each state be allocated to energy-related programs which benefit citizens who have borne the impact of the alleged overcharges. Specifically, these suggested programs include:

Weatherization programs; carpool, vanpool, fleet management and other transportation efficiency programs; conservation or alternative energy assistance programs; other assistance to oil product consumers, including energy-related education, training, credit or representation activities; energy audit programs; low-income energy assistance; and programs to reduce public or public agency energy usage and costs.

In view of the relatively small size of the refund pool, California contends that a more specific delineation of programs to which funds will be allocated is unnecessary.

California further suggests that the DOE issue one check to the Controller in the aggregate amount of all payments to the states, to the states, to be subsequently divided among states which have submitted meritorious claims. California contends that this procedure would be administratively efficient and would permit states easily to reimburse the Controller for his participation throughout this proceeding. California suggests that reimbursement of the Controller be limited to an amount not to exceed 2.5 percent of the total distribution to state governments. (*2*)

Finally, California stipulates that a copy of its proposal has been served on officials of state governments and the territories and possessions of the United States. The proposal includes a form on which these officials may indicate their interest in participating in second-stage procedures. California recommends that officials which do not return the form be given an additional opportunity to indicate their interest in participating before all refunds are paid.

III. Discussion of Second-Stage Refund Procedures

As we stated in *Palo Pinto/Gulf*, utilizing state governments as conduits of refunds to be distributed for the benefit of end-users is the most appropriate second-stage refund mechanism in this proceeding. End-users undoubtedly bore a burden in the form of higher prices as a result of the alleged Palo Pinto overcharges. However, it is difficult to refund monies directly to end-users because of the small sums of money involved in individual claims and the administrative burden of issuing individual checks. In addition, the lack of detailed records may prevent ultimate consumers from proving the validity of their own individual refund claims. Nevertheless, these considerations do not alter the fact that injury to these consumers has occurred. *See Palo Pinto/Gulf*, 10 DOE at 88,251; *see also Office of Enforcement*, No. BEF-0030 (May 1, 1981) (proposed decision), slip op. at 8. Because it is difficult to gauge the precise effects of the alleged overcharges on ultimate consumers and to document claims, no perfect mechanism for refunding monies to these consumers exists. However, based upon our experience, we are convinced that by allocating refund monies to energy-related programs, state governments can effectively compensate their citizens who have paid higher energy costs as a result of alleged

overcharges. For example, state governments have funded energy-related programs using consent order monies obtained by the DOE from Standard Oil Company of California (Chevron). *See* 46 FR 52221 (1981). Moreover, refunding monies to states is a relatively efficient process and permits a restitutionary scheme which has a wide geographical impact in proportion to the level of injury actually sustained by end-users. *See Office of Enforcement*, 10 DOE ¶ 85,048 at 88,201 (1983). (*3*)

We agree with California that apportioning refunds to state governments on the basis of Gulf's marketing of gasoline during the consent order period is equitable. Gulf's marketing of gasoline can be reasonably used to assess the ultimate impact of the alleged Palo Pinto overcharges on end-users because these alleged overcharges would have affected Gulf's pricing of gasoline. Increased costs for Palo Pinto NGLPs would have had an impact on gasoline prices because they were included in Gulf's company-wide product costs used for gasoline pricing purposes. Moreover, because NGLPs are used as an input in the production of gasoline, some of Gulf's increased production costs arising from the NGLP purchases would have also affected its sales price for gasoline. (*4*)

Accordingly, all jurisdictions in which Gulf marketed gasoline and which were included in the "United States" as defined by section 3(7) of the Emergency Petroleum Allocation Act of 1973 (EPAA) will be eligible to receive refunds. Attached to this Decision as the Appendix is a table listing the states in which Gulf marketed its gasoline in 1974 and showing the percentage share of Gulf gasoline consumption for each state. Each state shall be apportioned a share of the Palo Pinto escrow fund that corresponds to its percentage share of Gulf gasoline consumption, as shown in the Appendix. (*5*) Each state shall have the option of allocating a portion of its refund share, up to 2.5 percent, to the Controller in consideration of his participation in the Palo Pinto proceeding. If all eligible states which submit meritorious claims elect to pay the Controller the maximum 2.5 percent of their individual refund shares, the Controller would receive $6,673 plus accrued interest ($266,904 remaining in the consent order funds times 2.5 percent equals $6,673).

Each governmental entity that wishes to participate shall file a plan generally setting forth the energy-related project or projects it desires to fund with its share of the Palo Pinto consent order monies. The plan should include a brief description of each project and an explanation of how each project will benefit groups of citizens within the jurisdiction who have likely borne the impact of the alleged overcharges. Each state's plan should also be accompanied by a statement that each of the proposed projects is a new program or an enlargement of an existing program. Funds may not be used to replace state funds for activities already fully funded. We shall not, however, issue an exclusive list of acceptable projects because we believe that each state should have maximum flexibility in formulating its plan. Furthermore, we shall not dictate to the states any particular procedure to be used in formulating their respective plans.

Each state plan should list the name, position title, and telephone number of a person who may be contacted by the OHA for additional information concerning the plan, and should be signed by a responsible governmental official. The plan should also include the name and address of the state official to whom the refund check should be sent. In addition, each submission shall include the following statement signed by an appropriate state official: I affirm that I am authorized to submit a plan, on behalf of [the state or commonwealth], for distribution of a refund obtained in the Palo Pinto refund proceeding. The plan may also include a statement indicating the portion, if any, up to 2.5 percent of the particular refund share, that the state wishes to divert to the Controller to defray expenses that the Controller has incurred through participation in this proceeding. In the absence of any statement, no funds will be diverted to the Controller. In addition, like all applications for refund, state plans will be available for inspection in the OHA Public Docket Room. Accordingly, each State should submit with its plan an additional copy of the plan to be placed in the Public Docket Room. The submission should be sent to the following address: Palo Pinto Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461.

We will review each state's plan to see whether it fulfills the general requirement that the projects undertaken should benefit those citizens who were most likely affected by the transactions covered by the Palo Pinto consent order. We will then issue an Order approving the plan and ordering that the money be disbursed to the state.

Upon approval of a refund plan, the funds will be transferred from the DOE escrow account maintained at the United States Treasury to the state. Although California's proposal recommends that the DOE issue one check to the Controller which would then be divided among qualifying states, we believe issuing refunds to each individual state is the proper approach. Since refunds will be approved only upon a favorable evaluation by OHA of each state's plan, the DOE will retain jurisdiction over the refund pool.

Finally, we will, as a condition of an Order approving a state plan, require each state to submit a report, within two years of receipt of a refund, which sets forth the final disposition of the funds.

IV. Conclusion

In the foregoing determination, we have prorated the monies remaining in the Palo Pinto refund account and established procedures for filing refund claims to be followed by governments of states and United States territories and possessions in the second-stage of the Palo Pinto refund proceeding.

It Is Therefore Ordered That:

(1) The fifty states and territories and possessions of the United States shall be apportioned the percentages of the Palo Pinto Oil & Gas escrow fund set forth in the Appendix to this Decision, plus a proportionate share of accrued interest.

(2) Payment to each jurisdiction of the amount set forth in paragraph (1) will be made after approval by the Office of Hearings and Appeals of a plan submitted by the jurisdiction which will benefit probable injured parties within the jurisdiction and which conforms with the guidelines set forth in the foregoing Decision.

(3) This is a final order of the Department of Energy.

Dated: June 9, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(*1*) On February 23, 1983, several state attorneys general (the Commenting States) jointly filed comments on California's proposal. *See* "Response of the States of Arkansa, Delaware, Iowa, Kansas, Louisiana, North Dakota and Rhode Island to Joint Proposal of the Controller of California (and Others)," February 23, 1983. The Commenting States have no objection to a distribution of the consent order funds to states based on Gulf's sales of gasoline. However, they argue that the distribution should be based on Gulf's gasoline sales over the entire consent order period, September 1973 through December 1978, rather than just for 1974.

(*2*) In their submission, the Commenting States contend that issuing one consolidated check to the Controller for subsequent distribution introduces an unnecessary administrative step in the refund process. They also assert that diverting the suggested

maximum of 2.5 percent of the refund pool to the Controller to defray his expenses is unwarranted. The Commenting States maintain that it is more efficient and equitable for the DOE to issue separate checks to individual states upon a favorable determination on each state's refund claim.

(3) In *Attorneys General of the States of Delaware, Iowa, Louisiana, North Dakota and Rhode Island*, 10 DOE ¶ 82,536 (1982), we indicated that we would consider in each pending Subpart V proceeding, a Petition filed on behalf of all state governments requesting that any remaining second-stage refunds be distributed to the states to be utilized for energy-related programs. We have considered that Petition in the context of this proceeding and, as we have noted, determined to disburse second-stage refunds to states.

(4) Warren Petroleum Company, a Gulf subsidiary, purchased 94.4 percent of the NGLs involved in the Palo Pinto consent order. The remaining 5.6 percent of the alleged overcharges are associated with purchases from Palo Pinto made by GTM Corporation (GTM). *Office of Enforcement*, 9 DOE at 85,056, n.3. Because GTM did not apply for the share of the refund pool allocable to its purchases, and since no firm downstream in GTM's distribution chain has filed a claim, we have determined that this portion of the Palo Pinto monies should also be distributed to the states. We have decided to aggregate this share of the Palo Pinto funds with the greater part of the refund pool, in view of the small size of this share and in the interest of administrative efficiency.

(5) As the Commenting States suggest, it would be preferable to base the distribution of the funds on Gulf's gasoline sales over the entire consent order period. However, 1974 is the most recent year during the consent order period for which comprehensive data on Gulf's marketing of gasoline can be reasonably obtained. *See* "Joint Proposal of the Controller of California, *et al.*, at 3.

APPENDIX.—1974 RELATIVE PERCENTAGE OF GULF GASOLINE CONSUMPTION BY STATE

State	Gulf gallonage (billion gallons)*	Percentage of Gulf U.S. total**
Alabama	0.168	2.47
Alaska [1]	N/A	0.00
American Somoa [1]	N/A	0.00
Arizona	0.050	0.74
Arkansas	0.094	1.38
California	0.529	7.79
Colorado	0.035	0.52
Connecticut	0.067	0.99
Delaware	0.025	0.37
District of Columbia	0.031	0.46
Florida	0.403	5.94
Georgia	0.378	5.57
Guam [1]	N/A	0.00
Hawaii [1]	N/A	0.00
Idaho	0.008	0.12
Illinois	0.158	2.33
Indiana	0.061	0.90
Iowa	0.028	0.41
Kansas [2]	0.006	0.09
Kentucky	0.170	2.50
Louisiana	0.168	2.47
Maine	0.065	0.96
Maryland	0.152	2.24
Massachusetts	0.173	2.55
Michigan	0.232	3.42
Minnesota	0.058	0.85

APPENDIX.—1974 RELATIVE PERCENTAGE OF GULF GASOLINE CONSUMPTION BY STATE—Continued

State	Gulf gallonage (billion gallons)*	Percentage of Gulf U.S. total**
Mississippi	0.125	1.84
Missouri	0.030	0.44
Montana	0.005	0.07
Nebraska	0.015	0.22
Nevada	0.007	0.10
New Hampshire	0.037	0.55
New Jersey	0.255	3.76
New Mexico	0.025	0.37
New York	0.421	6.20
North Carolina [3]	0.248	3.65
North Dakota	0.002	0.03
Northern Marianas [1]	N/A	0.00
Ohio	0.319	4.70
Oklahoma	0.104	1.53
Oregon [4]	0.005	0.07
Pennsylvania	0.432	6.36
Puerto Rico [5]	0.148	2.18
Rhode Island	0.041	0.60
South Carolina	0.161	2.37
South Dakota	0.011	0.16
Tennessee	0.215	3.17
Texas	0.720	10.61
Utah	0.003	0.04
Vermont	0.023	0.34
Virgin Islands [1]	N/A	0.02
Virginia	0.220	3.24
Washington [4]	0.008	0.12
West Virginia	0.096	1.41
Wisconsin [6]	0.046	0.68
Wyoming	0.007	0.10
Totals	6.788	100

Source: "Joint Proposal of the Controller of California, the Attorneys General of Alabama, Illinois, Michigan, and Pennsylvania, and the New York State Energy Office," February 3, 1983, Appendix A.

* Gulf gallonage in each state was calculated by multiplying the 1974 state total gallonage of gasoline by the 1979 Gulf share of that state total. The 1974 data is published in the *National Petroleum News, Mid-May 1975, Factbook* (NPN).

** State percentage figures were rounded to the nearest 0.01 percent so that the sum of the state percentage equals 100 percent.

[1] According to California, Alaska and Hawaii appear to have had no Gulf distribution. In addition, American Samoa, Guam, and the Northern Marianas appear to have had no Gulf distribution.

[2] Gallonage for each state in which Gulf apparently marketed, but NPN showed no 1974 Gulf market share, was calculated by California in the following manner: Known gallonage for other states was subtracted estimated total national Gulf gallonage, weighted by the maximum possible Gulf share in each state. A fuller explanation can be found on page 2 of Appendix A in California's February 3, 1983 proposal.

[3] Information for Puerto Rico was estimated by California based on consumption figures provided by Puerto Rico, and on Gulf's share of local gasoline production capacity as reported by NPN. The Virgin Islands' share was estimated on population and size.

[4] Gallonage for Wisconsin was calculated by first averaging Gulf's 1972 and 1976 market share for Wisconsin, then averaging that figure by the maximum possible Gulf share in 1974, and finally applying the resulting figure to total gallonage for Wisconsin in 1974. *See* Memorandum from California to the Office of Hearings and Appeals, March 28, 1983.

[FR Doc. 83-16280 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

[Docket No. EP-40-83-3]

Energy Emergency Preparedness: Pre-Crisis Forward Sales of Strategic Petroleum Reserve Oil

AGENCY: Department of Energy.

ACTION: Extension of the comment period.

SUMMARY: This is in reference to a notice of Inquiry on Pre-crisis Foward Sales of Strategic Petroleum Reserve Oil that was published in the **Federal Register** on April 8, 1983, (48 FR 15320), wherein the comment period was noted to be 90 days from date of publication. In order to afford the public more time in preparing their responses, the Department of Energy (DOE) is now extending the comment period an additional 60 days.

DATE: The comment period is extended for an additional 60 days. Seven (7) copies of written comments and other materials should be submitted to DOE by 5:00 p.m. on September 6, 1983, to ensure their consideration.

ADDRESS: Comments should be addressed to William A. Vaughan, Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, Department of Energy, Forrestal Building, Room 4G-084, (Mail Stop EP-1), 1000 Independence Avenue, SW., Washington, D.C., 20585.

FOR FURTHER INFORMATION CONTACT: Finn Neilsen, Director, Office of Energy Contingency Planning, Office of energy Emergencies, U.S. Department of Energy, Forrestal Building, Room GH-060 (Mail Stop EP-43), 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252-4000.

Issued in Washington, D.C. June 8, 1983.

Willima A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 83-16311 Filed 6-16-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2383-3]

Availability of Environmental Impact Statements Filed June 6 Through June 10, 1983 Pursuant to 40 CFR 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or 382-5076.

Corps of Engineers:

EIS No. 830308, DSuppl, COE, ND, Pembina R. Basin Flood Damage Reduction Plan, Pembine & Cavalier Counties, Due: Aug. 1, 1983

EIS No. 830310, DSuppl, COE, IL, Kaskaskia River Navigation Project, O/M, St. Clair County, Due: Aug. 1, 1983

EIS No. 830309, Final, COE, SEV, IL MO St. Louis Harbor Study, Mississippi River, Due: July 18, 1983

EIS No. 830313, Final, COE, CA, Acme Landfill Operations Expansion, Permit, Contra Costa County, Due: July 18, 1983

Department of the Interior:

EIS No. 830306, Draft, BLM, UT, Topele Planning Area, Grazing Management Program, Due: Aug. 3, 1983
EIS No. 830311, Draft, BLM, CA, Yokayo Grazing Management Program, Due: Aug 2, 1983
EIS No. 830312, Draft, BLM, OR, Western Oregon Competing Vegetation Management Program, Due: Aug. 15, 1983
Department of Transportation:
EIS No. 830307, Draft, FHW, TX, Ennis Bypass Construction, US 287 to I-45, Ellis County, Due: Aug. 1, 1983
EIS No. 830295, Draft, FHW, CA, CA-52 Construction, I-805 to Santo Road, San Diego County, Due: Aug. 8, 1983
Department of Justice:
EIS No. 830315, Final, BOP, LA, Oakdale Allen Detention Center, Construction, Allen Parish, Due: July 18, 1983
Department of Agriculture
EIS No. 830314, Draft, REA, SEV, NM CO Taos to San Luis Valley 345 kV Transmission Line Project, Due: Aug. 1, 1983
Amended Notices:
EIS No. 830117, Draft, AFS, MT, Flathead National Forest Land and Resource Management Program Published FR 03/04/83—Review extended, Due: July 20, 1983

Note.—The Notice of Availability of Environmental Impact Statements filed May 23 through May 27, 1983 was inadvertently omitted from publication in the **Federal Register** dated June 3, 1983. The notice appeared in the June 6, 1983 **Federal Register**. All due dates for comments remain in effect as stated unless an official extension has been granted.

Dated: June 14, 1983.

Pasquale A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 83-16287 Filed 6-16-83; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2328-3]

Withdrawal of Notice of Intent to Prepare an Environmental Impact Statement; Breckinridge County, Kentucky

AGENCY: Region IV, Atlanta, Georgia, Environmental Protection Agency (EPA).

ACTION: Withdrawal of notice of intent to prepare an environmental impact statement (EIS).

On April 3, 1981, EPA published in the **Federal Register** (46 FR 20283) its intention to prepare a draft EIS on the issuance of an NPDES permit to Ashland Synthetic Fuels, Inc. (ASFI) for a commercial scale coal liquefaction facility in Breckinridge County, Kentucky.

In November 1982, ASFI (now Ashland-Breckinridge, Inc., ABI) announced its intention to suspend further efforts to develop the Breckinridge Project. The NPDES permit application has, therefore, been placed in an inactive status and preparation of the EIS suspended.

Dated: June 14, 1983.

Pat A. Alberico,

Acting Director, Office of Federal Activities.

[FR Doc. 83-16289 Filed 6-16-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51451E; TSH-FRL 2383-2]

Benzene Disulfonic Acid, Chlorotriazinyl Amino Dimethylphenylazo Sulfonaphthalene Azo Premanufacture Notice; Extension of Review Period

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notice (PMN) PMN 83-418, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on September 14, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Green, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, D.C. 20460 (202-382-3740).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a PMN to EPA 90 days before manufacture or import begins. Under section 5(c) EPA may, for good cause, extend the notice period for additional periods, not to exceed a total of 180 days from the date or receipt.

On January 20, 1983, EPA received PMN 83-418. The PMN substance is to be imported into the United States for use as an industrial dye for fibers and fabrics. The submitter claimed its identify and the specific chemical identity to be confidential business information. Notice of receipt of the PMN was published in the **Federal Register** of February 4, 1983 (48 FR 5304). The original 90-day review period is scheduled to expire on June 16, 1983.

EPA's detailed analysis of the substance described in PMN 83-418 addressed the following: effects on human health, metabolism, human exposure, degree of risk relative to available commercial substitutes, potential marketability, and the identification of other information which may be required to resolve outstanding issues.

As a result of this analysis, EPA has reason to believe the following:

1. Human exposure to the PMN substance may result in carcinogenicity.

2. Workers may be exposed to the PMN substance during use. Based on this analysis, EPA finds that there is a possibility that the substance submitted for review in PMN 83-418 may be regulated under section 5(e) of TSCA. The Agency requires an extension of the review period to further investigate potential health effects and use conditions, to examine its regulatory options and to prepare the necessary documents, should regulatory action be required. An administrative order under section 5(e) must be issued no later than 45 days prior to expiration of the review period. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to September 14, 1983.

PMN 83-418 is 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: June 7, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-16281 Filed 6-16-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Mississippi; Amendment to Notice of Major-Disaster Declaration

[FEMA-683-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of Mississippi (FEMA-683-DR), dated June 1, 1983, and related determinations.

DATE: June 13, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice

The notice of a major disaster for the State of Mississippi dated June 1, 1983, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 1, 1983.

Jefferson and Wilkinson Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718-02)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-16252 Filed 6-11-83; 8:45 am]

BILLING CODE 6718-02-M

Oklahoma; Major Disaster and Related Determinations

[FEMA-685-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA-685-DR), dated June 10, 1983, and related determinations.

DATE: June 10, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0501.

Notice

Notice is hereby given that, in a letter of June 10, 1983, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended, (42 U.S.C. 5121 *et seq.*, Public Law 93-288) as follows:

I have determined that the damage in certain areas of the State of Oklahoma, resulting from severe storms, tornadoes and flooding beginning on May 14, 1983, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under P.L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Mr. Lonnie R. Chant of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do herby determine the following area of the State of Oklahoma to have been affected adversely by this declared major disaster:

Hughes County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-16251 Filed 6-16-83; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; Edison Banks, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Edison Banks, Inc.*, Fort Myers, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of Security National Bank, Fort Myers, Florida. Comments on this application must be received not later than July 13, 1983.

2. *First State Financial Corporation*, Carrollton, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of First State Bank of Carrollton, Carrollton, Alabama. Comments on this application must be received not later than July 12, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Granite Holding Corporation*, Granite Falls, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Granite Falls State Bank, Granite Falls, Minnesota. Comments on this application must be received not later than July 13, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commercial State Holding Company, Inc.*, Republican City, Nebraska; to become a bank holding company by acquiring at least 80 percent of the voting shares of Commercial State Bank, Republican City, Nebraska. Comments on this application must be received not later than July 13, 1983.

2. *First Carmen Bancshares, Inc.*, Carmen, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank in Carmen, Carmen, Oklahoma. Comments on this application must be received not later than July 13, 1983.

3. *Munden Bankshares, Inc.*, Munden, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Munden State Bank, Munden, Kansas. Comments on this application must be received not later than July 13, 1983.

4. *Ore Bancorporation*, Leadville, Colorado; to become a bank holding company by acquiring 92.1 percent of the voting shares of First National Bank of Leadville, Leadville, Colorado. Comments on this application must be received not later than July 13, 1983.

Board of Governors of the Federal Reserve System, June 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16254 Filed 6-16-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies, Proposed de Novo Nonbank Activities; First Railroad & Banking Company of Georgia et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been

determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Railroad & Banking Company of Georgia* ("First Railroad & Banking"), Augusta, Georgia; (consumer financing and credit-related insurance activities; Tennessee): To engage through its subsidiary, CMC Group, Inc. ("CMC"), Charlotte, North Carolina, in the following activities: making consumer installment loans secured by notes, household goods, and first or second mortgages on real estate up to $15,000; purchasing installment sales contracts up to $3,500; underwriting credit life and accident and health insurance; and selling as agent, property insurance in connection with its loan and installment sales contracts. CMC was engaged in these financing and insurance activities at the time of its acquisition by First Railroad & Banking in 1979, and such activities are thus permissible under Section 601(D) of the Garn-St Germain Depository Institutions Act of 1982. Such activities will be conducted from an office of CMC to be located in Morristown, Tennessee, serving Hamblen County, Tennessee. Comments on this application must be received not later than July 11, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (financing, servicing, and leasing activities; western United States): To engage through its wholly owned subsidiary, Norwest Leasing Inc., in making or acquiring loans and other extensions of credit such as would be made by a commercial finance company, including commercial loans secured by a borrower's inventory, accounts receivable or other assets; servicing such loans for others; and leasing real and personal property in accordance with the Board's Regulation Y, which includes purchasing leases, and brokering leases to equity sources. These activities would be conducted from an office in Portland, Oregon, Serving Oregon, Washington, California, Idaho, Nevada, and Utah. Comments on this application must be received not later than July 11, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Correction

1. *First Security Corporation*, Salt Lake City, Utah (industrial loan company, lease finance, and insurance activities related to credit activities; Utah): This notice corrects a previous **Federal Register** document (FR Doc. 83–13946) published at page 23485 of the issue for Wednesday, May 25, 1983. The activities would also be conducted from an office in West Jordan, Utah, serving the southeastern portion of Salt Lake County. Comments on this application must be received not later than June 27, 1983.

2. *Wells Fargo & Company*, San Francisco, California (finance and leasing activities; United States and abroad): To enage, through its subsidiary, Wells Fargo Capital Markets Inc., in making or acquiring for its own account or for the account of others loans and other extensions of credit; servicing loans for the account of others; making full pay-out leases of personal or real property in acordance with the Board's Regulation Y. These activities would be conducted from offices in Dallas, Texas, and New york City, New York, serving commercial borrowers throughout the United States and abroad. Comments on this application must be received not later than July 11, 1983.

Board of Governors of the Federal Reserve System, June 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16257 Filed 6-16-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Credit Related Insurance Activities; United Banks of Colorado, Inc.

United Banks of Colorado, Inc., Denver, Colorado, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission, through its subsidiary, Lincoln Agency, Denver, Colorado, and through *de novo* subsidiaries, United Bank of Academy Place, Colorado Springs, Colorado, and United Bank of Fort Collins-South, Fort Collins, Colorado, to engage in acting as agent or broker for credit life and credit accident and health insurance directly related to extensions of credit. These activities would be performed from offices of Applicant's subsidiaries in Fort Collins and Colorado Springs, Colorado, and the geographic area to be served is the State of Colorado. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "'reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in

writing to the Reserve Bank to be received not later than July 1, 1983.

Board of Governors of the Federal Reserve System, June 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16256 Filed 6-16-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; United Banks of Colorado, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Banks of Colorado, Inc.*, Denver, Colorado; to acquire 100 percent of the voting shares of United Bank of Fort Collins-South, Fort Collins, Colorado. Comments on this application must be received not later than July 1, 1983.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *National Bancshares Corporation of Texas*, San Antonio, Texas; to acquire 100 percent of the voting shares or assets of Coastal Bend Bancshares, Inc., Robstown, Texas. Comments on this application must be received not later than July 12, 1983.

2. *Victoria Bankshares, Inc.*, Victoria, Texas; to acquire 100 percent of the voting shares or assets of Citizens State Bank of Bastrop, Bastrop, Texas. Comments on this application must be received not later than July 13, 1983.

Board of Governors of the Federal Reserve System, June 13, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-16255 Filed 6-16-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Drug Abuse Biomedical Research Review Committee; Reestablishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse and Mental Health Administration announces approval and certification by the Secretary of Health and Human Services, with the concurrence of the General Services Administration Committee Management Secretariat, of the following advisory committee:

Designation: Drug Abuse Biomedical Research Review Committee.

Purpose: The Committee shall advise the Secretary and the Director, National Institute on Drug Abuse, on the scientific and technical merit of applications for research grants, program projects, cooperative agreements, and applications for research fellowships, research training grants, and research scientist awards concerned with the basic biomedical aspects of narcotic addiction and drug use. These include applications for basic and applied biomedical research and other abused psychoactive substances such as inhalants and tobacco. Of special interest are studies of the biological mechanisms that underlie the phenomena of tolerance, dependence, abuse liability, and addiction.

Expiration Date: Authority for the Drug Abuse Biomedical Research Review Committee will expire December 31, 1984, unless the Secretary formally determines that continuance is in the public interest.

Dated: June 9, 1983.

William Mayer,

Administrator

[FR Doc. 83-16263 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-20-M

June Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of June 1983.

Drug Abuse Biomedical Research Review Committee

June 21–23; 9:00 a.m., Linden Hill Hotel, Sea Pines Room, 5400 Pooks Hill Road, Bethesda, Maryland 20014
Open—June 21; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Dr. Alan A. Schreier, Executive Secretary, DABR Room 10–42, Parklawn Building, 5600 Fisher Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., June 21 the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Drug Abuse Clinical and Behavioral Research Review Committee

June 21–23; 9:00 a.m., Linden Hill Hotel, Longwood Room, 5400 Pooks Hill Road Bethesda, Maryland 20014
Open—June 21–23; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Mr. Daniel L. Mintz, Executive Secretary, DACB Room 10–42, Parklawn Building 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., June 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

* * * * *

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained from Ms. Claudette Wright, Committee Management Officer, National Institute on Drug Abuse, Room 10–22, Parklawn Building, 5600 Fishers

Lane, Rockville, Maryland 20857, (301) 443–1644.

This **Federal Register** notice is late due to delays in reestablishing these Committees.

Dated: June 14, 1983.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.83–16320 Filed 6–16–83; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. July 25 and 26, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and executive secretary. Open public hearing, July 25, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, July 26, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; George C. Murray, National Center for Devices and Radiological Health (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before July 11 and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 25, the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for intraocular lenses (IOL's) and Yitrium-Aluminum-Garnet (YAG) lasers and may discuss specific PMA's for IOL's and YAG lasers. If discussion of all pertinent IOL and YAG laser issues is not completed, discussion will be continued the following day. On July 26, the committee may discuss PMA's or general issues relating to contact lenses or other ophthalmic products.

Closed committee deliberations. On July 25 and 26, the committee will conduct reviews of PMA's for IOL's and may conduct reviews of specific YAG laser PMA's. On July 26, the committee may also discuss trade secret or confidential commercial information relevant to PMA's for contact lens products. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency

documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clincal test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: June 8, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-15980 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83-0174]

American Medical Optics; Premarket Approval of the American Medical Optics J-Loop Posterior Chamber Intraocular Lens Model PC10

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the J-Loop Posterior Chamber Intraocular Lens Model PC10, sponsored by American Medical Optics, Irvine, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by July 18, 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 8, 1982, American Medical Optics submitted to FDA an application for premarket approval of the J-Loop Posterior Chamber Intraocular Lens Model PC10. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application for the use of this device as a primary implant in patients 60 years of age and older after extracapsular cataract extraction. The polypropylene suture material used to make the haptic for the J-Loop Model PC10 Posterior Chamber Intraocular Lens (IOL) is colored blue with [phthalocyaninato (2-)] copper. This color additive is listed for use in polypropylene sutures for general and ophthelmic surgery (see 21 CFR 74.1045), and its use in this device conforms to the listing restrictions. On May 17, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 18, 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: June 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-15977 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0183]

Apothecary Products, Inc.; Premarket Approval of Normaline®-250 Mg

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 Normaline®-250 mg (milligrams) for all soft (hydrophilic) contact lenses, sponsored by Apothecary Product Inc., Burnsville, MN. Normaline®-250 mg is intended for use in the preparation of 27.7 milliliters of normal saline (0.9 percent) solution to be used in heat disinfection of all soft (hydrophilic) contact lenses. 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 18, 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 November 16, 1982, Apothecary Products Inc., Burnsville, MN, submitted to FDA a supplemental application for premarket approval of Normaline®-250 mg for all soft (hydrophilic) contact lenses. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On May 27, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), salt tablets for preparing solutions for use in heat disinfection of soft (hydrophilic) contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice pubished in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition for approval, that sponsors of applications for premarket approval of soft contact lenses and lens care solutions for the above use comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above), and is available upon request from that office. A copy of all approved final labeling is avaiable for public inspection at the Office of Medical Devices—contact Charles H. Kyper (KFK-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 Normaline®-250 mg states that the solution prepared from the salt tablets is designed for use in heat disinfection of all soft (hydrophilic) contact lenses. Sponsors of any soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solutions at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Improvement Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets 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)).

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) shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the forms of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 18, 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: June 7, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-15879 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 82P-0387 et al.]

Availability of Approved Variance for Sunlamp Products

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that variances from the performance standard for sunlamp products have been approved by the Acting Director, Office of Radiological Health (formerly the Bureau of Radiological Health) of FDA's National Center for Devices and Radiological Health, for certain specified sunlamps and sunlamp products manufactured or imported by seven organizations. The intended use of the products is to produce ultraviolet radiation for tanning the skin.

DATES: The effective dates and termination dates of the variances are listed in the table below.

ADDRESS: The application and all correspondence on the various applications have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Norbert P. Heib, Jr., National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section

358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), each of the seven organizations listed in the table below has been granted a variance from certain requirements of the performance standard for sunlamp products (21 CFR 1040.20). Approval has been granted for the listed products to vary as specified from that portion of § 1040.20(c)(2)(ii) (21 CFR 1040.20(c)(2)(ii)) requiring the maximum timer interval for a sunlamp product to be 10 minutes or less or from § 1040.20(f)(2)(ii) that specifies the exact warning statement to be included in the user instructions for an ultraviolet lamp not accompanying a sunlamp product. All other provisions of § 1040.20 remain applicable to the listed sunlamp products and ultraviolet lamps.

Each of the variances for the nominally ultraviolet-A (UVA) sunlamp products permits the listed manufacturer or importer to introduce into commerce sunlamp products that have less than 5 percent of their ultraviolet radiation at wavelengths shorter than 320 nanometers. FDA's experience with this kind of sunlamp product indicates that the relatively lengthy exposure recommended by the manufacturer does not result in severe, acute skin burns or corneal injury. Therefore, some of the requirements of § 1040.20 are not appropriate for these UVA products. Even though the skin hazard is reduced, there is still a need to wear protective eyewear to eliminate the unnecessary risk to chemically sensitized lenses or of cornea damage or of long-term development of lens opacities.

Suitable or alternate means of radiation protection will be provided by constraints on the physical and optical design and by warnings in the user manual and on the products for all of the variances in lieu of the requirements listed in the table that were determined to be inappropriate. Therefore, on the dates specified in the table below, FDA approved the requested variances by letter to each manufacturer or importer from the Acting Director, Office of Radiological Health.

So that the product will bear evidence of the variance approved for the manufacturer of that product, each product shall bear on the certification label required by § 1010.2 (21 CFR 1010.2(a)) the docket number and effective date of the variance as specified in the table below.

Docket No.	Organization Granted the Variance	Sunlamp product	Paragraph in 21 CFR 1040.20 pertaining to variance	Effective date/termination date
82P-0387	Voltarc Tubes, Inc., 176 Linwood Avenue, Box 688, Fairfield, CT 06430.	UVA Ultraviolet Lamps Manfactured by Voltarc Tubes, Inc.	(f)(2)(ii)	Feb. 10, 1983, Feb 10, 1988.
83P-0003	Uvatec, Inc., 8430 Santa Monica Blvd., Suite 200, Los Angeles, CA 90069.	UVA Suntanning Bed and Canopy (Model Suntamed 4000). UVA Tanning Canopy (Model Suntamed 2000).	(c)(2)(ii)	Mar. 25, 1983, Mar. 25, 1988.
83P-0019	Creative Marketing Concepts, Inc., 25 Sixth Road Woburn, MA 01801.	UVA Suntanning Booth (The Sun Capsule)	(c)(2)(ii)	Feb. 16, 1983, Feb. 16, 1988.
83P-0045	The Tanning Place, Inc., 2676 Hamburgh Street, Schenectady, NY 12303.	UVA Suntanning Booth	(c)(2)(ii)	Mar. 7, 1983, Mar. 7, 1988.
83P-0046	Zip Tan, P.O. Box 4840, Mesa, AZ 85201.	UVA Suntanning Booth	(c)(2)(ii)	Mar. 7, 1983, Mar. 7, 1988.
83P-0100	Unterwasser-Electric GmbH & CO KG, Postfach 2020, 7070 Schwabisch Gmund, Republic of West Germany.	UVA Suntanning Systems Models: UWE-Sun Stream, UWE-Bermuda, UWE-Brozarette, UWE-Super Nova.	(c)(2)(ii)	Apr. 1, 1983, Apr. 1, 1988.
83P-0101	Eurosun, Inc., 21538 Mountsfield Drive, Golden, CO 80401.	UVA Suntanning Beds, Models: Eurosun 800, Eurosun 2400.	(c)(2)(ii)	Apr. 1, 1983, Apr. 1, 1988.

In accordance with § 1010.4, the application and all correspondence (including the written notice of approval) on the various applications have been placed on public display in the Dockets Management Branch, Food and Drug Administration (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 8, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-15878 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0138]

Alcon Laboratories, Inc.; Premarket Approval of Opt-Clean™ Cleaning Solution

Correction

In FR Doc. 83-12721, beginning on page 21657, in the issue of Friday, May 13, 1983, make the following corrections:

1. On page 21657, in the third column, in the fifth line from the bottom, "94-925" should read "94-295".

2. On page 21658, in the second column, in the third line from the top, "505" should read "515".

BILLING CODE 1505-01-M

[Docket No. 83N-0115; DESI 12368]

Isoproterenol Hydrochloride for Oral Use; Drugs for Human Use; Drug Efficacy Study Implementation; Revocation of Exemption; Opportunity for Hearing on Proposal to Withdraw Approval of New Drug Application

Correction

In FR Doc. 83-13410, beginning on page 22801, in the issue of Friday, May 20, 1983, on page 22801, in the third column, in the first complete paragraph, in the fourth line "12-638" should read "12-368"; in the second complete paragraph, the third line from the end "heat" should read "heart"./

BILLING CODE 1505-01-M

[Docket No. 82P-0388]

General Medical Co.; Drionic Iontophoretic Sweat Inhibition Device; Panel Recommendation on Petition for Reclassification

Correction

In FR Doc. 83-14544 beginning on page 24981 in the issue of Friday, June 3, 1983, make the following corrections:

1. On page 24981, column two, **SUPPLEMENTARY INFORMATION,** paragraph two, line twelve, "(21 U.S.C. 360 (f)(1))" should read "(21 U.S.C. 360c(f)(1))."

2. On page 24983, column two, paragraph two, line fourteen, "buillae" should read "bullae."

BILLING CODE 1505-01-M

[Docket No. 83N-0154]

International Drug Scheduling; Convention of Psychotropic Substances; Benzodiazepines

Correction

In FR Doc. 83-12844, beginning on page 21661, in the issue of Friday, May 13, 1983, on page 21662, in the first column, in the fourth complete paragraph, in the fourth line, "estaolam" should read "estazolam".

BILLING CODE 1505-01-M

[Docket No. 83F-0157]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in poly(*p*-methylstyrene) and rubber-modified poly(*p*-methylstyrene) intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HHF-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 2B3671) has been filed by Ciba-Geigy Corp., Three Skyline Drive, Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in poly(*p*-methylstyrene) and rubber-modified poly(*p*-methylstyrene) intended to contact 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: June 2, 1983.

Richard J. Ronk,

Acting Director for Bureau of Foods.

[FR Doc. 83-16123 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0164]

Calgon Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Food and Drug Administration (FDA) is announcing that the Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provided for the safe use of 2-(4-thiazolyl)benzimidazole as a component of adhesives and paper and paperboard.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, 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 2B3627) has been filed by Calgon Corp., Box 1346, Pittsburgh, PA 15230, proposing the § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of 2-(4-thiazolyl)benzimidazole as a component of paper and paperboard for use in food contact applications and that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of this additive as a component of adhesives.

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: June 9, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-16272 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Los Angeles District Office, chaired by Abraham I. Kleks, District Director. The topic to be discussed is: Health Fraud.

Date: Monday June 27, 1983, 2:30 p.m.

Address: Parks and Recreation Bldg., 208 Park Ave., San Fernando, CA 91340.

For further information contact: Irene G. Caro, Consumer Affairs Officer, Food and Drug Administration, 1521 West Pico Blvd., Los Angeles, CA 90015, 213-688-4395.

Brooklyn District Office, chaired by George J. Gerstenberg, District Director. The topic to be discussed is: Direct-to-Consumer Advertising of Prescription Drugs.

Date: Wednesday, June 29, 1983, 1:30 p.m.

Address: 26 Federal Plaza, Rm. 305, New York, NY 10278.

For further information contact: Herman B. Janiger, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212-965-5754.

Baltimore District Office, chaired by Thomas L. Hooker, District Director. The topic to be discussed is: Direct-to-Consumer Advertising of Prescription Drugs.

Date: Tuesday, July 19, 1983, 10 a.m. to 12 m.

Address: Rosenstock Hall, Hood College, Frederick, MD 21701.

For further information contact: Anne B. Lane, Consumer Affairs Officer, Food and Drug Administration, 900 Madison Ave., Baltimore, MD 21201, 301-962-3731.

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: June 10, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-16275 Filed 6-14-83; 11:39 am]

BILLING CODE 4160-01-M

[Docket No. 83C-0051]

Custom Tint Laboratories, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is announcing that Custom Tint Laboratories, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of six dyes in coloring contact lenses.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399–402 as amended (21 U.S.C. 376(b)(1))), notice is given that a petition (CAP 3C0169) has been filed by Custom Tint Laboratories, Inc., 6020 Six Forks Rd., Raleigh, NC 27609, proposing that the color additive regulations be amended to provide for the safe use of an orange dye, dibromodibenzo (b,def)chrysene-7,14-dione; a brown dye, 16,23-dihydrodinaphtho(2,3-a:2',3'-i)naphth(2',3':6,7)indolo (2,3-c)-carbazole-5,10,15,17,22,24-hexone; a yellow dye, *N,N'*-(9,10-dihydro-9,10-dioxo-1,5-anthracenediyl) bisbenzamide; an orange dye, 6,6'-diethoxy-2,2'-(3H,3'H) bibenzo(b)thiophene-3,3'-dione; a blue dye, 7,16-dicholoro-6,15-dihydro-5,9,14,18anthrazinetetrone; and a green dye, 16,17-dimethoxydinaphthol(1,2,3-cd:3',2',1'-lm)perylene-5,10-dione in coloring contact lenses.

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: June 9, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-16274 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83C-0167]

Ethicon, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ethicon, Inc., has filed a petition proposing to amend the color additive regulations to provide for the safe use of D&C Blue No. 6 to color polydioxanone synthetic absorbable sutures.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(b)(1), 74 Stat. 399–402 as amended (21 U.S.C. 376(b)(1))), notice is given that a petition (CAP 3C0176) has been filed by Ethicon, Inc., Route 22, Somerville, NJ 08876, proposing that Part 74 (21 CFR 74) be amended to provide for the safe use of D&C Blue No. 6 to color polydioxanone synthetic absorbable sutures.

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: June 9, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-16271 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 79D-0465]

Human, Biological, and Animal Drugs and Medical Devices; Availability of Draft Guidelines for Use of the Limulus Amebocyte Lysate (LAL) Test; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to July 31, 1983, the comment period for the notice announcing the availability of a draft guideline entitled "Draft Guideline for Validation of the Limulus Amebocyte Lysate Test as an End-Product Endotoxin Test for Human and Animal Parenteral Drugs, Biological Products, and Medical Devices." The draft guideline sets forth acceptable conditions for use of the Limulus Amebocyte Lysate (LAL) test and describes procedures for using this methodology as an end-product endotoxin test for human injectable drugs (including biological products), animal injectable drugs, and medical devices. FDA is taking this action in response to a request for an extension of the comment period.

DATE: Comments by July 31, 1983.

ADDRESS: Requests for a copy of the draft guideline and written comments regarding the draft guideline to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Human Drugs

Terry E. Munson, National Center for Drugs and Biologics (HFN-325), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6007.

Biological Products

Michael L. Hooton, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 8800 Rockville Pike, Bethesda MD 20205, 301–443–1306.

Animal Drugs

Patricia Cushing, Bureau of Veterinary Medicine (HFV-143), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1788.

Medical Devices

Virginia C. Ross, National Center for Devices and Radiological Health (HFK-430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 29, 1983 (48 FR 13096), FDA issued a notice announcing the availability of a draft guideline entitled "Draft Guideline for Validation of the Limulus Amebocyte Lysate Test as an End-Product Endotoxin Test for Human and Animal Parenteral Drugs, Biological Products, and Medical Devices." The draft guideline sets forth acceptable conditions for use of the LAL test and describes procedures for using this methodology as an end-product endotoxin test for human injectable drugs (including biological products), animal injectable drugs, and medical devices. The draft guideline is intended to inform interested persons of these acceptable principles which may be used in lieu of the currently official rabbit pyrogen test and was made available for public comment to provide the agency with views to be considered in its development of a final guideline. Interested persons were given to June 27, 1983, to comment on the draft guideline.

In response to the notice, Bayer AG requested an extension of the comment period until July 31, 1983. Bayer AG stated that the **Federal Register** notice announcing the availability of the draft guideline was not available to foreign manufacturers until 5 weeks after publication in the United States and, consequently, the 90-day comment period specified in the notice is unreasonable for foreign manufacturers.

FDA has carefully considered the request. The agency does not accept the argument that the 90-day period

provided in this instance for the submission of comments was insufficient to provide interested persons outside the United States an opportunity to express their views. It is the responsibility of persons having an interest in receiving **Federal Register** announcements in a timely manner to take steps to assure that they receive these announcements soon enough to participate in agency rulemaking matters. However, in this matter, the agency has determined that its schedule for issuing the guideline in final form, as well as the option given firms to start using the LAL test following the procedures set forth in the draft guidelines, permits a general extension of the comment period to July 31, 1983, as requested, and that such an extension to receive pertinent comments is in the public interest. Accordingly, the comment period for submissions by any interested person is extended to July 31, 1983.

Interested persons may, on or before July 31, 1983, submit written comments on the draft guideline to the Docket Management Branch (address above). These comments will be considered in determining whether further amendments to, or revisions of, the draft guideline are warranted. Comments should be in two copies (except that individuals may submit single copies), identified with the docket number found in brackets in the heading of this document. The draft guideline and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Requests for a single copy of the draft guideline should be sent to the Dockets Management Branch.

Dated: June 13, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-16279 Filed 6-14-83; 11:39 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0147]

RohmTech, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that RohmTech, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of pectin glycosidase derived from *Aspergillus alliaceus* for use as a macerase for the manufacture of fruit and vegetable pulp and pulp concentrates.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

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 3A3715) has been filed by RohmTech, Inc., 1270 Avenue of the Americas, New York, NY 10020, proposing that 21 CFR Part 173 be amended to provide for the safe use of pectin glycosidase derived from *Aspergillus alliaceus* for use as a macerase for the manufacture of fruit and vegetable pulp and pulp concentrates.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 9, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-16273 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0168]

Witco Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Witco Chemical Corp. has filed a petition proposing to amend the food additive regulations to provide for the safe use of white mineral oil U.S.P. as a dust suppressant on commodity grain.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

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 3A3718) has been filed by Witco Chemical Corp., 277 Park Ave., New York, NY 10017, proposing that § 172.878 *White mineral oil* (21 CFR 172.878) be amended to provide for the safe use of white mineral oil U.S.P. as a dust suppressant on commodity grain.

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: June 9, 1983.

Richard J. Ronk,

Acting Director for Bureau of Foods.

[FR Doc. 83-16270 Filed 6-16-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 75N-0248]

Flood Additive Status of Vitamin K Active Substances in Animal Food

Correction

In FR Doc. 83-10171, beginning on page 16748 in the issue of Tuesday, April 19, 1983, the year referred to at the end of the fourth line of the last complete paragraph in column one of page 16749 should read, "1953".

BILLING CODE 1505-01-M

Public Health Service

Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation

Notice is hereby given of a meeting of the Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation, Subgroup on Data Required From Prechronic Studies, National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, to be held on July 15, 1983, National Institutes of Health, Building 31C, Conference Room 9, Bethesda, Maryland. The meeting will begin at 9:00 a.m. and end at approximately 4:00 p.m. The meeting is open to the public.

The meeting will be held to review the details of the prechronic studies as they are now performed by the NTP, to review the progress of the Panel on the agenda items that were identified at the earlier meeting (May 17, 1983, 48 FR 19476) and to receive comments from interested parties. Items to be discussed include, but not limited to:

1. NTP Overview.
2. Use of chemical disposition and metabolism data to aid in setting the maximum tolerated dose (MTD) and dose range.
3. Use of other toxicological parameters (histopathology, organ function, weight loss) in setting the MTD and dose range.
4. Identification of target organs.
5. Determination of dose route and dose vehicle.
6. Overall chemical selection process.
7. Use of short-term test data in this process.

Those wishing to make public presentations on these and other issues related to the evaluation of the prechronic studies procedures will be given that opportunity in the afternoon session. These presentations should be limited to 10–15 minute oral presentations. In order to accommodate as many people wishing to speak as possible, the subgroup chairperson requests that persons wishing to make oral presentations contact the Panel Secretary, Ms. Riley, at the address below no later than July 12, 1983: Dr. Andrew Sivak, Chairperson, Subgroup on Data Required from Prechronic Studies, c/o Ms. Janet Riley, Secretary to the Panel, P.O. Box 12233, Research Triangle Park, NC 27709.

Oral presentations should be supported by written documents that can be left with the subgroup for their use in preparing their draft report. With respect to the written documents, the subgroup will need to make use of the best thinking and evaluation of the scientific and public community at large. The positions offered in these documents should be well referenced by published literature citations so that they will have maximum usefulness to the subgroup in generating a series of scientifically supportable recommendations.

Attendance is limited only by space available. For further information regarding the meeting, please contact the Panel Secretary, Ms. Riley, at the above address or telephone 919/541–7621 or FTS 629–7621. The official government representative for this meeting will be Dr. Bernard Schwetz, NTP.

June 13, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83–16286 Filed 6–16–83; 8:45 am]

BILLING CODE 4140–01–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 June 10.

Public Health Service

Food and Drug Administration

Subject: Measuring Timeliness and Responsiveness of Letters to Consumers (0910–0128)—Extension/no change
Respondents: Individuals
Subject: Establishment License Application for the Manufacture of Blood and Blood Components (0910–0041)—Extension/no change
Respondents: Manufacturers of biological products
OMB Desk Officer: Richard Eisinger

National Institutes of Health

Subject: National Health and Nutrition Examination Survey Epidemiologic Follow-up Survey (0925–0161)—Extension/no change
Respondents: Individuals
Subject: Medical Literature Analysis and Retrieval System (MEDLARS) User Response Card—New
Respondents: MEDLARS users
Subject: Cancer Construction Program: Program Instructions (0925–0128)—Extension
Respondents: Biomedical research institutions
OMB Desk Officer: Fay S. Iudicello

Office of the Assistant Secretary for Health

Subject: Public Health Service Contractor Profile Fact Sheet—New
Respondents: Businesses
OMB Desk Officer: Fay S. Iudicello

Alcohol, Drug Abuse, and Mental Health Administration

Subject: Model Professional Standards and Procedures for Credentialing Alcoholism Counselors—New
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Application for Benefits Under the Italy-U.S. International Social Security Agreement (0960–0161, SSA–3954–BK–IT)—Revision
Respondents: Individuals applying for benefits under Italy-U.S. International Social Security Agreement
Subject: Refugee Assistance-by-Nationality Report—New
Respondents: State governments
Subject: Supplemental Statement Regarding Farming Activities of Persons Living Outside the U.S. (0960–0103, SSA–7163A)—Revision
Respondents: U.S. citizens involved in farming activities outside the U.S.
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: June 10, 1983.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 83–16286 Filed 6–16–83; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Spokane District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR 1780, that a meeting of the BLM Spokane District Advisory Council will be held on Thursday, July 14, 1983.

The meeting will begin at 9:00 a.m. in the Conference Room of the BLM Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202.

The agenda for the meeting will be as follows:

1. Introduction of members.
2. Introduction of BLM Spokane District Staff.
3. Discussion of the functions of the District Advisory Council.
4. Election of the Chairperson and Vice Chairperson.
5. An orientation to and discussion of Spokane District programs and current issues.
6. Arrangements for next meeting.

The meeting is open to the public and news media. Interested persons may make oral statements to the Council between 2 and 3 p.m., or file written

statements for the Council's consideration. Anyone wishing to make on oral statement should notify the District Manager, at the above address, or telephone (509) 456–2570, by close of business, 4:30 p.m., July 7, 1983.

Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A report of the Council meeting will be maintained at the District Office and be made available for public inspection and reproduction at the cost of duplication.

Dated: June 6, 1983.

Jerry L. Kidd,

Acting District Manager.

[FR Doc. 83-16155 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-84-M

[W-81677]

Realty Action Sale of Public Lands in Park County, Wyoming

June 7, 1983.

The following described land has been examined and identified for disposal by a proposed 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 ($9,600.00):

Sixth Principal Meridian, Wyoming

T. 57 N., R. 102 W.
Sec. 20, N½NW¼
Containing 80.00 acres.

The public land sale will be held on August 1, 1983 at the Cody Resource Area Office, Bureau of Land Management, 1714 Stampede Avenue, Cody, Wyoming. Registration of bidders will begin at 1:00 p.m. and the sale will start at 2:00 p.m.

The lands are being offered for sale through competitive bidding. The sale is consistent with Bureau programs, and is compatible with County plans. This is an isolated tract of public land and is uneconomic to manage as part of the public lands, and is not suitable for management by another Federal agency. The public interest will be well served by making these lands available for public sale.

The lands identified for disposal have potential for grazing land for domestic livestock, or as rural homesites with legal access to a graveled County road.

Patent for these lands, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by authority of the Unites States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine and remove under applicable law and such regulations as the Secretary may prescribe. "All minerals" is defined as, but not limited to, metaliferous and non-metaliferous, locatable minerals; leaseable minerals such as oil, gas, coal, sodium, potassium, and geothermal resources; and saleable minerals such as sand and gravel. However, upon filing of an application under 43 CFR Part 2720, the Secretary may convey the mineral interest if all requirements of the law are met.

3. The road right-of-way W–56389 to Park County.

4. The irrigation ditch and stock water pipeline right-of-way W–4350.

As a condition of sale, the successful bidder, if other than the authorized grazing user, will be required to enter into an agreement with the authorized existing grazing user. This agreement will preserve the grazing user's right to use the land for any unexpired portion of the term remaining in the outstanding grazing authorization at the time the patent is issued. The successful bidder must enter into an agreement with John G. Eckerman, the terms and conditions of which are contained in grazing authorization No. 1615 which will expire on February 28, 1989. The existing grazing authorization can be examined at Cody Resource Area office. A copy of the lease document can be examined in any Wyoming BLM office. Before a patent can be issued, the successful bidder will be required to submit evidence acceptable to the authorized officer that a lease agreement has been signed, notarized, and recorded in Park County.

Federal law requires that all bidders be U.S. citizens at least 18 years of age. Corporations must be authorized to own real estate in the state in which the sale land is offered, and proof of this requirement shall accompany the bid.

The lands, once sold, will remain subject to Park County planning and zoning.

The land will be sold by a combination of sealed and oral bids. Sealed bids may be submitted by mail or in person and/or oral bids may be made at the sale. Sealed bids will be considered only if received at the Bureau of Land Management, Cody Resource Area Office, P.O. Box 518, Cody, Wyoming 82414, prior to 1:00 p.m. on August 1, 1983. Sealed bids must contain a certified check, post office money order, bank draft, or cashier's check, made payable to the Bureau of Land Management for at least twenty percent (20%) of the amount of the total bid for the parcel. Sealed bid envelopes must be marked in lower left-hand corner as:

"Bid Parcel No. 1, Sale to be held August 1, 1983."

The high sealed bids will be announced prior to the invitation for oral bids. Oral bidding will begin at 2:00 p.m. in the Cody Resource Area Office. All oral bids will be received in minimum $100 increments. The highest bid, either sealed or oral, will establish the sale price. Upon disqualification of an apparent high bidder, the next high bid will be honored. If the highest bid is an oral bid, the successful bidder will be required to pay immediately at least 20 percent (20%) of the purchase price by cash, personal check, money order, bank draft, or any combination of the above methods of payment.

The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30 day period shall result in the disqualification of the apparent high bidder and the bid deposit shall be forfeited. All deposits accompanying unsuccessful sealed bids will be returned within 90 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Wednesday at the same hour and place and continue on each succeeding Wednesday, until the lands are sold as specified in this notice or the sale is otherwise terminated. Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review at the Cody Resource Area office, 1714 Stampede Avenue, Cody, Wyoming 82414 (307/587–2216).

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401. Any 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 realty action will become the final determination of the Department of Interior.

Dated: June 7, 1983.

Chester E. Conard,

District Manager.

[FR Doc. 83-16165 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-84-M

[W-61678]

Reality Action Sale of Public Lands in Park County, Wyoming

June 7, 1983.

The following described land has been examined and identified for disposal by a proposed 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 ($4,800.00):

Sixth Principal Meridian, Wyoming

T. 57 N., R. 102 W.
Sec. 22, NE¼SW¼
Containing 40.00 acres.

The public land sale will be held on August 1, 1983 at the Cody Resource Area Office, Bureau of Land Management, 1714 Stampede Avenue, Cody, Wyoming. Registration of bidders will begin at 1:00 p.m. and the sale will start at 2:00 p.m.

The lands are being offered for sale through competitive bidding, with Evelyn Donaldson, Rock Creek Ranch, Inc., Star Route, Belfry, Montana, having the preference right to meet the high bid. The sale is consistent with Bureau programs, and is compatible with County plans. This is an isolated tract of public land and is uneconomic to manage as part of the public lands, and is not suitable for management by another Federal agency. The public interest will be well served by making these lands available for public sale.

The lands identified for disposal have potential for grazing land for domestic livestock, or as rural homesites with legal access to a paved State highway.

Patent for these lands, when issued, will contain the following reservation to the United States:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine and remove under applicable law and such regulations as the Secretary may prescribe. "All minerals" is defined as, but not limited to, metaliferous and non-metaliferous, locatable minerals; leaseable minerals such as oil, gas, coal, sodium, potassium, and geothermal resources; and saleable minerals such as sand and gravel. However, upon filing of an application under 43 CFR Part 2720, the Secretary may convey the mineral interest if all requirements of the law are met.

3. The highway right-of-way W-089236 to the Wyoming State Highway Department.

Rock Creek Ranch, Inc. is allowed a preference right to meet the high bid received on sale of this land, said preference right to be exercised no later than 10 days after date of sale.

Federal law requires that all bidders be U.S. citizens at least 18 years of age. Corportions must be authorized to own real estate in the state in which the sale land is offered, and proof of this requirement shall accompany the bid.

As a condition of sale, the successful bidder, if other than the authorized grazing user, will be required to enter into an agreement with the authorized existing grazing user. This agreement will preserve the grazing user's right to use the land for any unexpired portion of the term remaining in the outstanding grazing authorization at the time the patent is issued. the successful bidder must enter into an agreement with Rock Creek Ranch, Inc., the terms and conditions of which are contained in grazing authorization No. 1665 which will expire on February 28, 1989. The existing grazing authorization can be examined at Cody Resource Area office. A copy of the lease document can be examined in any Wyoming BLM office. Before a patent can be issued, the successful bidder will be required to submit evidence acceptable to the authorized officer that a lease agreement has been signed, notarized, and recorded in Park County.

The lands, once sold, will remain subject to Park County planning and zoning.

The land will be sold by a combination of sealed and oral bids. Sealed bids may be submitted by mail or in person and/or oral bids may be made at the sale. Sealed bids will be considered only if received at the Bureau of Land Management, Cody Resource Area Office, P.O. Box 518, Cody, Wyoming 82414, prior to 1:00 p.m. on August 1, 1983. Sealed bids must contain a certified check, post office money order, bank draft, or cashier's check made payable to the Bureau of Land Management for at least twenty percent (20%) of the amount of the total bid for the parcel. Sealed bid envelopes must be marked in lower left-hand corner as:

"Bid Parcel No. 2, Sale to be held August 1, 1983."

The high sealed bids will be announced prior to the invitation for oral bids. Oral bidding will begin at 2:00 p.m., in the Cody Resources Area Office. All oral bids will be received in minimum $100 increments. The highest bid, either sealed or oral, will establish the sale price. Upon disqualification of an apparent high bidder, the next high bid will be honored. If the highest bid is an oral bid, the successful bidder will be required to pay immediately at least 20 percent (20%) of the purchase price by cash, personal check, money order, bank draft, or any combination of the above methods of payment.

The successful high bidder, whether it is by sealed or oral bid, will be required to submit full payment for the balance of the bid within 30 days from the date of the sale. Failure to submit such payment within the 30 day period shall result in the disqualification of the apparent high bidder and the bid deposit shall be forfeited. All deposits accompanying unsuccessful sealed bids will be returned within 30 days from the sale date. If no bids for the land, either sealed or oral, are received on the sale date, the sale will be adjourned until the next Wednesday at the same hour and place and coninue on each succeeding Wednesday, until the lands are sold as specified in this notice or the sale is otherwise terminated. Detailed information concerning this sale, including the planning documents and Environmental Assessment, is available for review at the Cody Resource Area office, 1714 Stampede Avenue, Cody, Wyoming 82414 (307/587-2216).

For period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401. Any 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 realty action will become the final determination of the Department of Interior.

Dated: June 7, 1983.

Chester E. Conard,

District Manager.

[FR Doc. 83-16166 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-84-M

Uinta-Southwestern Utah Regional Coal Leasing; Notice of Regional Coal Team Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of regional coal team meeting.

SUMMARY: This notice is to advise the public that the Regional Coal Team (RCT) for the Uinta-Southwestern Utah Federal Coal Production Region will meet to: (1) Review and analyze public comments on the Draft Environmental Impact Statement for Round II leasing in the Uinta-Southwestern Utah Coal

Region; (2) review the results of public hearings held throughout the Region; (3) consider the need for revising tract ranking and selection and give the EIS team appropriate direction for the Final EIS.

DATES: The Regional Coal Team will meet on July 14, 1983, starting at 10:00 a.m.

ADDRESSES: Comments on the possible agenda items should be addressed to Edward F. Spang, Chairman, Regional Coal Team, Nevada State Director, Bureau of Land Management, Federal Building, 300 Booth Street, Reno, Nevada 89509.

The Regional Coal Team Meeting will be in the Hotel Utah, Grand Ball Room III, Main at South Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Max Nielson, Coal Project Manager, Uinta-Southwest Utah Region, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah, telephone (801) 524–5326.

SUPPLEMENTARY INFORMATION: The Regional Coal Team will meet on July 14, 1983, at 10:00 a.m. in the Hotel Utah. The Regional Coal Team will discuss public comments on the Round II Draft EIS, results of public hearings, possible revision of tract ranking, and selection and instructions for preparation of the Final EIS in the Uinta-Southwest Utah Production Region.

Material concerning the Round II potential lease sale including the Draft EIS and information on potential lease tracts can be obtained by contacting the Bureau of Land Management Public Room at the Utah State Office, 14th floor, University Club Building, 136 East South Temple, Salt Lake City, Utah.

Dated: June 9, 1983.

James A. Moorhouse,

Acting State Director.

[FR Doc. 83-16304 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-84-M

[Realty Action M58023—Competitive]

Competitive Sale of Public Lands; Mountrail County, North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: A notice of realty action providing for a competitive sale of public lands in Mountrail County, North Dakota was published in the **Federal Register** of June 10, 1983 (48 FR 26899). The notice contained two errors that are corrected by this notice. The first error appears in the second paragraph following the description of the lands offered for sale and states in the fifth sentence that the lands are "without legal access," which contradicts earlier statements in that paragraph concerning access. Therefore, the phrase "without legal access" is removed.

The second error appears at the top of page 26900 in the paragraph entitled "Competitive Bidding." All of the language after the first two sentences of that paragraph, which deals with the requirements for a designated bidder, is hereby removed. The sale will be competitive and there will be no designated bidder.

James M. Parker,

Acting Director.

June 14, 1983.

[FR Doc. 83-16321 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-84-M

Alaska; Coal Exploration

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation to Participate in Coal Exploration.

SUMMARY: The purpose of this notice is to invite all interested parties to participate with Valley Coal Company in a Coal Exploration License.

SUPPLEMENTARY INFORMATION: *Valley Coal Company* hereby invites all interested parties to participate on a pro rata cost sharing basis in its coal exploration program concerning Federally-owned coal underlying the following described land:

Seward Meridian, Alaska

Township 19 N., Range 2E.,
Sec. 26, S½,
Containing 320 Acres.

A detailed description of the proposed drilling program is available for review during normal business hours in the following offices (under Serial Number AA–50975): Bureau of Land Management, 701 "C" Street, Box 13, Anchorage, Alaska 99513, and the Bureau of Land Management, 4700 East 72nd Avenue, Anchorage, Alaska 99507.

This notice of invitation will be published in this newspaper once weekly for two (2) consecutive weeks beginning the week of June 5, 1983, and in the **Federal Register.** Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Valley Coal Company no later than thirty (30) days after publication of this invitation in the **Federal Register.** The written notices should be sent to the following addresses: Valley Coal Company, 8740 Hartzell Road, Anchorage, Alaska 99507, and the Bureau of Land Management, Branch of Mineral Adjudication, 701 "C" Street, Box 13, Anchorage, Alaska 99513.

The foregoing notice is published in the **Federal Register** pursuant to Title 43 of the Code of Federal Regulations, § 3410.2–1(d)(1).

Robert E. Sorenson,

Chief, Branch of Mineral Adjudication.

[FR Doc. 83-16140 Filed 6-17-83; 8:45 am]

BILLING CODE 4310-84-M

Availability of Draft Environmental Impact Statement; Yokayo Grazing Program, Ukiah District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement for the grazing program in the Yokayo area of the Ukiah District, California. Alternatives analyzed are (1) Continuation of the present program, (2) no grazing, (3) active management of manageable leases with elimination of nonmanageable leases, and (4) active management of manageable leases with retention of nonmanageable leases for low level management.

DATES: Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and organizations. Written comments should be submitted by August 2, 1983, to the District Manager, P.O. Box 940, 555 Lestie Street, Ukiah, California 95482.

ADDRESSES: Copies of the statement are available for review at local libraries, and copies can be obtained by contacting the Ukiah District Office or the California State Office, Bureau of Land Managment, 2800 Cottage Way, Sacramento, California 95825, telephone (916) 484–4541.

FOR FURTHER INFORMATION CONTACT: Bruce Dawson, Range Conservationist, Bureau of Land Management, Ukiah District Office, P.O. Box 940, 555 Leslie Street, Ukiah, California 95482, telephone (707) 462–3873.

Dated: June 6, 1983.

Van W. Manning,

District Manager.

[FR Doc. 83-16012 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-84-M

[N-36696, et al.]

Nevada; Conveyances

June 8, 1983.

Notice is hereby given that, pursuant to the Acts of October 21, 1976 and December 23, 1980, the following public lands have been sold during the period of July 1980 thru May 1983.

Serial No. and legal description	Acres	County	Purchaser
T. 13 N., R. 20 E.			
N-36696 Sec. 11, S½NW¼SW¼NE¼NE¼, N½SW¼SW¼NE¼NE¼	2.5	Douglas	Cecil Reed and Arlene J. Reed.
T. 2 N., R. 42 E.			
N-20624 Sec. 1, Lot 20	.91	Nye	Louis L. Fuson.
N-20623 Sec. 1, Lot 21, SW¼SE¼SE¼NW¼	11.82	Nye	Don Pinkham.
N-20622 Sec. 1, Lot 24	32.22	Nye	Bernard F. Gulla.
N-20616 Sec. 2, Lot 23	14.76	Nye	Nye Co. School District.
N-20615 Sec. 2, Lot 24	7.05	Nye	Kenneth Michael Mirch, et al.
N-20614 Sec. 2, Lots 29 and 30	12.26	Nye	Watson and Meehan.
T. 20 N., R. 43 E.			
N-31789 Sec. 11, Lots 11, 12, 13 and 15; sec. 14, N½NW¼	151.31	Lander	James Gallagher.
T. 18 N., R. 45 E.			
N-31788 Sec. 20, SE¼NW¼NE¼NW¼SW¼, S½NE¼NE¼NW¼SW¼, NE¼NW¼SE¼NW¼SW¼, W½NE¼SE¼NW¼SW¼, NE¼NE¼SE¼NW¼SW¼, SE¼NW¼SE¼NW¼SW¼, SE¼NE¼SE¼NW¼SW¼, W½NW¼SW¼NE¼SW¼.	6.875	Lander	Andrew P. Kaltenbach.
T. 33 N., R. 49 E.			
N-34421 Sec. 3, Lots 1, 2, S½NE¼, SE¼	318.77	Elko	Elko Land and Livestock Company.
T. 17 N., R. 63 E.			
N-27765 Sec. 25, SE¼NE¼SW¼SE¼, E½SE¼SW¼SE¼, SW¼SE¼SW¼SE¼, E½NW¼SE¼SW¼SE¼.	11.25	White Pine	George E. Mower and Dora A. Mower.
T. 17 N., R. 64 E.			
N-27766 Sec. 19, S½NE¼NE¼SW¼	5	White Pine	Mary S. Lee.
N-27770 Sec. 19, S½NE¼SW¼SW¼, NW¼SE¼SW¼SW¼, W½SW¼SE¼SW¼SW¼	8.75	White Pine	Madison D. Locke and Rosalie E. Locke.
N-27769 Sec. 19, SE¼SE¼SW¼	10	White Pine	Lynn P. Lull and Phyllis L. Lull.
N-27767 Sec. 19, S½NW¼NE¼SW¼	5	White Pine	Wayburn D. Mitchell and Bennie S. Mitchell.
N-27768 Sec. 19, S½NE¼SE¼SW¼	5	White Pine	Becky Georgia Helen Chambers.
N-24440 Sec. 19, NW¼NE¼NW¼NE¼	2.5	White Pine	Francis E. Hesselgesser.
N-27775 Sec. 30, Lot 17	2.26	White Pine	Albert C. Gianoli and Barbara C. Gianoli.
N-27773 Sec. 30, S½SW¼SE¼NW¼	5	White Pine	John T. O'Flaherty and Jerry R. Martin.
N-27771 Sec. 30, S½NE¼SE¼NW¼	5	White Pine	John C. Hawkins, et al.
N-27772 Sec. 30, N½SE¼SE¼NW¼	5	White Pine	Roy E. and Kathleen Rose.
N-27774 Sec. 30, S½SE¼SW¼NW¼	5	White Pine	Home Savers, Inc.
T. 22 N., R. 64 E.			
N-29025 Sec. 4, W½SW¼SW¼SE¼; sec. 9, NE¼NE¼NE¼NW¼, NW¼NW¼NW¼NE¼.	10	White Pine	Lyman J. Rosenlund and Charlcia B. Rosenlund.
T. 18 N., R. 65 E.			
N-5629B Sec. 6, W½E½NW¼SE¼NE¼, W½NW¼SE¼NE¼, W½SW¼SE¼NE¼	12.5	White Pine	John C. Kinnear, Jr.
T. 19 N., R. 65 E.			
N-5629A Sec. 30, SW¼NW¼SE¼SE¼SE¼, W½SW¼SE¼SE¼SE¼, SW¼SE¼SE¼, SE¼NW¼SE¼SE¼, W½NE¼NW¼SE¼SE¼, NW¼NW¼SE¼SE¼.	20.625	White Pine	John C. Kinnear, Jr.
T. 20 S., R. 60 E.			
N-33506 Sec. 9, NE¼NE¼NE¼NE¼	2.5	Clark	Buffalo-Alexander General Partnership.
Nev-022022 Sec. 15, SE¼SE¼SE¼SE¼	2.5	Clark	William G. Miller and Marie T. Miller.
Nev-029859 Sec. 15, NW¼SE¼SE¼NE¼	2.5	Clark	Rudolph P. Effinger and Evalyn J. Effinger.
Nev-029273 Sec. 27, SW¼SW¼SW¼SE¼	2.5	Clark	Morton W. Robbins.
N-37490 Sec. 27, NW¼SW¼SE¼SE¼	2.5	Clark	Twin Lakes Baptist Church.
N-37463, et al Sec. 27, NE¼SW¼SW¼, NE¼SE¼SW¼, W½NW¼SE¼SW¼, SE¼NW¼SE¼SW¼, SW¼SE¼SW¼, W½SE¼SE¼SW¼, SE¼SE¼SE¼SW¼, W½NE¼NW¼SE¼, NW¼NW¼SE¼, E½SW¼SW¼SE¼, E½SE¼SW¼SE¼.	70	Clark	Thomas T. Beam.
N-36763, et al Sec. 27, E½NW¼NE¼SW¼, W½NW¼NE¼SW¼, SW¼NE¼NW¼SW¼, SE¼NE¼NW¼SW¼, SE¼NW¼SW¼SE¼.	17.50	Clark	Thomas T. Beam.
Nev-030335 Sec. 27, SE¼NE¼NE¼SW¼	2.5	Clark	Guy Scalise.
Nev-024283 Sec. 27, SW¼SW¼SE¼SE¼	2.5	Clark	Gratian P. Urricariet.
N-36751 Sec. 27, NE¼NE¼NE¼SW¼	2.5	Clark	Eugene A. Grows.
Nev-042559 Sec. 27, NE¼NE¼NW¼SE¼	2.5	Clark	Gar Jing Yee and Lorraine Yee.
Nev-37477 Sec. 27, SW¼NW¼NE¼SE¼	2.5	Clark	Ben F. Witsell and J. D. Taylor.
N-37480 Sec. 27, SE¼NE¼NW¼SE¼	2.5	Clark	Leonardo V. DeLuna and Thomas A. Garrett
N-37465 Sec. 27, NE¼NW¼SW¼SW¼, W½NW¼SW¼SW¼, NE¼SW¼SW¼SW¼, W½SW¼SW¼SW¼.	15	Clark	Dick Hunter and Marguerite Hunter.
N-37492 Sec. 28, E½SW¼SE¼SE¼	5	Clark	The Richard G. Worthen Family Trust.
N-37491 Sec. 28, E½NW¼SE¼SE¼	5	Clark	The Richard G. Worthen Family Trust.
N-21477 Sec. 33, Lot 68	1.25	Clark	Central Telephone Co.
T. 21 S., R. 60 E.			
N-37458 Sec. 13, NE¼NW¼NW¼NW¼	2.5	Clark	Eugene A. Grows.
N-36755 Sec. 24, W½W½NE¼NW¼, E½NE¼NW¼NW¼	15	Clark	UHS Las Vegas Properties, Inc.
N-20741 Sec. 25, W½SE¼SW¼SE¼	5	Clark	Moshe Pereg.
N-20737 Sec. 25, W½NE¼SW¼SE¼	5	Clark	Moshe Pereg.
N-20736 Sec. 25, E½NE¼SW¼SE¼	5	Clark	Moshe Pereg.
N-20742 Sec. 25, E½SE¼SW¼SE¼	5	Clark	Moshe Pereg.
N-24698 Sec. 34, S½SE¼NE¼SW¼, NE¼SE¼SW¼, N½SE¼SE¼SW¼, SW¼SW¼NW¼SE¼, W½NW¼SW¼SE¼, W½SW¼SW¼SE¼.	32.5	Clark	Las Vegas Electronics, Inc.
T. 21 S., R. 61 E.			
N-36758 Sec. 19, S½NE¼NE¼NW¼	5	Clark	Bill D. Brady.

Serial No. and legal description	Acres	County	Purchaser
N-20745 Sec. 25, W½NW¼SE¼SE¼	5	Clark	J. J. Chalson and June B.Chalson.
N-20744 Sec. 25, E½NW¼SE¼SE¼	5	Clark	J. J. Chalson and June B. Chalson.
N-20823 Sec. 30, S½NE¼NW¼SE¼	5	Clark	Don R. Kirsch.
N-20838 Sec. 30, SW¼SE¼SW¼SE¼	2.5	Clark	Werner Messe and Lilo Meese.
N-20817 Sec. 30, NW¼SE¼SE¼NW¼	2.5	Clark	Emmett S. and Lillian A. Harrington.
N-20824 Sec. 30, NW¼NE¼NW¼SE¼, NE¼NW¼NW¼SE¼	5	Clark	Emmett S. and Lillian A. Harrington.
N-20801 Sec. 30, SE¼NE¼SW¼NE¼, SW¼NW¼SE¼NE¼	5	Clark	Berlyn Miller, et al.
N-20802 Sec. 30, SE¼NW¼SW¼NE¼	2.5	Clark	John Ellenburg.
N-20797 Sec. 30, E½SW¼NE¼SE¼	5	Clark	Brown and Co.
N-36765 Sec. 36, E½NW¼NE¼NE¼NW¼	1.25	Clark	Carroll G. and Marilyn F. Seay.
T. 22 S., R. 61 E.			
N-36763 et al Sec. 4, Lot 48; sec. 5, Lot 133	5	Clark	Thomas T. Beam.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to the above-named parties (43 CFR 2711.5–3).

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 83-16197 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-84-M

[W-75663]

Realty Action; Sale of Public Lands in Uinta County, Wyoming

May 25, 1983.

The following described lands have been determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the fair market value of $200/acre, the total value of the 80 acres is $16,000:

Sixth Principal Meridian, Wyoming

T. 16 N., R. 121 W.,
Sec. 12, E½SE¼.

The area described contains 80 acres.

The land is to be sold through competitive bidding procedures at the Evanston City Hall, 1200 Main Street, Evanston, Wyoming. The lands were identified for disposal by sale for the following reasons:

1. The proposed land sale is consistent with the Lands objective of the Pioneer Trails Management Framework Plan which is to "Provide 47,000 acres of public land for industrial, residential and commercial development by 1990".

2. Disposal of the tract would make land available to the local community for needed community expansion and development.

3. The subject tract, because of its isolation from other Federal lands, is difficult and uneconomic to manage as a part of the public lands, and is not suitable for management by another Federal department or agency.

4. Mitigation of potential adverse environmental impacts resulting from the proposed sale will be accomplished by required compliance with State Department of Environmental Quality regulations and the Uinta County Agricultural/Resource Development District resolution.

The existing public benefit values of the tract are: (1) 4.9 AUM's (Animal Unit Month—the number of acres necessary to feed one cow or one cow and calf or five sheep for one month), these AUM's were part of a grazing lease, this portion of which the lessee has voluntarily relinquished; (2) antelope habitat in the summer and possibly moose habitat in the winter; (3) a cultural inventory determined that there were no sites eligible for the National Register and all artifacts were collected and recorded at the time of the examination; (4) the trees on the tract are juniper and are confined to the upper slopes, they are too small (they have reached maturity) to be of any commercial value; (5) all minerals in the land will be reserved to the United States, the mineral report prepared for this tract recommended the proposed conveyance of the surface estate.

The actual environmental impacts that may result from disposal depend on the type of development of the land. The adverse impacts that might occur which affect the public benefit value of the tract include loss of forage for domestic stock or wildlife, increased erosion and stream siltation, and development of a semi-natural environment.

On June 8, 1981, Uinta County filed an application for the direct sale of the previously described lands. The adjacent landowners expressed no interest in the proposed disposal when contacted, and for this reason no public meetings were deemed necessary. Public meetings were held in conjunction with the development of the Pioneer Trails Management Framework Plan. On April 12, 1982, Uinta County wrote a letter withdrawing their application to purchase the subject lands. The decision was then made to offer the lands for sale at public auction.

The terms and conditions applicable to the sale are as follows:

1. All minerals in the land will be reserved to the United States in accordance with Section 209(a) of the Federal Land Policy and Management Act of 1976.

2. Rights-of-way for ditches and canals will be reserved to the United States under 43 U.S.C. 945.

3. Patent will be issued subject to water tank and pipeline right-of-way W-75667 to South and Jones, Inc.

The Federal Land Policy and Management Act requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state of the United States. Bids must be made by the principal or his agent. Section 452 of the Revised Statutes (43 U.S.C. 11) prohibits employees of the Department of the Interior, their spouses and agents, from directly or indirectly purchasing or becoming interested in the purchase of public land. Bidders shall be required to execute a Statement of Qualifications as to this statutory requirement. No bid will be accepted for less than the appraised price and bids must include all the lands contained in the parcel.

The land will be sold by a combination of sealed and oral bids. Sealed bids may be submitted by mail or in person and/or oral bids may be made at the sale. Sealed bids will be considered only if received at the Bureau of Land Management, Rock Springs District Office, Highway 191 North, P.O. Box 1869, Rock Springs, Wyoming 82901, prior to 4:30 p.m. on September 14, 1983.

Sealed bids may be submitted by mail or in person, and must contain a certified check, post office money order, bank draft, or cashier's check, made payable to the Bureau of Land Management, for at least twenty percent (20%) of the amount of the total bid for the parcel. Sealed bid envelopes must be marked in the lower left hand corner as follows:

Rock Springs, Wyoming Public Land
Sale Serial Number W-75663
Sale Date September 15, 1983

Registration of bidders will begin at 9:00 a.m., September 15, 1983, at the Evanston City Hall, 1200 Main Street,

Evanston, Wyoming, and continue until start of the sale, at 10:00 a.m.

The high sealed bid for the parcel will be announced prior to invitation for oral bids. Oral bidding will begin at the level of the high sealed bid received.

All oral bids will be received in minimum $100 increments. This high bid will establish the sale price. The highest bidder can pay in full at the sale or pay a nonrefundable twenty percent (20%) of the purchase price at the sale and the balance within twenty-nine (29) days from the date of the sale. Payment may be made by personal check, certified check, money order, or cashier's check, made payable to the Bureau of Land Management, or by cash.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of public discussions, is available for review at the Kemmerer Resource Area Office, Rock Springs District, Diamondville, P.O. Box 632, Kemmerer, Wyoming 83101 (307–877–3933).

For a period of forty-five (45) days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901. 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 realty action will become a final determination of the Department of the Interior.

Donald H. Sweep,

District Manager, Rock Springs District.

[FR Doc. 83-16013 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Outer Continental Shelf Advisory Board; North Atlantic Regional Technical Working Group; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463).

Name: North Atlantic Regional Technical Working Group
Date: July 14, 1983
Place: Holiday Inn-West, 81 Riverside Street, North and South Gazebo, Portland, Maine
Time: 9:00 a.m. to 4:45 p.m.

Committee membership consists of representatives from Federal Agencies, the Coastal States of Maine through New Jersey, the petroleum industry, and other private interests.

Agenda: Atlantic OCS Region reorganization; milestones for North Atlantic Lease Offering (February 1984); Draft EIS for North Atlantic Lease (February 1984); Massachusetts OCS Natural Gas Pipeline Siting Study; and Fiscal Year 1985 Regional Studies Plan.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Donald Truesdell of the Atlantic OCS Office (703) 285–2165 by July 7, 1983. Written statements should be submitted by July 21 to the Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Minutes of the meeting will be available for public inspection and copying by September 8, 1983, at the above address.

Donald P. Truesdell,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 83-16290 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Advisory Board; South Atlantic Regional Technical Working Group; Meeting

Notice of this meeting issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463).

Name: South Atlantic Regional Technical Working Group
Date: July 7, 1983
Place: Tysons Corner Marriott, Salons A and B, 8028 Leesburg Pike, Vienna, Virginia
Time: 8:30 a.m. to 5:15 p.m.

Committee membership consists of representatives from Federal Agencies, the Coastal States of Virginia through Florida, the petroleum industry, and other private interests.

Agenda: Final Notice of Sale for South Atlantic Lease Offering (July 1983); Milestones for South Atlantic Lease Offering (January 1985); reponses to call for Information for South Atlantic Lease Offering (January 1985); technical presentations from industry; proposed marine sanctuaries; oilspill response planning; and fiscal year 1985 Regional Studies Plan.

This meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding items on the agenda should contact Donald Truesdell of the Atlantic OCS Office (703) 285–2165 by June 30, 1983. Written statements should be submitted by July 14 to the Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Minutes of the meeting will be available for public inspection and copying by September 1, 1983, at the above address.

Donald P. Truesdell,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 83-16291 Filed 6-16-83; 8:48 am]

BILLING CODE 4310 MR-M

National Park Service

Availability of Plan of Operations and Environmental Analysis for the Kirby No. 3 Development Well; Gulf Oil Corp, Big Thicket National Preserve, Texas; Correction

AGENCY: National Park Service, Interior.

ACTION: Correction.

SUMMARY: On Monday, April 18, 1983, Vol. 48, No. 75 page 16545, when this notice was published in the **Federal Register**, a mistake was made in the heading on line three right after No., it should read No. 3 instead of No. 2. Please make this correction.

Russell K. Olsen,

Federal Register Liaison Officer.

[FR Doc. 83-16253 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-70-M

Glacier Bay National Park and Preserve, Alaska; Draft General Management Plan/Environmental Assessment; Availability

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of Draft General Management Plan/ Environmental Assessment for Glacier Bay National Park and Preserve, Alaska.

SUMMARY: This notice announces the availability of a Draft General Management Plan/Environmental Assessment for Glacier Bay National Park and Preserve, Alaska. This notice also announces public hearings for the purpose of receiving public comments on the Draft General Management Plan/ Environmental Assessment.

DATES: Comments should be received no later than July 15, 1983. The dates of the public hearings regarding the Draft GMP/EA are:

July 6—7:00 p.m., Anchorage, Regional Office, 540 West 5th Avenue
July 7—7:00 p.m., Fairbanks, National Park Service Office, 201 First Avenue
July 7—7:00 p.m., Juneau, Egan Room, New Centennial Hall
July 9—1:00 p.m., Gustavus, Gustavus School

ADDRESSES: Comments on the Draft GMP/EA should be addressed to the Alaska Regional Director, National Park Service, 540 West Fifth Avenue, Anchorage, Alaska, 99501. Public reading copies will be available for review at the following locations:

Parks and Forests Information Center, 540 W. 5th Avenue, Anchorage, Alaska

Headquarters, Glacier Bay National Park and Preserve, Federal Building, Juneau, Alaska
Field Headquarters, Glacier Bay National Park and Preserve, Bartlett Cove, Gustavus, Alaska
Elmer E. Rasmuson Library, University of Alaska, Fairbanks, Alaska
Alaska State Library, Juneau, Alaska
Denver Public Library, Denver, Colorado
Department of Interior Central Library, Washington, D.C.
U.S. Geological Survey Library, 1526 Cole Blvd., Golden, Colorado
Seattle Public Library, Seattle, Washington
Interior Resources Library, Federal Building, 701 C. Street, Anchorage, Alaska

FOR FURTHER INFORMATION CONTACT: Mr. Joe Alston, Acting Superintendent, Glacier Bay National Park and Preserve, Box 1089, Juneau, Alaska 99802. Telephone (907) 586–7137, or Ms. Linda Nebel, Chief, Division of Planning and Design, National Park Service, 540 West Fifth Avenue, Anchorage, Alaska 99501. Telephone (907) 271–4637.

SUPPLEMENTARY INFORMATION: The Park and Preserve were established December 2, 1980, by the Alaska National Interest Lands Conservation Act, ANILCA, Pub. L. 96–487 (16 U.S.C. 1301 et seq.). Subsequently, the National Park Service conducted informal scoping to determine management and environmental concerns of the public, state and federal agencies. Considering the issues raised within the framework of ANILCA, park policies, resource information, environmental concerns, and the needs of the visitors, three alternatives were developed for consideration for the preservation and use of the Park and Preserve over the next five to ten years.

The management actions proposed by the National Park Service are presented in Alternative A. These actions are felt necessary to prevent degradation of the Park's resources and to provide adequate opportunities for quality visitor experiences. Issues confronting the Park and Preserve include the need to develop ways to deal with new and increased use of the small and concentrated visitor use area—albeit a large park. And there is the need for management of backcountry use, river uses, and the management of the resources found there. There is also the problem of the interrelationship between commercial vessel and the humpback whale using Glacier Bay, and the need to develop a management plan for this situation.

Alternative B presents the minimum requirement and would provide ongoing maintenance and repairs of existing facilities but would not provide for new or increased visitor use.

Alternative C presents action to maximize resource protection, but would allow some increase in visitor use. Commercial fishing in Glacier Bay would eventually be eliminated, cruise ships and visitor use would be regulated and the facilities would remain in their general location, and a new maintenance facility would be constructed.

Date: June 9, 1983.

Robert Peterson,

Acting Regional Director.

[FR Doc. 83-16322 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Application; Decision-Notice

The following application seeks approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: June 7, 1983.

By the Commission Review Board Members, Fortier, Dowell and Carelton.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team Four at (202) 275-7669:

Volume No. PO4–F–350

MC–F–15274, filed May 10, 1983. RICHARD J. MAGUIRE (MAGUIRE) (1061 South Cameron Street, Harrisburg, PA 17104)—control—CAPITOL BUS COMPANY and CAPITOL INTERNATIONAL TOURS, INC. (same address as applicant). Representative: S. Berne Smith, 100 Pine Street (P.O. Box 1166), Harrisburg, PA 17108–1166. Maguire, a non-carrier, seeks authority to acquire control of Capitol Bus

Company and Capitol International Tours, Inc. Maguire, majority stockholder, seeks to acquire control of Capitol Bus Company and Capitol International Tours, Inc., through the transaction. Capitol Bus Company holds authority under No. MC-109736 and subs thereunder to transport passengers and their baggage, over regular routes in PA, NY, MD, NJ, VA, and DC, and over irregular routes in charter and special operations, between points in the U.S. Capitol International Tours, Inc., holds authority under No. MC-157643 (Sub-No. 1) to transport passengers, over irregular routes, in charter and special operations, between points in the U.S. Capitol International also operates as a broker of passenger transportation pursuant to its license in No. MC-157643.

[FR Doc. 83-16300 Filed 6-17-83; 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 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirement stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquires to Team 1, (202) 275-7992.

Volume No. OP1-FC-218

By the Commission, Review Board Members Joyce, Carleton, and Dowell.

MC-FC-81467. By decision of June 9, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, The Review Board approved the transfer to PAUL MENTZEL, d.b.a. EL TORO EXPRESS, El Paso, TX, of Permit No. MC-151400, issued August 25, 1982, to MARTIN L. LEWIS, d.b.a. M. L. LEWIS DISTRIBUTING, El Paso, TX, authorizing the transportation, over irregular routes, of (1) metal products, (2) building materials, and (3) livestock feed, between points in El Paso County, TX, on the one hand, and, on the other, points in the U.S., under continuing contract(s) in (1) above with Border Steel Rolling Mills, The Banes Company, Paleon, Inc., and Texas Turning Company, a Division of General Steel and Wire, Inc., in (2) above with Georgia-Pacific Corporation, and O'Malley's Building Materials, and in (3) above with Claude Barry & Company, all of El Paso, TX. Representative: Paul Mentzel, P.O. Box 12487, El Paso, TX 79913.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-FC-349

By the Commission, Review Board Members Dowell, Joyce, and Fortier:

MC-FC-81504, filed May 25, 1983. By decision of June 7, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board approved the transfer to CARL W. ANDERSON, d.b.a. C. ANDERSON & SON TRUCKING, of Rock Springs, WY, of Certificate No. MC-148336 Sub 2, issued February 6, 1981, to RUSSELLS' TRUCKING, INC., of Rock Springs, WY, authorizing the transportation of (1) *machinery, materials, equipment, and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment, and supplies* used in or in connection with construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and pickup thereof, restricted against the transportation of complete oil drilling rigs, between points in WY, CO, UT, ID, and MT. Representative: Thomas A. Nicholas, 200 Boyd Bldg., Cheyenne, WY 82001, (307) 632-0541.

Volume No.OP4-FC-351

By the Commission, Review Board Members Joyce, Dowell, and Carleton.

MC-FC-81515, filed June 2, 1983. By decision of June 7, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board approved the transfer to Lowell Aasmundrud (an individual), Route 1, Deer Park, WI, of Certificate No. MC-153976 Sub 1, issued September 21, 1981, to Express Freight Systems, Inc., Newport, MN, authorizing the transportation of food and related products, between Minneapolis, MN, and points in Benton, Stearns and Sherburne Counties, MN, on the one hand, and, on the other, points in the U.S. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927-8855.

[FR Doc. 83-16299 Filed 6-16-83; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1-217]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: June 9, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this

decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board Members Fortier, Krock and Williams.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, at (202) 275-7992.

MC 136921 (Sub-2)X, filed May 31, 1983. Applicant: E & R FREIGHT, INC., Rural Route 2, Byron, IL 61010. Representative: Allan C. Zuckerman, 221 North LaSalle St., Suite 826, Chicago, IL 60601. Sub 1 Certificate: (1) Remove "those of unusual value and those requiring special equipment" exceptions to authorize general commodities (except classes A and B explosives, household goods and commodities in bulk), (2) broaden the territorial description from Rockford, IL, to Winnebago County, IL, and (3) remove the facilities restriction.

[FR Doc. 83-16301 Filed 6-16-83; 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 Carrier of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160 Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisified 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 2, (202) 275-7030.

Volume No. OP2-263

Decided: June 8, 1983.
By the Commission, the Review Board.

MC 156452 (Sub-2), filed May 3, 1983. Applicant: BIRNIE BUS SERVICE, INC., 7944 Upper West Thomas St., P.O. Box 630, Rome, NY 13440. Representative: Robert E. Goldstein, 6921 Villas Drive West, Boca Raton, FL 33433, 305-392-7009. Transporting *passengers*, (a) between Watertown, NY, and Utica, NY: from Watertown over NY Hwy 126 to Carthage, then over NY Hwy 26 to Lowville, then over NY Hwys 26 and 12D to Boonville, then over NY Hwy 12 to Utica, and (b) between Lowville and Boonville over NY Hwy 12, serving all intermediate points.

Note.—Applicant seeks to provide regular route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same routes.

MC 157763 (Sub-4), filed May 3, 1983. Applicant: PRESTO TRANSPORTATION, INC., P.O. Box 469, Peru, IL 61354. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405, 717-854-3138. Transporting *general commodities*, between Bear Creek and Clintonville, WI, Ranger, NC, Mineral Bluff, GA, Oberlin and Pittsfield, OH, Cushing, Wolbach, Greeley, Elyria, and Burwell, NE, Sheridan and Belfast, AR, Glenwood, Brantley, Dozier, Searight, Gantt and Heath, AL, Water Valley and Wingo, KY, Foraker, Benton, Topeka, Eddy, South Milford, Helmer, Hudson and Hamilton, IL, and Edon, OH, Panther Burn and Anguilla, MS, Aloha, Carlisle and Copalis Crossing, WA, Skelleyton, TX, Moon, IL, Durupt and Clementsville, ND, Fisher, Dewey, Tomlinson and Prospect, IL, Tilford, KY, Doniphan, Okly and Naylor, MO, Belfast and Sheridan, AR, Ora, CA, Larrabee, Archer, Calumet, Gaza, Primghar, Matlock, George, Edna, and Rock Rapids, IA, Steen, MN, Belclare and Rowena, SD, Halbur, IA, Silver City, NM, East Monbo and Oswalt, NC, Richton, Tucker and Blodgett, MS, Lyons, MI, Sheridan, Vickeryville and Butternut, MI, Henderson, IA, Eleanor

and Fairbanks WA, Palmertown, CT, Voorhies and Buckingham, IA, Ashland, Sinclair and Prentice, IL, West Fairfield and Mt. Hope, WA, Elco and Tamms, IL, Ogden, Mays and Sexton, IN, Manhattan Beach, Hermosa Beach and Redondo Beach, CA, Rutherfordton, NC, Creston, TN, Hamburg, Green Isle, Arlington, Gaylord, Gibbon, Winthrop, Morton, Franklin, Fairfax, Belview, Delhi, Redwood, Hazel Run, Wood Lake, Clarkfield, Echo, Madison, Dawson and Boyd, MN, Lundgren, Plam Grove, Harcourt, Dayton, Lanyon, Hope, Boxholm, Wolf, Frazer, Longansport, Boone, Napier, Huxley and Alleman, IA, Oak Ridge, Brodenax, Dehlco, Archibald, Mangham, Wisher, Gilbert, Baskin, Winnsboro, Chase, Peck, Sicily Island, Foules and Lee Bayou, LA, Rosinclare, Shelterville, Golconda, Homberg and Brownville, IL, Carpentersville and Dundee, IL, Galina, AZ, Scalley, WA, Rich and Jonestown, MS, and North Henderson, IL, on the one hand, and, on the other, points in the U.S. Condition: To the extent this certificate authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

Note.—The purpose of this application is to substitute motor carrier service for abandoned rail carrier service.

MC 168323, filed May 27, 1983. Applicant: NATIONWIDE BROKERS, INC., 3000 East Grauwyler Rd., Irving TX 75061. Representative: Sam Hallman, 4555 InterFirst One, Dallas, TX 75202, (214) 741–6263. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 168332, filed May 27, 1983. Applicant: POLAR BEAR TOURS INC., 115–41 231st St., Cambria Heights, NY 11411. Representative: Percy Rayford (same address as applicant); (212) 341–1632. Transporting *passengers*, in charter operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 168363, filed May 27, 1983. Applicant: DEWEY POLLARD d.b.a. DIRECT SHIPPERS SERVICE, 12132 E. Hadley St., Whittier, CA 90601. Representative: Robert Fuller, 13216 E. Penn St., Ste. 310 Whittier, CA 90602; (213) 945–3003. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 168372(A), filed May 31, 1983. Applicant: T. & L. TRUCKING, INC., P.O. Box 120, Acme, MI 49610. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801; (616) 941–5313. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household good, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); and (2) *food and related products*, between points in the U.S. (except AK and HI).

Note.—Part (1) is published in the **Federal Register**, this issue, with "fitness applications".

MC 168382, filed June 1, 1983. Applicant: J-BAR-G ENTERPRISES INC d.b.a. J-BAR-G COACH LINE, 5333 Prospect Ave., Kansas City, MO 64130. Representative: Robert M. O'Donnell, 145 W. Wisconsin Ave., Neenah, WI 54956; (414) 722–2848. Transporting *passengers*, in charter and special operations, beginning and ending at points in MO and KS, and extending to points in the U.S. (except AK and HI).

Note.—Applicant intends to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 3 at 202–275–5223.

Vol. No. OP3–236

Decided: May 20, 1983.

By the Commission, Review Board No. 3, Members Carleton, Williams, and Ewing.

Note.—Previously published in the **Federal Register** of May 31, 1983, 48 FR 24220, under the "except fitness only" preface. The purpose of this republication is to correctly identify this volume under "fitness only."

MC 163345, filed May 9, 1983. Applicant: COURTNEY ENTERPRISES, INC., 2907 Bailey Ave., Cincinnati, OH 45211. Representative: Douglas Courtney, 44A Ridge Dr., Fairfield, OH 45014, (513) 874–4671. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167774, filed May 3, 1983. Applicant: ROBERT R. BROOKS, d.b.a. VERMONT EAGLE EXPRESS, RFD #1, West Burke, VT 05871. Representative: Robert R. Brooks (same address as applicant); (802) 467–3131. Transporting *shipments weighing 100 pounds or less* if transported in a vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 167794, filed May 4, 1983. Applicant: DARK COUNTY AMBASSADORS, 7075 Springer Rd., McCalla, AL 35111. Representative: Edna E. Perry, 1426 N. 32nd St., Birmingham, AL 35234; (205) 322–3976. Transporting *passengers*, in charter and special operations, beginning and ending at points in AL, and extending to points in FL, GA, AR, TX, TN, MI, MS, NC, SC, LA, KY, and IL.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 167864, filed May 9, 1983. Applicant: TRANSPORTATION LOGISTICS EXPERTS, INC., 1621 Elmore St., P.O. Box 14443, Cincinnati, OH 45214. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017; (614) 889–2531. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167874, filed May 9, 1983. Applicant: R. E. LISS, 831 Timberwood Lane, McKinney, TX 75069. Representative: Robert A. Forman, 6606 LBJ Freeway, Suite 5135, Dallas, TX 75240; (214) 934–0963. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 167875, filed May 9, 1983. Applicant: JOHN D. GAMBLE III, 1131 Forest Green Dr., Corapolis, PA 15108. Representative: John D. Gamble III (same address as applicant); (412) 262–2380. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167885, filed May 9, 1983. Applicant: CONTINENTAL LOGISTICS, INC., 2 Colony Rd., Jersey City, NJ 07305. Representative: Charles J. Williams, P.O. Box 186, Scotch Plains NJ 07076; (201) 322–5030. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167894, filed May 9, 1983. Applicant: JAMISON & SON BUS CO., RD 3, Box 227, Englishtown, NJ 07726. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410; (201) 791–2270. 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 167904(a), filed May 9, 1983. Applicant: HI-CO, LTD., P.O. Box 164, Menomonee Falls, WI 53051. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203; (414) 273–7410. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167915, filed May 9, 1983. Applicant: JAHR CORP., 110 Hopkins St., Buffalo, NY 14220. Representative: Richard F. Campbell, 1800 One M & T Plaza, Buffalo, NY 14203; (716) 856–4000. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 167924, filed May 9, 1983. Applicant: JEROME VINCENT

BROOKS, 208 Carnival Pl., El Paso, TX 79912. Representative: Jerome Vincent Brooks (same address as applicant); (915) 584–1931. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167934, filed may 9, 1983. Applicant: CLASSIC SHORTWAY LINES, INC., 7350 N.W. 77th St., Medley, FL 33166. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 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 168004, filed May 4, 1983. Applicant: WTR BROKERAGE, INC., Maryland Farms, Bldg. 3, Suite 300, Brentwood, TN 37027. Representative: Scotty Jones (Same address as applicant); (615) 373–1699. 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.

Vol. No. OP4–352

Decided: June 8, 1983.

By the Commission, Review Board Members Carleton, Krock, and Dowell.

MC 152936, filed May 27, 1983. Applicant: ADIA CORPORATION, 13101 S Torrence Ave., Chicago, IL 60633. Representative: William D. Brejcha, 180 N.Michigan Ave., Suite 1700, Chicago, IL 60601; (312) 263–1600. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 167827, filed May 23, 1983. Applicant: S. & D. TRUCKING, INC., P.O. Box 408, Spearfish, SD 57701; (605) 343–4036. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57783. Transporting (1) *lumber and wood products*, between points in MN, MT, SD, WI, and WY, on the one hand, and, on the other, points in CO, IL, IN, IA, MI, MN, MT, NE, ND, SD, WI, and WY, (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (3) *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), (4) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI), and (5) *general commodities*, between Alleman, Ericson, Huxley, Napier, Oralabor, Swanwood, Archer, Calumet, Edna, Gaza, George, Larrabee, Matlock, Primghar, Rock Rapids, Barnes City, Gibson, Kalona, Keswick, Kinross, Montezuma, Old Man's Creek Bridge, Riverside, South English, Webster, Thornburg, and Wellman, IA, Steen, Arlington, Belview, Boyd, Clarkfield, Dawson, Delhi, Echo, Fairfax, Franklin, Gaylord, Gibbon, Green Isle, Hamburg, Hazel Run, Madison, Morton, Redwood, Winthrop, and Wood Lake, MN, Beneclare and Rowena, SD, and Alto and Wells, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: To the extent the certificate granted in (5) above authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

Note: Parts (2), (3), (4) and (5) seek authority where applicant need only prove that it is fit, willing, and able to perform the service. The purpose of that part of the application in (5) above is to substitute motor common carrier service for abandoned rail carrier service (49 U.S.C. Section 10922(b)(4)(B)).

MC 168086, filed May 16, 1983. Applicant: NEW ENGLAND AND WESTERN TRANSPORTATION COMPANY, Box 355, Wyoming, RI 02898. Representative: Merle K. Peirce (same address as applicant), (401) 295–0641. (A) transporting *passengers* in charter and special operations, between points in the U.S.; and (B) over regular routes, in interstate, foreign, and intrastate commerce, transporting *passengers*, between South Kingstown, RI and New London, CT, from South Kingstown over local roads to junction RI Hwy 138, then over RI Hwy 138 to junction RI Hwy 2, then over RI Hwy 2 to junction RI Hwy 112, then over RI Hwy 112 to junction RI Hwy 91, then over RI Hwy 91 to junction RI Hwy 3, then over RI Hwy 3 to junction CT Hwy 2, then over CT Hwy 2 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 1, then over combined Interstate Hwys 95 and 1 to New London, CT, serving all intermediate points.

Notes.—(1) Applicant seeks in (A) above to provide privately-funded charter and special transportation. (2) Applicant seeks in (B) above to provide regular-route service in interstate, foreign and intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route. (3) Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue. Part A will be published in VOL #353, Part B will be published in VOL #352.

MC 168246, filed May 24, 1983. Applicant: EPPS BUS SERVICE, 1606 N. 16th St., Baton Rouge, LA 7802. Representative: Dan Epps, Jr. (same address as applicant); (504) 344–7802. Transporting *passengers*, in charter and special operations beginning and ending at points in E. Baton Rouge Parish, LA, and extending to points in the U.S. (except AK and HI).

Note: Applicant seeks to provide privately-funded charter and special transportation.

MC 1683 16,filed May 27, 1983. Applicant: HAULMARK TRUCK BROKERS, INC. 100 Stockyards Blvd., Suite 111, S St. Paul, MN 55075. Representative: Jeannie Schubert (same address as applicant), (612) 450–1551. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 168317, filed May 27, 1983. Applicant: WANDA FAYE KRATZER and BARRY MELVIN KRATZER, d.b.a. BUCCANEER TRANSPORT, P.O. Box 24286, Tampa, FL 33623. Representative: Wanda F. Kratzer (same address as applicant), (813) 920–5200. 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 168336, filed May 26, 1983. Applicant: WILSON BUS SERVICE, 1053 Carson Dr., Baton Rouge, LA 70807. Representative: James C. Wilson (same address as applicant), (504) 775–0464. Transporting *passengers*, in charter and charter operations, between points in the U.S. (except AK and HI)

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Volume No. OP4–355

Decided: June 10, 1983.

By the Commission, Review Board Members Joyce, Carleton, and Fortier.

MC 147666 (Sub-2), filed May 31, 1983. Applicant: RIDGEWAY MOTOR COACH, INC., 7618 Windsor Mill Rd., Baltimore, MD 21207. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers, 3390 Peachtree Rd., NE., Atlanta, GA 30326, (404) 262–9488. 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 168416, filed June 2, 1983. Applicant: MACARONIS TOURS, INC. 2950 St. Lawrence Ave., Reading, PA 19606. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter or special transportation.

[FR Doc. 83-16302 Filed 6-16-83; 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 18, 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) approprite 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 afer publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

For the following, please direct status calls to Team 2 at 202–275–7293.

Volume No. OP2–264

Decided: June 8, 1983.

By the Commission, the Review Board.

MC 59412 (Sub-4), filed May 23, 1983. Applicant: JACK L. MASSENDER, d.b.a. ZILLAH HAULING SERVICE, 6502 N. Pittsburgh St., Spokane, WA 99207. Representative: George R. LaBissoniere, 15 S. Grady Way, St. 239 Renton, WA 98055, (206) 228–3807. Transporting *contractor's and construction equipment, materials, and supplies, and metal products*, between points in WA, OR, ID, CA, NV, AZ, NM, UT, MT, ND, SD, NE, KS, OK, TX, AR, MO, IL, MI, WI, IN, OH, IA, MN, WY, and CO.

MC 168362, filed May 27, 1983. Applicant: DANIEL N. WITIAK, 221 Wyalusing Ave., Old Forge, PA 18518. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *metal products and electrical equipment and related products*, between points in Washington County, WI, and Lackawanna County, PA, on the one hand, and, on the other, points in the U.S. (except HI and AK).

MC 168372(B), filed May 31, 1983. Applicant: T. & L. TRUCKING, INC., P.O. Box 120, Acme, MI 49610. Representative William B. Elmer, P.O. Box 801, Traverse City, MI 49685–0801, (616) 941–5313. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI); and (2) *food and related products*, between points in the U.S. (except AK and HI).

Note.—Part (2) and published in the **Federal Register**, this issue, with the "regular applications."

MC 168383, filed June 1, 1983. Applicant: HOWCO TRANSFER CO., 8440 Grove Angle Rd., Ellicott City, MD 21043. Representative Richard A. Jones (same address as applicant), (301) 465–0647. Transporting *clay, concrete, glass*

or stone products, between points in AL, CT, DE, IL, IN, MA, MD, NC, NJ, NY, OH, PA, RI, SC, VA, WV, and DC.

For the following, please direct status calls to Team 3 at 202–275–5223.

Volume No. OP3–231

Decided: May 20, 1983.

By the Commission, Review Board No. 2. Members Carleton, Williams, and Ewing.

Note.—Previously published in the Federal Register on May 31, 1983, 48 FR 24218, under the "fitness only" preface. The purpose of this republication is to correctly identify this volume as "except fitness only."

MC 119654 (Sub-99), filed April 28, 1983. Applicant: HI–WAY DISPATCH, INC., 1401 W. 26th St., Marion, IN 46952. Representative Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 638–1301. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except HI).

MC 166725, filed May 9, 1983. Applicant: F. D. LUCAS ENTERPRISES, INC., P.O. Box 367, Marengo, IN 47140. Representative Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706, (409) 898–8086. 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 167755, filed May 10, 1983. Applicant: DIRECT OVERLAND EXPRESS, INC., Route 4, Box 326, A Airport Rd., Charlottesville, VA 22091. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043, (703) 442–8330. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Boston, MA, Providence, RI, Hartford, CT, New York, NY, Newark, NJ, Philadelphia, PA, Baltimore, MD, Richmond, Charlottesville, Norfolk, Hampton, Roanoke, and Lynchburg, VA, Raleigh, Durham, Chapel Hill, Greensboro, and Charlotte, NC, Greenville and Spartanburg, SC, Atlanta, GA, and Washington, DC, on the one hand, and, on the other, points in MA, CT, RI, NY, NJ, PA, DE, MD, VA, NC, SC, GA and DC.

MC 167904, filed May 9, 1983. Applicant: HI–CO, LTD., P.O. Box 164, Menomonee Falls, WI 53051. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *food and related products,* between points in WI, on the one hand, and, on the other, Minneapolis, MN, and points in CA, IL, IN, KY, MA, MI, MO, OH, and TN.

MC 167925, filed May 10, 1983. Applicant: DIAMOND T HOTSHOT SERVICE, INC., 4510 N.W. 39th St., Oklahoma City, OK 73122. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118, (405) 848–7946. Transporting *Mercer commodities,* between points in AR, CO, KS, LA, MO, MT, NM, OK, TX, and WY.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–356

Decided: July 10, 1983.

By the Commission, Review Board Members Krock, Fortier, and Joyce.

MC 147437 (Sub-3), filed June 6, 1983. Applicant: FORT WORTH CARRIER CORPORATION, 4501 N. Beach, Box 18245, Fort Worth, TX 76111. Representative: Don A. Smith, P.O. Box 43, 510 N. Greenwood, Fort Smith, AR 72902 (501) 782–1001. 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 (1) Dillard Department Stores, Inc., of Fort Worth, TX, (2) Bear Systems, Incorporated, of Dallas, TX, and (3) Safeway Stores, Incorporated, of Oakland, CA.

MC 148986 (Sub-3), filed June 3, 1983. Applicant: PLYMOUTH TRANSPORT, INC., 2280 Butler Pike, Plymouth Meeting, PA 19462. Representative: Theodore Polydoroff, 6810 Fleetwood Rd., McLean, VA 22101, (703) 893–4924. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of ND, SD, NE, CO and NM.

MC 153917 (Sub-3), filed June 2, 1983. Applicant: DAVID E. BAILEY, d.b.a. DAVID BAILEY TRUCKING, 406 W. Maple St., Auburn, IL 62615. Representative: David E. Bailey (same address as applicant), (217) 438–3773. Transporting *paper and paper products, plastic and plastic products,* and *ink,* between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of S. Glen Falls, NY.

MC 155346 (Sub-1), filed June 3, 1983. Applicant: COUGAR TRUCKING, INC., 210 E. Main St., Ligonier, PA 15658. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *coal,* between those points in PA on and west of U.S. Hwy 15, on the one hand, and, on the other, points in MD, NY, OH, VA, WV and DC.

MC 155346 (Sub-2), filed June 3, 1983. Applicant: COUGAR TRUCKING, INC., 210 E. Main St., Ligonier, PA 15658. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *coal,* between points in Randolph and Webster Counties, WV, on the one hand, and, on the other, points in PA, OH, VA, MD and DC.

MC 155346 (Sub-3), filed June 3, 1983. Applicant: COUGAR TRUCKING, INC., 210 E. Main St., Ligonier, PA 15658. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *commodities in bulk,* between points in MD, OH, and VA, on the one hand, and, on the other, points in PA, OH, WV, MD, VA and DC.

MC 158307 (Sub-5), filed June 2, 1983. Applicant: WAYNE BROWN TRANSPORT, INC., 1109 Barlow St., Lafayette, IN 47903 Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *food and related products,* between points in WI, IN and OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, NE, CO, OK, and TX.

MC 162576 (Sub-1), filed June 3, 1983. Applicant: TANCO DISTRIBUTING COMPANY, INC., 6930 Market St. (Rear), El Paso, TX 79915. Representative: Dann L. Drewry (same address as applicant), (915) 778–0081. Transporting *food and related products,* between points in AZ, CA, CO, IA, IL, KS, LA, MO, NE, NM, OH, OK, SD, TN, TX, and UT.

MC 168386, filed May 31, 1983. Applicant: SUE COLVIN, d.b.a. SIOUX'S TRANSPORTATION, Rt. 5, Box 576, Springdale, AR 72764. Representative: Larry D. Douglas, P.O. Box 711, 135 E. Emma, Springdale, AR 72764, (501) 751–6471. Transporting *chemicals, acids, drugs, toilet preparations, animal feed supplements, printed matter, sugar, health care products,* and *shampoo,* between points in Essex, Warren and Somerset Counties, NJ, on the one hand, and, on the other, points in the U.S. (except AK, HI, and NJ).

Volume No. OP4–353

Decided: June 8, 1983.

By the Commission, Review Board Members Carleton, Krock, and Dowell.

MC 42866 (Sub-25), filed May 24, 1983. Applicant: NATIONAL VAN LINES, INC., 2800 Roosevelt Rd., Broadview, IL 60153. Representative: John P. Torpats (same address as applicant), (312) 450–2900. Transporting *household goods,* between points in the U.S., under

continuing contract(s) with Liquid Sugars, Inc., of Oakland, CA.

MC 42866 (Sub-26), filed May 24, 1983. Applicant: NATIONAL VAN LINES, INC., 2800 Roosevelt Rd., Broadview, IL 60153. Representative: John R. Torpats (same address as applicant), (312) 450–2900. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Werner Erhard and Associates, of San Francisco, CA.

MC 95607 (Sub-7), filed May 27, 1983. Applicant: JAMES D. CADDEN, d.b.a. CADDEN'S MOVING AND STORAGE, 620 Beech St., Scranton, PA 18505. Representative: Raymond Talipski, 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *household goods*, between points in Lackawanna, Luzerne, and Wyoming Counties, PA, on the one hand, and, on the other, AL, ME, NH, VT, OH, IL, MI, IN, KY, VA, WV, NC, SC, GA, TN, FL, MD, MA, and DC.

MC 138157 (Sub-286), filed May 11, 1983. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as above), (615) 756–7511. 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 E. I. Dupont de Nemours & Co., Inc., of Wilmington, DE.

MC 147557 (Sub-2), filed May 27, 1983. Applicant: P M C DISTRIBUTORS, INC., 3625 1st Ave. S., Seattle, WA 98134. Representative: Elisa A. Hoehn (same address as applicant), (206) 623–8222. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in OR and WA.

MC 165887, filed May 12, 1983. Applicant: R & H TRUCKING, INC., P.O. Box 410, St. Anthony, ID 83445. Representative: Lynn Hossner, Fremont County Courthouse, St. Anthony, ID 83445, (208) 624–3782. Transporting *fertilizer, lumber, building materials, coal, salt, pipe and water*, between points in CA, OR, WA, NV, MT, WY, AZ, CO NM, TX and ID.

MC 167827, filed May 23, 1983. Applicant: S. & D. TRUCKING, INC., P.O. Box 408, Spearfish, SD 57783. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343–4036. Transporting (1) *lumber and wood products*, between points in MN, MT, SD, WI, and WY, on the one hand, and, on the other, points in CO, IL, IN, IA, MI, MN, MT, NE, ND, SD, WI, and WY, (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI), (3) *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), (4) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI), and (5) *general commodities*, between Alleman, Ericson, Huxley, Napier, Oralabor, Swanwood, Archer, Calumet, Edna, Gaza, George, Larrabee, Matlock, Primghar, Rock Rapids, Barnes City, Gibson, Kolona, Keswick, Kinross Montezuma, Old Man's Creek Bridge, Riverside, South English, Webster, Thornburg, and Wellman, IA, Steen, Arlington, Belview, Boyd, Clarkfield, Dawson, Delhi, Echo, Fairfax, Franklin, Gaylord, Gibbon, Green Isle, Hamburg, Hazel Run, Madison, Morton, Redwood, Winthrop, and Wood Lake, MN, Beneclare and Rowena, SD, and Alto and Wells, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: To the extent the certificate granted in (5) above authorizes the transportation of the classes A and B explosives, it shall by limited in point of time to a period expiring 5 years from its date of issue. The purpose of that part of the application in (5) above is to substitute motor common carrier service for abandoned rail carrier service (49 U.S.C. Section 10922(b)(4)(B)).

Note.—Parts (2), (3), (4) and (5) seek authority where applicant need only prove that it is fit, willing, and able to perform the service.

MC 168086, filed May 16, 1983. Applicant: NEW ENGLAND AND WESTERN TRANSPORTATION COMPANY, Box 355, Wyoming, RI 02898. Representative: Merle K. Peirce (same address as applicant), (401) 295–0641. (A) transporting *passengers* in charter and special operations, between points in the U.S.; and (B) over regular routes, in interstate, foreign, and intrastate commerce, transporting *passengers*, between South Kingstown, RI and New London, CT, from South Kingstown over local roads to junction RI Hwy 138, then over RI Hwy 138 to junction RI Hwy 2, then over RI Hwy 2 to junction RI Hwy 112, then over RI Hwy 112 to junction RI Hwy 91, then over RI Hwy 91 to junction RI Hwy 3, then over RI Hwy 3 to junction CT Hwy 2, then over CT Hwy 2 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 1, then over combined Interstate Hwys 95 and 1 to New London, CT, serving all intermediate points.

Notes.—(1) Applicant seeks in (A) above to provide privately-funded charter and special transportation. (2) Applicant seeks in (B) above to provide regular-route service in interstate, foreign and intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route. (3) Because this application includes issues subject to a finding of public interest as well as fitness only, it will be published in two volumes of this **Federal Register** issue. Part A will be published in Volume 253. Part B will be published in Volume 252.

MC 168307, filed May 23, 1983. Applicant: JETWAY EXPRESS, INC., P.O. Box 19150, Charlotte, NC 28219. Representative: Terrell Price, 800 Briar Creek Rd., Charlotte, NC 28205, (704) 372–8212. 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 168346, filed May 27, 1983. Applicant: DONALD L. MILLE DONALD MILLER TRUCKING, 712 Suzanna Circle, Belpre, OH 45714. Representative: Jack L. Schiller, 111–56 76th Drive, Forest Hills, NY 11375, (212) 263–2078. 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 168357, filed May 31, 1983. Applicant: LES AGENCES MARTIES MTS., INC., 371, Rue Flaubert, Ste-Julie, PQ, Canada JOL 2CO. Representative: J. P. Vermete, 250 Napoleon-Provost St., Repentigny, PQ, Canada J6A 1H5, (514) 353–0550. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between ports of entry on the International Boundary line between the U.S. and Canada, and points in CA, FL, GA, KY, MA, MD, ME, MO, MS, NC, NH, NJ, NY, OH, PA, TX, VA, WV, and DC.

MC 168376, filed May 31, 1983. Applicant: JOHN C. REIS, d.b.a. REIS AUTO BODY, 1225 G.A.R. Hwy, Swansea, MA 02777. Representative: Manuel M. Rezendes, 41 N. Main St., Fall River, MA 02720, (617) 674–5411. Transporting *disabled vehicles*, between

points in MA, RI, CT, VT, NH, ME, NY, PA, NJ, DE, MD, and DC.

Volume No. OP4–354

Decided: June 10, 1983.
By the Commission, Review Board Members Joyce, Carlton, and Fortier.

W–536 (Sub-17), filed June 1, 1983. Applicant: RIVERWAY BARGE CO., 7703 Normandale Rd., Suite 110, Minneapolis, MN 55435. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. To operate as a *contract carrier*, by water, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and in the performance of *general towage*, between (A) ports and points (1) on the Allegheny, Apalachicola, Arkansas, Alabama, Black, Black Warrior, Chattahoochie, Coosa, Cumberland, Flint, Green, Illinois, Kanawha, Licking, Minnesota, Mississippi, Missouri, Mobile, Monongahela, Ohio, Ouachita, Pearl, Red, St. Croix, Tennessee, Tombigbee, West Pearl, White, and Yazoo Rivers, (2) along the Gulf of Mexico, and Gulf Intracoastal Waterway, (3) Michigan City, IN, (4) along Lake Michigan, between and including Waukegan, IL and on all tributary and connecting waterways to the rivers and waterways specified in (1), (2), and (3) above, and (B) between the ports of Port Everglades, Fort Lauderdale and Miami, FL, on the one hand, and, on the other, ports and points in (A)(1), (2), and (3) above via the Atlantic Intracoastal Waterways, the Caloosahatchee River, the St. Lucie Canal and the Gulf of Mexico, or via the Atlantic Ocean and Gulf of Mexico, serving all intermediate points.

MC 58956 (Sub-8), filed June 2, 1983. Applicant: HASTINGS TRUCK COMPANY, INC., 738 E. Walnut St., Kalamazoo, MI 49007. Representative: Dennis D. Kirk, Suite 929, Pennsylvania Bldg., 425 13th St., N.W., Washington, D.C. 20004, (202) 347–2857. Transporting *those commodities which because of their size or weight require the use of special handling or equipment, machinery*, and *metal products*, (1) between points in MI, OH, IL and IN, on the one hand, and, on the other, points in MN, IA, LA, MS, GA, VA, WV, MA, CT, NE, KS, OK, AL, FL, and TX; and (2) between points in IL and IN, on the one hand, and, on the other, points in NY, DE, MD, NJ, TN, PA, NC, IN, IL, MI, OH, SC, MO, AR, WI, and KY.

MC 108937 (Sub-76), filed June 31, 1983. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Rd., St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164, (612) 633–7911. 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 General Mills, Inc., of Minneapolis, MN.

MC 142546 (Sub-7), filed June 1, 1983. Applicant: MER-LOU TRANSPORTATION, INC., P.O. Box 247, Millsboro, DE 19966. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, (215) 365–5141. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Campbell Soup Company of Camden, NJ, and its subsidiaries.

MC 147737 (Sub-3), filed June 1, 1983. Applicant: ABT, INC., P.O. Box 635, Maxwell, CA 95955. Representative: Ann M. Pougiales, 100 Bush St., 21st Fl., San Francisco, CA 94104, (415) 986–5778. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AZ, CA, ID, NV, NM, OR, UT, and WA.

MC 151637 (Sub-6), filed May 31, 1983. Applicant: LARRY BREEDEN TRUCKING, INC., 1301 Fayetteville Rd., Van Buren, AR 72956. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902 (501) 782–1001. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AR, CA, GA, MS, MO, OK and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 168397, filed June 1, 1983. Applicant: RICK MUELLER, d.b.a. RICK MUELLER TRUCKING, 2308 North Appleton St., Appleton, WI 54911. Representative: Robert M. O'Donnell, 145 W. Wisconsin Ave., Neenah, WI 54956 (414) 722–2848. 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 B & J Supply Inc., of Appleton, WI, and Ariens Company, of Brillion, WI.

MC 168406, filed June 1, 1983. Applicant: T.M. SMITH TRUCKING CO., INC., Rm. #1, Speed & Briscoe 76 Truck Stop, Ashland, VA 23005. Representative: Thomas M. Smith, 860 Bramwell Rd., Richmond, VA 23225 (804) 798–4485. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Commonwealth Distributing Company, of Richmond, VA; Coury Distributing Inc., of Petersburg, VA; and Circle Sales, Inc., of Blackstone, VA.

[FR Doc. 83–16303 Filed 6–17–83; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

1. Parent corporation and address of principal office: American Western Corporation, 1208 West Elkhorn Street, Sioux Falls, SD 57104–0295.

2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:

(a) AWC Transportation Corporation (MC–160055), 355 Boyce Greeley Bldg., Sioux Falls, SD 57102
(b) Amdevco Packaging/Films, Inc., 820 East 10th Street, Fairmont, MN 56031
(c) Amdevco Packaging/Films, Inc., 1001 Blake Street, Edwardsville, KS 66113.

(1) Parent company and address of principal office: Anglo Company, Inc., 233 Broadway, New York, New York 10279

(2) Wholly-owned subsidiaries which will participate in the operations, and State of incorporation:

(i) Kodiak Oilfield Haulers, Inc. (provider)—Alaska
(ii) Anglo Alaska Construction, Inc. (user)—Alaska

1. Parent corporation and address of principal office: Harris Steel Group Inc., 1 First Canadian Place, P.O. Box 163, Suite 6455, Toronto, Ontario, M5X 1C7

2. Wholly-owned subsidiaries which will participate in operations and States (or Provinces) of incorporation:

(i) J. Harris Transportation Services Limited—incorporated in the Province of Ontario.
(ii) VSL Canada Ltd.—incorporated under the laws of Canada.
(iii) Epoxicote Rebar Inc.—incorporated in the Province of Ontario.
(iv) Epoxicote Inc.—incorporated under the laws of Quebec.
(v) Laurel Steel Products Limited—incorporated in the Province of Ontario.
(vi) Laurel Steel of New England, Inc.—incorporated under the laws of Massachusetts.
(vii) Frankel Steel Limited—incorporated under the laws of Canada.
(viii) Central Fabricators Ltd—incorporated under the laws of British Columbia.

(ix) G&H Steel Industries Limited—incorporated under the laws of Canada.
(x) Thomsson Steel Company, Inc.—incorporated under the laws of Delaware.

(1) Parent Corporation and Address of Principal Office: R. D. Offutt, Inc., Casselton, North Dakota 58012
(2) Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:
(i) R. D. Offutt, Inc. of LaMoure, a North Dakota corporation.
(ii) Red River Implement, Inc., a Minnesota corporation.

1. Name and address of parent corporation or organization: Worthington Industries, Inc., 1205 Dearborn Drive Columbus, Ohio 43085.
2. Wholly-owned subsidiaries:
1. The Worthington Steel Company (a Maryland corporation)
2. The Worthington Steel Company (an Illinois corporation)
3. The Worthington Steel Company (a North Carolina corporation)
4. Worthington Cylinder Corporation
5. Worthington Acquisition Corp.
a. Subsidiary of Worthington Acquisition Corp.
i. U-Brand Corporation
Worthington Industries of Puerto Rico, Inc. (Delaware)
a. Subsidiary of Worthington Industries of Puerto Rico, Inc.
i. U-Brand Corporation of Puerto Rico (Puerto Rico)
7. MowSafe Products, Inc.
8. I. H. Schlezinger & Sons, Inc.
9. Buckeye International, Inc.
a. Subsidiaries of Buckeye International, Inc.
i. Warren Molded Plastics, Inc.
ii. B-I Sales, Inc. (Michigan)
iii. Buckeye Energy Company, Inc.
iv. Buckeye International Development, Inc.
v. Bethandale Corporation

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-16297 Filed 6-16-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Approved Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of approved exemptions.

SUMMARY: The motor carriers shown below have been granted exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 1343*, 367 ICC 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: The exemptions will be effective on July 18, 1983. Petitions for reconsideration must be filed by July 7, 1983. Petitions for stay must be filed by June 27, 1983.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7977.

SUPPLEMENTARY INFORMATION: For further information, see the decision(s) served in the proceeding(s) listed below. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423; or call (202) 289-4357 in the DC metropolitan area; or (800) 424-5403 Toll-free outside the DC area.

Agatha L. Mergenovich,
Secretary.

[No. MC-15170]

Armored Transport, Inc.—Continuance in Control Exemption—Continental Security Guards, Inc. and Armored Transport of Nevada, Inc.

ADDRESSES: Send pleadings to:
(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioner's representative, John C. Russell, 1545 Wilshire Boulevard, Suite 606, Los Angeles, CA 90017
Pleadings should refer to No. MC-F-15170

Decided: June 10, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirements of prior review and approval under 49 U.S.C. 11343(e) the Continuance of control of Continental Security Guards, Inc., and Armored Transport of Nevada, Inc., by Armored Transport, Inc.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC-F-15148]

Edward T. Hopkins—Continuance in Control—Nationwide Transportation, Inc., and Interstate Express, Inc.

ADDRESSES: Send pleadings to:
(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative: Nelson & Harding, P.O. Box 82028, Lincoln, NE 68501-2028

Pleadings should refer to No. MC-15148.

Decided: June 10, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(4) the continuance in control of Interstate Express Inc. (MC-153516) and Nationwide Transportation, Inc. (No. MC-164851), by Edward T. Hopkins, an individual.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

[No. MC-F-15189]

Sundance Transportation, Inc.—Continuance in Control Exemption—Whitfield Tank Lines, Inc. and Transport-West, Inc.

ADDRESSES: Send pleadings to:
(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioner's representative, William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110

Pleadings should refer to No. MC-F-15189.

Decided: June 10, 1983.

Under 49 U.S.C. 11343(e), the Interstate Commerce Commission exempts from the requirement of prior review and approval under 49 U.S.C. 11343(a)(4), the continuance in control of Whitfield Tank Lines, Inc. (Whitfield) (MC-114897), and Transport-West, Inc. (Transport) (MC-148791), by Sundance Transportation, Inc. (Sundance), a non-carrier, and, in turn, Allan D. Musgrove and Sally A. Musgrove, who control Sundance through stock ownership. Whitfield and Transport are Sundance's subsidiaries.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Taylor did not participate.

[FR Doc. 83-16298 Filed 6-16-83; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs; Seaboard System Railroad, Inc., etal.

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.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

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

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number, and specifics	Review Board	Decided date
948	Seaboard System Railroad, Inc., ICC-SBD-C-0083 (Chemicals).	Fortier, Krock, Williams	6-8-83
946	Seaboard System Railroad, Inc., ICC-SBD-C-0087 (Chemicals).	Joyce, Fortier, Krock	6-8-83
949	Farmrail Corp., ICC-FMRC-C-0007 (Wheat).	Krock, Joyce, Fortier	6-10-83

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-16147 Filed 6-16-83; 8:45 am]

BILLING CODE 7035-01-M

[1] **NOTE.**—tariff supplements advancing contract's effective date shall refer to these decisions for authority.

[Docket No. AB-6; Sub-144]

Rail Carriers; Burlington Northern Railroad Company—Abandonment—in Howell and Shannon Counties, MO; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 37.83 mile rail line between Willow Springs, MO, milepost 294.30, and Winona, MO, milepost 332.13, in Howell and Shannon Counties, MO. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27 [formerly 49 CFR 1121.38].

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-16294 Filed 6-16-83; 8:45 am]

BILLING CODE 7035-01-M

[No. AB-43; Sub-No. 100]

Rail Carriers; Illinois Central Gulf Railroad Company—Abandonment—In McLean, Woodford, Marshall, LaSalle, Lee, Ogle and Stephenson Counties, IL; Findings

June 8, 1983.

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision dated June 8, 1983, a finding which is administratively final, was made by the Administrative Law Judge stating that the public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of the following segments of rail line in its Amboy and Bloomington Districts: Amboy District—from milepost 801.47 north of Kerrick to milepost 949.13 at Freeport (East Junction), in McLean, Woodford, Marshall, LaSalle, Lee, Ogle and Stephenson Counties, IL, a distance of 132.71 miles; and from milepost 786.5 near Heyworth to milepost 797.85 at Normal, in McLean County, IL, a distance of 11.35 miles; 2. Bloomington District—from milepost 135.0 near Barnes to milepost 139.83 at Normal in McLean County, IL, a distance of 4.83 miles. Abandonment is subject to the conditions for the protection of employees in *Oregon Short Line Railroad Co.-Abandonment-Goshen*, 360 ICC 91 (1979), and further subject to the following conditions: (1) ICG shall not grade any portion of its right-of-way in the City of Mendota from the Route U.S. 51 viaduct southeast to approximately the point where Indiana Avenue would cross the right-of-way if projected northward without first consulting with and obtaining the approval of City authorities; (2) in consultation with Mendota City authorities, to restore that portion of its right-of-way extending from 6th Street to 8th Street in the City of Mendota to such condition as to be a source of pride to that City; and (3) shall maintain the five mile segment of line between Eldena and Amboy, IL, and the ICG station at Amboy, IL for a period of time not to exceed 120 days from the date a certificate is issued to allow the State of Illinois to purchase the right-of-way between Eldena and Amboy, IL for public use, and to allow for the documentation of the Amboy, IL station to the Historic American Buildings Survey by ICG before demolishing or selling it for uses which would adversely affect its historic character.

Offers of financial assistance must be made within 10 days of the publication of this notice. Any person who made an offer of financial assistance prior to the publication of the notice must inform the carrier and the Commission of its continued interest or the offer may be considered to have lapsed. A certificate of abandonment will be issued to the Illinois Central Gulf Railroad Company based on the above-described finding, 30 days after publication of this notice, unless within 15 days from the date of publication, the Commission further finds:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and

(2) It is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of

providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all of any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offeror may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of any offer, and no request is made of the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after notice is published. Upon notification to the Commission of execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modification) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 CFR Part 1121 as revised by Ex Parte No. 274 (Sub-No. 6), *Abandonment of Railroad Lines and Discontinuance of Service*, 365 ICC 249 (1981), as published at 46 FR 45342 (September 11, 1981). All interested persons are advised to follow the instructions contained therein as well as the instructions in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-16292 Filed 6-16-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-2; Sub-43]

Rail Carriers; Louisville and Nashville Railroad Company-abandonment-In Coffee, Warren and White Counties, TN

The Commission has found that the public convenience and necessity permit the Seaboard System Railroad, Inc. successor in interest to the Louisville and Nashville Railroad Company to abondon its 60.10 mile rail line between Tullahoma (milespost JB-69) and Sparta (milepost JB-130), TN in Coffee, Warren and White Counties, TN.

A certificate will be issued authorizing this abondoment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-16293 Filed 6-16-83; 8:45 am]

BILLING CODE 7035-01-M

Ex Parte No. 387]

Rail Carriers; Exemptions for Contract Tariffs; Missouri Pacific Railroad Co., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice.[1] These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

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

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

[1] **Note.**—Tariff supplements advancing contract's effective date shall refer to these decisions for authority.

Sub-No.	Name of railroad, contract No., and specifics	Review Board	Decided date
950	Missouri Pacific Railroad Co., ICC-MP-C-0019, Supplement 1, (Soda ash).	Fortier, Krock, Williams.	6-10-83
951	Norfolk and Western Railway Co., ICC-NW-C-6010, (Bituminous coal) via Port of Lamberts Points, VA.	Joyce, Fortier, Williams.	6-10-83

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-16295 Filed 6-16-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30166]

Rail Carriers; Southern Pacific Transportation Company—Abandonment Exemption—In Ventura and Los Angeles Counties, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior review and approval under 49 U.S.C. 10903 *et seq.* abandonment by the Southern Pacific Transportation Company of a 17.02-mile segment of line in Ventura and Los Angeles Counties, CA, subject to standard labor protective conditions.

DATE: This exemption shall be effective on July 18, 1983. Petitions to stay the effectiveness of this decision must be filed by June 27, 1983. Petitions for reconsideration must be filed by July 7, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30166 to:

(1) Rail Section, room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, contact T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington DC 20423, or call 289-4357 (D.C.

Metropolitan area) or toll free (800) 242-5403.

Decided: June 10, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a deadline for consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-16296 Filed 6-16-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-13, 718]

Monarch Machine Tool Company, Cortland, New York; Negative Determination Regarding Application for Reconsideration

By an application dated May 16, 1983, after being granted a filing extension, the United Automobile Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers at the Monarch Machine Tool Company, Cortland, New York. The determination was published in the **Federal Register** on May 3, 1983 (48 FR 19958).

Pursuant to CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that the Department's survey of Monarch Machine Tool Company's customers was inadequate in that it did not survey all firms which purchased imported machine tools. The union also claims that the domestic machine tool industry is adversely affected because of the chain reaction generated indirectly by increasing imports of automobiles and aerospace products which further reduce the demand for machine tools by those domestic industries. Lastly, the union argues that its position concerning imports of machine tools contributing importantly to worker separations is supported by petitions filed by Houdaille Industries and the National Machine Tool Builders with the U.S. Government for protection against the rising imports of machine tools.

The findings in the investigation file identify the article produced at Monarch Machine Tool's Cortland plant as numerically-controlled vertical milling machines. The findings further show that the worker group did not meet the decreased production or sales criterion of Section 222 of the Trade Act for 1981 or the increased import criterion for 1982. Production and sales at Cortland increased substantially in 1981 compared to 1980. U.S. imports of numerically-controlled milling machines decreased in quantity and value in 1982 compared to 1981. Therefore, to conduct an additional survey of the firm's customers would serve no purpose.

The union's claim that increased imports of automobiles and aerospace products creates a chain reaction that extends beyond the firms manufacturing those articles to other domestic firms producing articles used in the manufacturing process such as machine tools Section 222 of the Act states that to certify workers as eligible to apply for trade adjustment assistance benefits, increased imports of articles like or directly competitive with those produced by the workers' firm must have contributed importantly to decreased sales and to worker separations.

The union argues that petitions filed with the U.S. Government asking for protection against the rising imports of machine tools serve to support the UAW's position that increased imports contributed importantly to worker separations at Monarch's Cortland plant. The petition submitted by Houdaille Industries under Section 103 of the Revenue Act of 1971 was denied by the President on April 22, 1983 and the petition filed by the National Machine Tool Builders' Association under Section 232 of the Trade Expansion Act, as amended, is still pending.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this June 10, 1983.

Robert A. Schaerfl,

Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 83-16348 Filed 6-16-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,893]

Pacific Steel Casting Company, Berkeley, California; Termination of investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 29, 1982, in response to a petition received on October 25, 1982, on behalf of workers and former workers of Pacific Steel Castings Company, Berkeley, California. The workers produce steel castings.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., June 10, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-16349 Filed 6-16-83; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,789 et al.]

Phoenix Steel Corp. et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period June 6, 1983 to June 10, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the

separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-13,789; Phoenix Steel Corp., Claymont, DE

TA-W-13,837; C & P Sportswear, Brick Town, NJ

TA-W-13,901; Drummond McCall Metals Corp., Waterbury, CT

TA-W-13,874; TRW, Inc., Putnam Tool Div., Detroit, MI

TA-W-13,882; Miles Fabrics Co., Pawtucket, RI

TA-W-13,765; General Electric Co., St. Louis Lamp Plant, St. Louis, MO

TA-W-13,885; Harsco Corp., Taylor-Wharton Co., Div., Harrisburg, PA

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,405; Burlington Industries, Postex Plant, Post, TX

TA-W-13,757; Chrysler Corp., Marysville Parts Depot, Marysville, MI

TA-W-13,943; Energy Coal Corp., Energy Coal Income Partnership 1981-1, Mine 22, Holden, WV

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-14,180; Foote Mineral Co., New Haven, WV

Aggregate U.S. imports of ferrosilicon did not increase as required for certification.

TA-W-14,410; Lehigh Portland Cement Co., Alden, NY

Aggregate U.S. imports of cement did not increase as required for certification.

TA-W-14,426; Lehigh Portland Cement Co., Northampton, PA

Aggregate U.S. imports of cement did not increase as required for certification.

Affirmative Determinations

TA-W-14,464; Otis Elevator Co., Yonkers, NY

A certification was issued covering all workers separated on or after February 16, 1982.

TA-W-13,790; Phoenix Steel Corp., Phoenixville, PA

A certification was issued covering all workers of the firm separated on or after April 1, 1982.

TA-W-13,970; Arjon Manufacturing Corp., Hillside, NJ

A certification was issued covering all workers of the firm separated on or after November 3, 1981.

TA-W-13,805; Carlton Machine Tool Co., Cincinnati, OH

A certification was issued covering all workers producing radial drills separated on or after September 15, 1981 and before November 15, 1982.

TA-W-13,811; Sim Cal Chemical Co., el Centro, CA

A certification was issued covering all workers separated on or after July 1, 1982 and before April 1, 1983.

TA-W-13,764; Elkem Metals Co., Marietta, OH

A certification was issued covering all workers of the Marietta, OH plant of Elkem Metals Co. engaged in employment related to the production of ferromanganese, silicomanganese, simplex chrome, ferrochrome and electrolytic chrome who became totally or partially separated from employment on or after August 30, 1981.

TA-W-14,221; Agers Brothers, Inc., DeSoto, MO

A certification was issued covering all workers of the firm separated on or after June 1, 1982.

TA-W-13,766; Ingersoll-Rand Co., Waverly Casting Facility, Waverly, NY

A certification was issued covering all workers separated on or after August 24, 1981 and before December 31, 1982.

I hereby certify that the aforementioned determinations were issued during June 6, 1983-June 10, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 14, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-16347 Filed 6-16-83; 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.

Revision

- Employment and Training Administration

Immigration Case Record and Transmittal
ETA 7148
On occasion
State and local employment service offices
SIC: 944
38,000 responses; 11,400 hours; 1 form

Form ETA 7148 is used with the alien labor certification program for management information purposes and as a permanent record for showing the location of the case and the current status of the case.

Extension (No Change)

- Employment and Training Administration

Domestic Agricultural In-Season Wage Report
ETA 232, ETA 232A
Annually
State and local governments
SIC: Multiple
6,200 responses; 3,825 hours; 2 forms

State employment agencies need prevailing wage rates in order to process employer applications for intrastate and interstate workers. The rates are for agricultural and logging jobs.

Signed at Washington, D.C. this 14th day of June, 1983.

John Nester,

Acting Departmental Clearance Officer.

[FR Doc. 83-16346 Filed 6-16-83; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on AC/DC Power Systems Reliability; Meeting

The ARCS Subcommittee on AC/DC Power Systems Reliability will hold a meeting on June 29, 1983, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the current status of the work on station blackout, interim diesel generator requirements, and the proposed changes in the NCR requirement for DC power systems.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Wednesday, June 29, 1983—1:00 p.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding the topics to be discussed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: June 14, 1985.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-16317 Filed 6-16-83; 8:45 am]

BILING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Anticipated Transients Without Scram; Meeting

The ACRS Subcommittee on Anticipated Transients Without Scram (ATWS) will hold a meeting on June 29, 1983, Room 1046, at 1717 H Street, NW., Washington, DC. The Subcommittee will continue discussion of the NRC Staff's proposed ATWS Rule.

In accordance with the procedures outlined in the Federal Register on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Wednesday, June 29, 1983-8:30 a.m. until 12:30 p.m.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this topic.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: June 14, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-16318 Filed 6-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-155]

Consumers Power Co.; Granting of Relief From ASME Code Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to the Consumers Power Company (the licensee), which revised the inservice inspection program for the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief modifies the visual, surface, volumetric and/or pressure test examinations requirements for certain Class 1, 2, and 3 components for which the Code required examinations have been determined to be impractical.

The request for relief complies with the standards and requirements of the

Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the licensee's letters dated December 22, 1978, July 25, 1979, November 17, 1980, May 3, May 28, August 11, and September 3, 1982, and May 16, 1983, (2) the letter to the licensee dated June 10, 1983, and (3) the Commission's related Safety Evaluation, including a report prepared by the Commission's contractor, Science Applications, Inc., dated September 17, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 10th day of June, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 83-16316 Filed 6-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-389]

St. Lucie Plant (Unit 2), and Florida Power & Light Co., et al.; Issuance of Amendment to Facility Operating License NPF-16

Pursuant to the Commission meeting held on June 10, 1983, the U.S. Nuclear Regulatory Commission (the Commission), has issued Amendment No. 2 to Facility Operating License No. NPF-16, issued to Florida Power & Light Company, Orlando Utilities Commission of the City of Orlando and Florida Municipal Power Agency (licensees) for the St. Lucie Plant, Unit 2 (facility) located at the licensees' site on Hutchinson Island in St. Lucie County, Florida. This amendment is effective as of the date of issuance.

This amendment authorizes operation at power levels up to 100% of full rated power, 2560 megawatts thermal, in accordance with the provisions of the License as amended, the Technical Specifications as amended, and the Environmental Protection Plan.

Issuance of the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the overall action involving the proposed issuance of an operating license authorizing full power operation was published in the **Federal Register** on March 9, 1981 (46 FR 15831).

The Commission has determined that the issuance of this amendment will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by this amendment is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) Amendment No. 2 to Facility Operating License No. NPF-16 and (2) the Commission's Supplement No. 4 to the Safety Evaluation Report (NUREG-0843). These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450. A copy of the above item (1) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its Supplement 1 through 4 (NUREG-0843) may be purchased at current rates from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, the 10th day of June 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing

[FR Doc. 83-16312 Filed 6-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322-OL-3; ASLBP No. 83-488-03-OL (Emergency Planning Proceeding)]

Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Order Scheduling Prehearing Conference

June 10, 1983.

On July 13, 1983, a prehearing conference in this matter will be held pursuant to 10 CFR 2.751a and 2.752. The conference will commence at 12 o'clock noon in the "Auditorium," Suffolk County Legislative Building, County Center, Veterans' Memorial Highway, Hauppauge, New York.

It is ordered that

1. Attorneys in attendance must have full authority to stipulate for their clients.

2. Attorneys appearing at the prehearing conference will be those who will try the case.

3. Counsel shall meet or confer before the prehearing conference so that they will have an opportunity to reach agreement on the items which will be discussed at the conference.

It is further ordered that at the conference counsel shall be prepared to discuss the following:

1. Identification of key issues in the proceeding. [It is expected that all parties will comply with the limitations upon the scope of contentions which may be raised as set forth in LBP-83-22, 17 NRC ———, slip op. 62-65 (April 20, 1983).]

2. Simplification and clarification of issues.

3. Necessity and desirability of amending the pleadings.

4. Necessity for additional discovery; scope of additional discovery.

5. Identification of witness and limitation of the number of expert witnesses.

6. Exhibits to be offered in evidence.

7. Stipulations and admission of facts and of the contents and authenticity of documents.

8. Order in which the issues will be heard.

9. Other steps to expedite the presentation of evidence.

10. Scheduling of advance filing of direct testimony.

11. Scheduling trial briefs, motions to strike direct testimony, and cross-examination plans.

12. Any additional prehearing motions.

13. Date and place for the evidentiary hearing.

14. Estimated length of the hearing.

15. Such other matters as may aid in the orderly disposition of this proceeding.

Invitation To FEMA

The Federal Emergency Management Agency (FEMA) is invited to appear at this prehearing conference to advise the Board and the parties of the status of FEMA's review of LILCO's Interim Offsite Emergency Plan, the additional time that FEMA will require to complete its consideration of the LILCO plan, and the date by which FEMA expects to be ready to present testimony and other evidence regarding its evaluation of the plan.

Limited Appearance Statements

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene, may request in writing permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted in this proceeding at the discretion of the Board, at times, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform in writing the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, not later than July 7, 1983. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are germane and within the scope of the hearing as specified above. A member of the public does not have a right to participate in this evidentiary hearing unless granted the right to intervene as a party or the right of limited appearance.

Written limited appearance statements may be submitted to the Board at any time prior to closing the record in this phase of the proceeding. Oral statements will only be received at times designated by the Board in order not to interfere with the taking of evidence in this adjudicatory proceeding. Oral limited appearance statements may be made on Thursday, July 14, 1983 beginning at 9:00 a.m. or immediately following the prehearing conference, and at such other times as the Board shall specify. Both oral and written statements will be made a part of the official record of this proceeding.

Atomic Safety and Licensing Board,
Bethesda, Maryland.

James A. Laurenson,

Chairman, Administrative Law Judge.

[FR Doc. 83-16313 Filed 6-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Granting of Relief From ASME Code Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Maine Yankee Atomic Power Company, which revised the inservice inspection program for the Maine Yankee Atomic Power Plant, located in Lincoln County, Maine. The ASME Code requirements are incorporated by reference into the Commission's Rules and Regulations in 10 CFR Part 50. The relief is effective as of the date of issuance.

This action grants relief from the examination requirements which have been determined to be impractical to perform and, by granting relief, would not compromise the safety of the facility.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and accompanying Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the letters from Maine Yankee Atomic Power Company dated May 13, 1976, February 15, 1978, March 28, September 4 and 21, 1979, April 30, May 27 and October 12, 1982, (2) the Commission's letter to the licensee dated June 8, 1983, and (3) the Commission's Safety Evaluation and Technical Evaluation Report dated June 8, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Wiscasset Public Library, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 8th day of June, 1983.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 83-16314 Filed 6-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co. (Yankee Nuclear Power Station); Exemption

I

Yankee Atomic Electric Company (the licensee) is the holder of Facility Operating License No. DPR-3 which authorizes operation of the Yankee Nuclear Power Station. This license provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect. The facility is a pressurized water reactor rated at 600 megawatts thermal and is located at the licensee's site in Franklin County, Massachusetts.

II

The regulation, 10 CFR 50.54(w), requires that each commercial power reactor licensee shall, by June 29, 1982, take reasonable steps to obtain onsite property damage insurance available at reasonable cost and on reasonable terms from private sources or to demonstrate to the satisfaction of the Nuclear Regulatory Commission (the Commission) (NRC) that it possesses an equivalent amount of protection covering the facility, provided, among other things, that "this insurance must have a minimum coverage limit no less than the combined total of (i) that offered by either American Nuclear Insurers (ANI) and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly or Nuclear Mutual Limited (NML); plus (ii) that offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), ANI and MAERP jointly, or NML as excess property insurance."

On June 28, 1982, the licensee filed a Request for Exemption from provision "(ii)" of 10 CFR 50.54(w)(1). In support of this request, the licensee submitted a study indicating that decontamination and cleanup costs following a Three Mile Island, Unit 2 (TMI-2) type accident would not exceed $350,000,000 in 1982 dollars. The licensee indicated that it would obtain primary property insurance covering damages up to $460 million (subsequently increased by the carrier to $500 million) but that it did not believe that coverage in excess of $500

million was justified at this time. In reviewing Yankee Atomic's exemption request, the staff determined that additional information was required. This information was solicited by letter to the licensee dated August 13, 1982. The licensee has responded to this request by letter dated April 22, 1983.

Because of the additional information provided by the licensee in its April 22nd letter, the Commission is able to consider the exemption request on its merits. In its study, Yankee Atomic has evaluated a hypothetical accident causing a fission product release similar to that which occurred at TMI-2. The licensee then calculated the quantity of radionuclides available for release as a function of core thermal power and contrasted this to the TMI-2 accident. In addition, the company indicated, "To account for the possibilities of accidents more severe than the one studied at TMI-2, however, the fission product concentrations, and hence the costs, were not reduced for the Yankee study and were conservatively assumed to be the same as the TMI-2 case." [1] Detailed, item-by-item TMI-2 decontamination costs were then used as a basis for estimating decontamination costs after an accident at Yankee.

The assumptions and methodology used by the licensee in its study provide a reasonable attempt to estimate decommissioning costs and appear to be compatible with findings of a study developed for the Commission (*Technology, Safety and Costs of Decommissioning Reference Light Water Reactors Following Postulated Accidents*, NUREG/CR-2601, Pacific Northwest Laboratory, November 1982). This report considers three accident scenarios with a TMI-2 type accident considered to be of intermediate severity. The information developed from these scenarios indicated that although there is some relationship between size of a reactor and accident cleanup costs, certain of the major costs involved with accident cleanup—such as defueling a damaged reactor, activities to maintain a facility in cold shutdown, and construction of new treatment facilities—are not strictly power level dependent. The licensee has indicated lower expected costs overall for cleanup of Yankee because of its small size, but has correctly indicated those steps in the cleanup process where cost is not directly related to core size. Yankee Atomic's total estimate, less $20 million in decommissioning cost included in its study, is $338.7 million.

The licensee has also indicated that it has contracted various parties to obtain either insurance or some other method of protection such as a line or letter of credit to obtain the $67 million excess protection required at time of its exemption request. (The current requirement is $68 million.) The cost would range from $201,000 to $850,000 per year depending on the method and carrier chosen. When such excess insurance or protection is not required to cover the costs of cleanup of a maximum credible accident, the NRC staff agrees with the licensee's assessment that the cost of such insurance protection is too burdensome.

In sum, the Commission believes that the licensee has provided adequate justification for being exempted from the excess insurance requirements of 10 CFR 50.54(w)(1)(ii). Although a close relation between reactor size and accident decontamination cost has not been found to exist as yet, sufficient information is available to determine that decontamination and cleanup costs occurring as a result of an accident at a reactor of Yankee's small size would, with a reasonable degree of assurance, be covered by $500 million insurance.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12 an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption:

The licensee is exempt until further notice from the requirements of 10 CFR 50.54(w)(1)(ii), with respect to excess property insurance offered by Nuclear Electric Insurance Limited (NEIL), the Edison Electric Institute (EEI), American Nuclear Insurers (ANI), and Mutual Atomic Energy Reinsurance Pool (MAERP) jointly, or Nuclear Mutual Limited (NML). The licensee continues to be required to maintain, at a minimum, total primary insurance coverage or equivalent protection offered by ANI and MAERP jointly or NML pursuant to 10 CFR 50.54(w)(1)(i).

The NRC staff has determined that granting this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon insurance.

Dated on Bethesda, Maryland, this 10th day of June 1983.

For the Nuclear Regulatory Commission.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-16315 Filed 6-16-83; 8:45 am]

BILLING CODE 7590-01-M

[1] April 22, 1983 letter to Dennis M. Crutchfield, NRC, from J. A. Kay, Yankee Atomic Electric Company, Enclosure A ("Demonstration Study of the Yankee Plant"), p. 6.

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[Policy Letter 83-3]

Procurement of Architect-Engineer Services

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Issuance of Policy Letter 83-3.

SUMMARY: Policy Letter 83-3, reprinted below, sets forth uniform policy guidance for using Pub. L. 92-582 (40 U.S.C. 541 et seq.) in the procurement of architect-engineer (A-E) services. The initial draft of the policy letter was published in the **Federal Register** on April 9, 1982, 47 FR 15464, for public and agency comment.

Comments in response to the **Federal Register** notice were received from 88 private individuals and firms; 8 associations, and 18 Federal agencies. Almost all of the individuals, private firms, and associations opposed the policy letter, as did three Federal agencies. The basis for the opposition was that the policy letter proposed limiting the A-E selection procedures prescribed by Pub. L. 92-582 to construction-related projects. This limitation was viewed as too restrictive.

In September 1982, the General Accounting Office advised OFPP that an earlier Comptroller General's decision had been reversed and that Pub. L. 92-582 applied to the procurement of A-E services whether or not the services are related to construction. OFPP has now amended the policy letter to comply with the General Accounting Office's determination. Specifically, the policy letter provides that the Pub. L. 92-582 procedures should be used by Federal contracting officers whenever it is necessary to procure:

a. Professional services of an architectural or engineering nature; i.e., those services that are *required* either by virtue of law or the contracting officer's determination to be performed by a registered or licensed architect or engineer; or

b. Incidental services that members of the A-E professions or those in their employ may logically or justifiably

perform; i.e., services to be performed in conjunction with professional A–E services procured through the Pub. L. 92–582 procedure. Such services should be contracted for in the course of the procurement of the professional A–E services.

EFFECTIVE DATE: August 15, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Clark, Office of Federal Procurement Policy, (202) 395–3254.

Donald E. Sowle,

Administrator.

June 8, 1983.

[Policy Letter 83–3]

To the Heads of Executive Agencies and Departments

Subject: Procurement of Architect-Engineer Services

1. *Purpose.* This Policy Letter provides uniform policy guidance for using Pub. L. 92–582 (40 U.S.C 541 et seq.) in the procurement of architect-engineer services.

2. *Background.* On January 18, 1982, I issued a memorandum containing proposed procurement policy that would have limited the application of Pub. L. 92–582 (the Brooks Architect-Engineer Act) to those architect-engineer services required in connection with Federal construction projects. The January 18 memorandum (see FR 15464 of April 9, 1982) was based, in part, on two prior decisions of the Comptroller General: the Ninneman Engineering Reconsideration Decision, B–184770, March 9, 1977, and the Association of Soils and Foundation Engineers Decision, B–199548, September 15, 1880.

On September 22, 1982, the Comptroller General advised that the Association of Soils and Foundation Engineers decision had been reversed. The Comptroller General, in addition, indicated that the Brooks Act applied to the procurement of architect-engineer services, whether or not the services were related to construction.

3. *Policy.* In view of the Comptroller General's September 22, 1982 finding, Federal contracting officers shall follow the procedures prescribed by Pub. L. 92–582 whenever it is necessary to procure:

a. Professional services of an architectural or engineering nature; i.e., those services that are *required* either by virtue of law or the contracting officer's determination to be performed by a registered or licensed architect or engineer; or

Incidental services that members of the architect-engineer professions or those in their employ may logically or justifiably perform; i.e., services to be performed in conjunction with professional architect-engineer services procured through the Pub. L. 92–582 procedure. Such services should be contracted for in the course of the procurement of the professional architect-engineer services.

Services other than "incidental services" set forth above that do not *require* performance by a registered or licensed architect or engineer, notwithstanding the fact that architect-engineers also may perform those sevices, should be acquired pursuant to standard procurement procedures.

4. *Responsibilities.* This policy shall be implemented through the Defense Acquisition Regulation (DAR) and the Federal Procurement Regulations (FPR). Appropriate changes shall be made to these regulations to accommodate the policy. Agencies that do not use the DAR and FPR shall make appropriate procurement regulatory changes to implement the policy.

5. *Applicability.* This policy letter is applicable to Federal contracts. It is not applicable to Federal grants.

6. *Information Contact.* Information about this policy may be obtained by contacting Charles W. Clark, Office of Federal Procurement Policy, (202) 395–3254.

7. *Effective Date.* August 15, 1983.

8. *Review Date.* This policy will be reviewed within 3 years from the date of issuance.

9. *Concurrence.* This policy letter has the concurrence of the Director of the Office of management and Budget.

Donald E. Sowle,

Administration.

[FR Doc. 83–16233 Filed 6–16–83; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13311; (812–5523)]

Heizer Corp.; Filing of an Application

June 9, 1983.

Notice is hereby given that Heizer Corporation ("Applicant"), 20 North Wacker Drive, Chicago, Illinois 60606, registered under the Investment Company Act of 1940 ("Act"), filed an application on April 11, 1983, for an order of the Commission, pursuant to Section 23(c)(3) of the Act, exempting from Section 23(c) of the Act: (1) The exchange of Applicant's common stock by participants in Applicant's executive compensation plan in payment of the exercise price of options to acquire Applicant's common stock issued pursuant to that plan; (2) Applicant's exercise of its rights to repurchase non-vested shares and other shares it has repurchase rights to pursuant to the terms of its executive compensation plan; (3) Applicant's exercise of its rights as a secured party to repurchase its common stock held as collateral for loans granted under its executive compensation plan; and (4) Applicant's receipt of its common stock, in limited circumstances, in payment of the principal amount of loans outstanding under its executive compensation plan. 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, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

A business development company ("BDC") as defined by Section 2(a)(48) of the Act, Applicant seeks long-term capital appreciation. Applicant has historically invested in new and developing companies whose securities had no established public market and who often experienced difficulty in obtaining capital from conventional sources. Applicant has endeavored to assist its portfolio companies in establishing independent and effective boards of directors and management teams, devising realistic business strategies, obtaining necessary financing, and developing a meaningful public market for their stock. To attract and retain highly qualified personnel, Applicant instituted an executive compensation plan in conformance with the Small Business Investment Incentive Act of 1980.

Applicant's executive compensation plan, which includes a stock purchase and a stock option program (collectively, with other plans, the "Stock Plans"), permits directors, officers, and employees of Applicant who make significant contributions to its success to purchase shares of Applicant's common stock and options to purchase its common stock. The Stock Plans enable participants to purchase common stock with money borrowed from Applicant. Applicant's non-employee directors, ineligible to participate in either the stock purchase or the loan program, administer the Stock Plans. Stock purchase rights granted must have a purchase price equal to or greater than the fair market value of Applicant's common stock on the date of the grant. Applicant defines fair market value as the common stock's closing price as reported on a national securities exchange on the date of the grant. Participants in the stock purchase program enjoy all the rights of a stockholder, but shares purchased through the program in conjunction with a loan are subject to repurchase and certain restrictions. Upon a participant's termination of employment with Applicant, including through death or disability, or upon a proposed transfer of shares not in conformity with the Stock Plans' terms, Applicant may, by right, repurchase shares purchased in conjunction with loans, although such right lapses in accordance with a schedule determined by Applicant. Applicant may repurchase those shares subject to repurchase at the lower of participant's original cost per share or the fair market value of the shares on

the date the participant triggers the repurchase right. Common stock subject to repurchase may not be sold, exchanged, transferred, or otherwise disposed of except by will or by the laws of descent and distribution, except with Applicant's prior written consent.

Under Applicant's stock option program, options granted carry an exercise price of no less than the fair market value of the common stock on the date of the grant. Substantially all of the stock options presently outstanding are subject to a ten-year vesting schedule; under the Stock Plans they become exercisable with respect to 10 percent of the shares subject to the option at each of the first nine anniversary dates of the date of grant, with the final 10 percent becoming exercisable 60 days prior to the tenth anniversary date. Stock options cannot be assigned or transferred other than by will or the laws of descent and distribution. Notwithstanding the occasions when options become exercisable under the vesting schedule, a participant may exercise stock options (non-vested options) not then exercisable. A participant can only exercise non-vested options, however, if he agrees to restrictions on transfer and grants Applicant repurchase rights with respect to the shares received upon the exercise of non-vested options. The repurchase rights and the restrictions on transfer, identical to those under the stock purchase program, will lapse at the same times and in the same amounts as the options under which such shares were acquired would have become exercisable under their vesting schedule. As with the stock purchase program, the stock option program stipulates that the exercise price may be paid in cash, or in cash with a full recourse, promissory note for the balance of the exercise price; stock options may also be purchased partially or entirely through exchanges of whole shares of Applicant's common stock. Such exchanged common stock is valued at fair market value on the date the stock options are exercised.

The exchange provision enables Applicant's directors, officers, and employees to take advantage of the favorable tax treatment accorded such exchanges under Section 1036 of the Internal Revenue Code.

Applicant's Stock Plans authorize it to make loans in conjunction with purchases under the Stock Plans, conditioned upon full adherence to Section 57(j). The Stock Plans mandate that participants taking loans from Applicant must grant a security interest to Applicant in all shares of its common stock purchased with a loan and provide that in the event of a default in the payment of any indebtedness under a loan, Applicant may elect then, or at any time thereafter, to exercise all rights available to a secured party under the Illinois Commercial Code. Such rights include foreclosure: the right to sell the collateral for the loan at a private or public sale, and the right to purchase the collateral at such sale.

Applicant's loan program enables Stock Plan participants, under certain circumstances, to tender common stock of Applicant not subject to any repurchase rights at termination of employment in payment of the principal amount of outstanding loans they may have. Applicant has limited this right to permit such a tender only to the extent necessary to enable a terminating employee to repay his loan, taking into account his ownership of other shares of Applicant's common stock that he could freely sell to generate cash to repay the loan. Thus, no terminating employee could tender more than that number of shares of common stock that equals, in fair market value on the date of termination of employment, the outstanding principal amount of the loan. That maximum amount is reduced on a share-for-share basis by the number of shares held by the terminating employee that could be sold by him in the public market without restriction under the Securities Act of 1933. Applicant implemented this provision to protect the financial liquidity of Stock Plan participants who purchased Applicant's common stock before Applicant's registration statement for the Stock Plans became effective; having thus purchased "restricted securities", those Stock Plan participants must comply with Securities Act Rule 144 ("Rule 144"). Because they purchased restricted securities with a loan collateralized by the same securities, their two-year holding period does not begin to run until they repay the loan or fully collateralize the loan with something other than the securities they just purchased. To enable those participants subject to Rule 144 to liquidate their loan from Applicant without the potential of Financial distress, the Stock Plans allow such individuals to tender their restricted shares at termination of employment in payment of the remaining principal amount of their loan, limited, as earlier noted, by the number of unrestricted shares of Applicant that the individual holds.

In connection with Applicant's first method of repurchase, the exchange of its common stock in payment of the exercise price of options to acquire common stock, Applicant requests exemption on the ground that such exchanges are made in a manner and on a basis that does not unfairly discriminate against any holders of its common stock. Applicant argues that the Commission specifically contemplated such exchanges in a recent amendment to Securities Exchange Act Rule 16b–3. *See* Securities Exchange Act Release No. 34–17080 (1980). Applicant further argues that section 23(a)(2) expressly permits such an exchange. Admitting that the exchange would benefit participants, Applicant contends that the fair market value basis of exchange prevents harm and unfair discrimination against other shareholders. Without the ability to utilize such an exchange provision, Applicant claims its management would be placed at an unfair disadvantage relative to other companies' managements.

Applicant requests exemption for its second method of repurchase, the exercise of repurchase rights accorded through the Stock Plans, on the same basis as the proposed exchanges—that such a repurchase does not unfairly discriminate against any holders of Applicant's common stock. Applicant's repurchase rights allow it to repurchase its shares at the lower of the participant's original cost for such shares or the fair market value of the shares. Thus, participants holding Applicant's shares subject to a right of repurchase bear the risk that if the fair market value of their stock declines below their cost, they are entitled only to that lower fair market value upon Applicant's exercise of its repurchase rights; yet, if the fair market value of Applicant's stock exceeds the participants' cost, they are entitled to only their cost on such repurchases. Despite this risk, a participant may opt for this aproach to take advantage of favorable federal income tax treatment available for shares so purchased. By providing that its right to repurchase lapses by a schedule over time, Applicant contends that it provides an additional incentive for an employee holding Applicant's stock to remain with Applicant; the longer the employee stays, the more shares he may keep free from repurchase. Applicant submits that its ability to exercise its repurchase rights at the lower of the employee's cost or fair market value protects its stockholders and that neither it nor its shareholders could be treated unfairly upon Applicant's exercise of such rights.

Applicant offers the same justification, no unfair discrimination

against any of its common stockholders, for its third method of repurchase, the exercise of Applicant's rights as a secured party to purchase, at fair market value, its common stock held as collateral for loans. Section 57(j)(2)(D) of the Act mandates that loans given to employees of a BDC to enable them to purchase that BDC's securities must be fully collateralized and that such collateral may include any securities issued by that BDC. Applicant thus contends that Section 57(j)(2)(D) specifically authorizes the exercise of its rights as a secured party. Applicant believes that it needs the ability to exercise its rights as a secured party to protect its other shareholders.

Applicant requests exemption for its fourth method of repurchase, the receipt of its common stock in payment of loans made under the Stock Plans in limited circumstances, on the ground that such repurchases would be made in a manner and on a basis that do not unfairly discriminate against any holders of its common stock. Because this fourth method would use fair market value as the basis of exchange, Applicant claims no discrimination would occur against its shareholders. Applicant asserts it created this right to protect certain participants against discrimination; that is, to create a very limited market for their restricted shares of Applicant where otherwise they would have none. As earlier noted, Applicant limited the exercise of this right to the extent that shares of Applicant owned by participants that are freely tradeable do not have a fair value at the date of termination of employment equal to or in excess of the remaining principal amount of the loan.

Section 23(c)(3) permits the Commission, by order or otherwise, to allow a BDC, as well as other closed-end investment companies, to repurchase its securities in a manner or on a basis which does not unfairly discriminate against any holders of the class or classes of securities to be purchased. Applicant reiterates its belief that none of its four repurchase methods would be made in a manner or on a basis that unfairly discriminates against any holders of its common stock. Applicant asserts that the four repurchase provisions are integral parts of its Stock Plans, approved by stockholders at the 1981 and 1982 annual meetings. Applicant's proposed repurchases would not violate Section 57(a)(1) because the sales in question involve solely securities of which Applicant is the issuer.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 5, 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, in 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. 83-16335 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13310; (812-5371)]

ML Venture Partners I, L.P., et al.; Filing of Application

June 9, 1983.

Notice is hereby given that ML Venture Partners I, L.P. (the "Partnership"), Merrill Lynch Venture Capital Inc., Merrill Lynch Capital Resources Inc., Merrill Lynch Private Capital Inc. and Merrill Lynch & Co., Inc. (together, "Applicants") 165 Broadway, New York, New York 10080, filed an application on November 9, 1982, and amendments thereto on February 15, and May 18, 1983, for an order of the Commission pursuant to Sections 17(d) and 57(c) of the Investment Company Act of 1940 ("Act"), and Rule 17d-1 thereunder, exempting certain transactions of the Partnership from the provisions of Section 57(a) of the Act and approving certain joint transactions among certain of the Applicants, on the terms and conditions set forth therein. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for a statement of the relevant provisions.

Applicants state that the Partnership is a recently organized Delaware limited partnership, which has elected to be treated under the Act as a business development company. Applicants further state that the investment objective of the Partnership is to seek long-term capital appreciation by making venture capital investments.

Applicants state that Merrill Lynch Venture Capital Inc. ("Venture Capital"), a Delaware corporation, is a subsidiary of Merrill Lynch Capital Resources Inc. Applicants further state that Venture Capital is the management company for the Partnership and will receive a management fee at the annual rate of 2% of the Partnership's net assets.

Applicants state that Merrill Lynch Capital Resources Inc. ("Capital Resources"), a Delaware corporation, is a subsidiary of Merrill Lynch & Co., Inc., and that Capital Resources is engaged in providing a variety of financial services. Applicants further state that Capital Resources is the sole stockholder of both Venture Capital and Merrill Lynch Private Capital Inc. ("Private Capital"), also a Delaware Corporation, and that Merrill Lynch Interfunding is a division of Capital Resources which engages in commercial financing transactions. Applicants state that Private Capital is engaged in providing financial services to wealthy individuals.

Applicants state that Merrill Lynch & Co., Inc. ("ML & Co."), a Delaware corporation, is a diversified financial services holding company which, through its subsidiaries, provides investment and financing, insurance, real estate and related services. According to Applicants, the principal subsidiary of ML & Co., Merrill, Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") is one of the largest securities firms in the United States and is the selling agent for the Partnership's units. Merrill Lynch White Weld Capital Markets Group ("MLWWCMG") is a division oif MLPF&S which conducts its investment banking and underwriting activities.

Applicants state that Signode Industries Inc. ("Signode II") and its consolidated subsidiaries is a leading manufacturer and distributor of strapping systems for use in packaging and materials handling by a broad range of industries. As discussed below, Signode II is a newly formed Delaware corporation organized for the purpose of effecting the acquisition of Signode Corporation, a Delaware corporation ("Signode I").

Applicants state that as described in the proxy statement referred to below, in November 1981, MLPF&S proposed to Signode I's management that MLPF&S take steps to organize an investor group, with management participation, to acquire Signode I. On January 15, 1982, Signode I's board of directors authorized

MLPF&S to attempt to organize an investor group for the purpose of proposing an acquisition of Signode I. On February 26, 1982, Signode I received such an offer on behalf of an investor group, which offer was subsequently accepted by the board of directors of Signode I. Applicants state that on March 1, 1982, Signode I entered into a definitive agreement and plan of merger with a newly-formed Delaware corporation owned and controlled by a private investor group to include various affiliates of ML & Co., certain members of Signode I's management and various financial institutions, providing for a cash payment of $53 for each share of Signode I common stock.

According to the application, Signode I subsequently mailed a proxy statement dated August 9, 1982 (the "Proxy Statement") to its stockholders seeking adoption of an Agreement and Plan of Merger (the "Merger Agreement") among Signode II, formerly called SC Holding Corporation, String Corporation, an indirect wholly-owned subsidiary of Signode II ("String"), and Signode I. The adoption of the Merger Agreement was approved by the Signode I stockholders on August 30, 1982.

Pursuant to the terms of the Merger Agreement, String has been merged with and into Signode I and each outstanding share of Signode I common stock has been converted into the right to receive $53 in cash, and Signode I, the surviving corporation, has become an indirect wholly-owned subsidiary of Signode II.

Applicants state that as set forth in the Proxy Statement, on the effective date of the proposed merger, MLPF&S received a fee of $4.5 million for MLPF&S' assistance in structuring the merger, arranging the financing for Signode II and providing other services. Such fee was paid by Signode I, as the surviving corporation of the merger between Signode I and String.

Applicants state that in connection with the merger and to provide for the future cash needs of Signode II and its subsidiaries, financing in the aggregate approximate amount of $507.8 million will be available to Signode II through borrowings from banks and others, the sale of debt securities and the sale of Signode II preferred and common stock. Applicants state that in order to obtain such financing Signode II has entered into agreements with certain affiliates of Signode I, ML & Co. and certain of its affiliates and the banks, insurance companies and other institutional investors named in the Proxy Statement.

Applicants state that Signode II has entered into a financing agreement ("Financing Agreement") with a group of banks and Merrill Lynch Interfunding, under which a major New York City bank acts as agent. The Financing Agreement provides for a revolving credit facility, a cash cap facility which may, under certain conditions, be utilized to pay interest, and unsecured lines of credit. Under the revolving credit facility Signode II will be able to borrow up to $320 million. Merrill Lynch Interfunding will be obligated to lend up to $10 million under the facility. The borrowings from the United States lenders will bear interest at a rate of 1% above the agent bank's prime commercial lending rate. The revolving credit lenders will receive commitment fees of ½ of 1% of the average unused portion of the revolving credit facility.

Applicants state that in addition to the financing described above, Signode II has sold $79.2 million of 19% subordinated notes maturing in 1994 (the "Subordinated Notes"). Merrill Lynch Interfunding purchased $13.2 million principal amount of Subordinated Notes. In addition, Private Capital purchased $4.4 million of Subordinated Notes, which it subsequently sold to one investor. Signode II has also sold 341,080 shares of cumulative preferred stock for an aggregate price of $34.1 million (the "Preferred Stock"); Merrill Lynch Interfunding purchased 24,330 shares of Preferred Stock for $2.4 million. The purchasers of the Subordinated Notes and the Preferred Stock have purchased an aggregate of 7,441,481 shares of Signode II common stock, for $2.70 per share for an aggregate price of $20,091,999. Certain other investors purchased 1,630,971 shares of Signode II common stock for $2.70 per share. Thus, in connection with the merger, Signode II sold a total of 9,072,452 shares of its Common Stock at $2.70 per share for a total of $24,495,620.

As set forth in the Proxy Statement, ML & Co. and its affiliates purchased approximately 1.87 million shares of Signode II common stock at $2.70 per share. Of these shares, Venture Capital subsequently acquired 629,630 shares for $2.70 per share. The Partnership has been offered the opportunity to purchase such 629,630 shares of Signode II common stock for $2.70 per share for a total purchase price of $1,700,001. The 629,630 shares represent 6.94% of the shares of Signode II common stock presently outstanding and 6.36% of such common stock on a fully-diluted basis, calculated as set forth in the Proxy Statement. The Partnership will make such purchase only if the exemptive orders requested herein are issued.

As indicated above, the effective date of the Merger was August 30, 1982. The Partnership closed its offering on October 15, 1982, and had not received any funds from investors at the effective date of the merger. In light of this fact, Venture Capital agreed to hold the 629,630 shares offered to the Partnership and to sell such shares to the Partnership following the closing of the Partnership's offering. The purchase price to be paid by the Partnership will be the lower of $2.70 per share (the original purchase price) or the value of the investment on the date the Partnership purchases the shares (as determined by the Managing General Partner under the supervision of the Individual General Partners), plus a portion of the carrying costs relating to the purchase of such shares. Applicants state that such carrying costs will consist of interest charges paid by ML & Co. or its affiliates with respect to the shares of Signode II common stock to be acquired by the Partnership from October 6, 1982, the date the Partnership's Individual General Partners approved the purchase, through the date the Partnership purchases such shares. Applicants represent that the interest charges to be paid by the Partnership will be 75 percent of the lower of (i) the interest which would have been payable at the prime rate charged by Citibank, N.A. during such period on the purchase price paid by the Partnership for the 629,630 shares, or (ii) the interest charges actually incurred by ML & Co. or its affiliates to carry such shares.

The Partnership, Capital Resources, Private Capital and ML & Co. request an order pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder permitting participation by the Partnership in the transaction described above on the terms described herein. Venture Capital and the Partnership request an order pursuant to Section 57(c) of the Act exempting the purchase of Signode II common stock, under the conditions described above, by the Partnership from the provisions of Section 57(a)(1) of the Act.

Rule 17d–1(b) under the Act provides, in part, that in passing upon applications filed pursuant to that rule requesting approval of transactions in connection with joint arrangements or enterprises involving a registered investment company and any affiliated person thereof (or affiliated person of such a person), the Commission will consider whether the participation of such registered investment company in such a joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from

or less advantageous than that of other participants.

Applicants represent that prior to August 30, 1982, the date the Merger Agreement was adopted, MLPF&S offered the Partnership the opportunity to participate in the Signode II investor group by purchasing subordinated notes, preferred stock and/or common stock issued by Signode II. Applicants also state that the Managing General Partner spent several months evaluating the prospects of Signode II and the risks associated with an investment in its securities. The Managing General Partner evaluated Signode I's product, market, industry trends, competition, financial requirements and management. The Managing General Partner held several meetings with the management of Signode I and visited several major operating plants. In addition, the Managing General Partner reviewed the forecasts of certain operating results of Signode I provided to MLPF&S, including income statements, balance sheets and funds and cash flow statements.

Applicants represent that the Managing General Partner determined that the potential long-term investment rate of return in connection with the investment of Signode II common stock compared favorably with the average rate of return for the venture capital industry, and that such determination was based on its evaluation of the above-mentioned factors and its assessment that the assumptions regarding general economic conditions and industry trends underlying the forecasts were realistic. Applicants further represent that the Managing General Partner concluded that the Signode II common stock would provide a greater opportunity for long-term capital appreciation and a greater overall rate of return than either the preferred stock or the subordinated notes.

Applicants represent that on October 6, 1982, the Individual General Partners of the Partnership met and unanimously approved of the purchase of 629,630 shares of Signode II common stock by the Partnership. Applicants state that the Individual General Partners had previously been supplied with a copy of the Proxy Statement and with materials prepared by the Managing General Partner with respect to the proposed investment, and that the Managing General Partner reviewed the terms of the transaction and the basis for its recommendation that the Partnership purchase shares of common stock of Signode II. At such meeting, Applicants state, the Individual General Partners determined that the decision to purchase common stock of Signode II, rather than other securities issued by Signode II which had been offered to the Partnership, was consistent with the Partnership's investment objective since the opportunity for long-term capital gains would be maximized by such investment. Applicants represent that in their review of the purchase of Signode II common stock, the Individual General Partners were aware that approximately 7.20 million shares of Signode II common stock were purchased by investors that are not affiliated with ML & Co. or the Partnership and that the price to be paid by the Partnership will not exceed that for any of the original purchases of Signode II common stock.

Applicants represent that in approving the purchase of Signode II common stock, the Individual General Partners considered the fact that ML & Co., Merrill Lynch Interfunding and Private Capital participated as co-investors in the transaction and that Venture Capital would be acting as principal in the sale of Signode II common stock to the Partnership. Applicants further represent that the Individual General Partners were supplied information indicating that Merrill Lynch Interfunding is participating in the $320 million revolving credit facility established for Signode II. Applicants state that with respect to such facility, Merrill Lynch Interfunding's participation represents less than 3.2% of the total commitments thereunder, with eight major commercial banks being responsible for the remainder of the commitments. According to the application, the Individual General Partners were also supplied information concerning the relative rights and preferences of the holders of the different classes of securities issued by Signode II; the Individual General Partners were further supplied information concerning the percentages of such different classes of securities to be held by ML & Co. and its affiliates. Applicants represent that in their approval of the purchase of Signode II common stock by the Partnership, the Individual General Partners determined that there has been no overreaching of the Partnership by affiliates. Applicants represent that in their approval of the purchase of Signode II common stock by the Partnership, the Individual General Partners determined that there had been no overreaching of the Partnership by affiliates of Venture Capital and the Managing General Partner or of any other involvement by such affiliates with Signode II. Applicants represent that the Individual General Partners found no such conflict which would cause them not to approve the investment by the Partnership in Signode II common stock. Applicants further represent that the Individual General Partners have previously articulated general principles that any conflicts of interest involving the Partnership and its portfolio companies are to be brought to their attention as soon as they are discovered by Venture Capital and the Managing General Partner. Venture Capital and the Managing General Partner have both undertaken that they will adhere to such principles. In addition Applicants undertake that they will use their best efforts to insure that any conflicts between the interest of the Partnership and those of the other Applicants with respect to Signode II are resolved in the best interests of the Partnership, as such interests are determined by the Applicants in their business judgment exercised in good faith.

On the basis of the foregoing, the Partnership submits that the purchase of shares of Signode II common stock is consistent with the provisions, policies and purposes of the Act and that the participation in the transaction by the Partnership is no less advantageous than that of the other participants. Accordingly, the Applicants request that an order be entered pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder permitting the Partnership to purchase Signode II common stock on the terms described herein.

Section 57(c) of the Act states that the Commission shall issue an order upon application exempting a proposed transaction from the provisions of Section 57(a)(1), (2) or (3) of the Act if evidence establishes that (1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching of the business development company or its shareholders or partners on the part of any person concerned; (2) the proposed transaction is consistent with the policy of the business development company as recited in the filings made by such company with the Commission under the Securities Act of 1933, its registration statement and reports filed under the Securities Exchange Act of 1934, and its reports to shareholders or partners; and (3) the proposed transaction is consistent with the purposes of the Act.

Applicants submit that the statutory standards described above are satisfied and, accordingly, it is respectfully requested that an exemptive order be issued pursuant to Section 57(c) of the

Act to permit the Partnership to purchase 629,630 shares of Signode II common stock on the terms described above.

The Applicants state that they believe that issuance of such order is supported by a number of factors. First, as indicated above, the acquisition of such investment by the Partnership was unanimously approved by the Individual General Partners of the Partnership, including the Independent General Partners. Applicants further state that in making such approval, the Individual General Partners considered each of the provisions of Section 57(c) summarized above. In addition, Applicants represent that in evaluating the terms of the proposed transaction, the Individual General Partners considered the fact that the purchase price to be paid to Venture Capital includes a portion of the costs to be incurred by Venture Capital and its affiliates in carrying the Signode II common stock from October 6, 1982 until the purchase of such shares by the Partnership. Applicants state that in approving the purchase of Signode II common stock, the Individual General partners determined that payment of carrying costs in connection with such transaction did not involve overreaching of the Partnership by ML & Co. or any of its affiliates.

Second, Applicants state that while the Managing General Partner has reviewed hundreds of potential venture capital investments for the Partnership, it has approved only a limited number of investments for the Partnership at the present time, one of which is the purchase of Signode II common stock. In this regard, Applicants state that it is the Managing General Partner's experience that venture capital investments presenting as desirable an investment opportunity for the Partnership will rarely become available for investment by the Partnership. Thus, since Signode II common stock is not otherwise available for purchase, the Managing General Partner states that it believes that the Partnership is not permitted to make the investment as described herein.

Finally, Applicants submit that Venture Capital is holding the Signode II common stock as an accommodation to the Partnership since the Partnership had neither the funds to acquire the investment at August 30, 1982, nor the exemptive orders requested herein to acquire the investment at the time the Individual General Partners approved the investment on October 6, 1982. Applicants state that venture capital investments such as the Signode II transaction are normally structured so that each of the parties permitted to participate in the transaction must deliver funds at the closing of the transaction.

In the case of the Partnership's proposed investment, Venture Capital and its affiliates in effect acted as a nominee for the Partnership, a role that could have been taken by an unaffiliated entity which undoubtedly would pass on its entire carrying charges. The Applicants submit that in this situation, where the Partnership will have the use of the funds representing the purchase price for the Signode II common stock until the issuance of the orders requested herein, it is appropriate that at least a portion of the carrying costs be borne by the Partnership.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 5, 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. 83-16333 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13315; (812-5482)]

New York Municipal Fund for Temporary Investment, Inc.; Notice of Filing of an Application

June 10, 1983.

Notice is hereby given that New York Municipal Fund for Temporary Investment, Inc. ("Applicant"), No. 6, the Commons 3512 Silverside Road Wilmington, DE 19810 registered under the Investment Company Act of 1940 (the "Act") as an open-end, management investment company, filed an application on March 8, 1983, and an amendment thereto on May 25, 1983, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant: (1) From the provisions of Section 12(d)(3) of the Act to the extent necessary to permit Applicant to acquire standby commitments from brokers or dealers; and (2) from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to permit Applicant to value its portfolio securities using the amortized cost method of valuation and to value stand-by commitments acquired from banks, brokers, or dealers in the manner described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the provisions for which Applicant seeks to be exempted.

Applicant, a Maryland corporation, states that its investment objective is to provide investors with as high a level of current income exempt from Federal, New York State and New York City personal income taxes as is consistent with stability of principal. Applicant states that substantially all of its assets will be invested in debt obligations ("Municipal Securities") issued by or on behalf of the State of New York and other states, territories and possessions of the United States, the District of Columbia and their authorities, agencies, instrumentalities and political subdivisions. Applicant also states that, except during defensive periods or when acceptable securities are unavailable for investment by the Fund, it will maintain at least 80% of its assets in Municipal Securities which are exempt from both Federal and New York State and City personal income taxes, and will not knowingly purchase securities, the income from which is subject to Federal income tax. Applicant states that it may hold uninvested cash reserves pending investment, during defensive periods or if, in the opinion of Applicant's investment adviser, suitable tax-exempt obligations are unavailable. Applicant states further that it will not seek profits through short-term trading, but intends to hold its portfolio securities to maturity. Applicant states that it is designed primarily for institutional investors, such as banks, acting in a fiduciary, advisory, agency or similar capacity; insurance companies; investment counselors; and brokers seeking tax-exempt income for New York residents.

Applicant states that it may purchase variable rate demand notes. Applicant states that the variable rate demand notes will be payable on not more than

seven days notice; interest rates of the notes will be adjustable at intervals of up to one year. Applicant represents that the maturities of the variable rate obligations will be determined in accordance with the procedures set forth in Proposed Rule 2a–7 under the Act (Investment Company Act Release No. 12,206, February 1, 1982) or if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted.

Applicant states that the investors for which Applicant is designed will require not only an assurance of a constant net asset value per share but also the ability to receive next-day redemption proceeds. Applicant states that in order to provide its investors with the ability to receive next-day redemption proceeds, it must obtain the cash needed to meet net redemptions within one business day on sales of securities. Applicant asserts that unless prior arrangements assuring immediate liquidity have been made, the negotiation of next-day settlements on sales of Applicant's portfolio securities within the brief time available frequently would be impossible or could result in its receiving a less favorable execution price on a sale notwithstanding that the securities sold have a short remaining maturity. Applicant states that the investment techniques used by taxable money market funds to obtain liquidity are not viable options for it because their implementation would be prohibitively expensive or would produce taxable income.

Applicant proposes to improve its portfolio liquidity by assuring next-day settlements on portfolio sales through the acquisition of "stand-by commitments." Applicant describes a stand-by commitment as a right granted by a broker, dealer or other financial institution to an investment company upon a purchase of a Municipal Security entitling the investment company to sell the same principal amount of such securities back to the seller, at the investment company's option, at a specified price. Applicant states that its investment policies will permit the acquisition of stand-by commitments solely to facilitate portfolio liquidity, and that the acquisition or exercisability of a stand-by commitment will not affect the valuation or maturity of the underlying Municipal Securities, which will continue to be valued in accordance with the amortized cost method.

Applicant states that the stand-by commitments will have the following features: (1) They will be in writing and will be physically held by Applicant's custodian; (2) they may be exercisable by Applicant at any time prior to the underlying security's maturity; (3) Applicant's rights to exercise them will be unconditional and unqualified; (4) they will be entered into only with dealers, banks and brokers who in Applicant's investment adviser's opinion present minimal risks of default; (5) although they will not be transferable, Municipal Securities purchased subject to such commitments could be sold to a third party at any time, even if the commitments were outstanding; and (6) their exercise price will be (i) Applicant's acquisition cost of the Municipal Securities that are subject to the commitment (excluding any accrued interest that Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (ii) all interest accrued on the securities since the last interest payment date during the period the Municipal Securities were owned by Applicant. Applicant further states that because it will value its portfolio securities on an amortized cost basis, the amount payable under a stand-by commitment will be substantially the same as the value assigned by Applicant to the underlying securities. Moreover, Applicant submits that there is little risk of an event occurring that would make amortized cost valuation of Applicant's portfolio securities inappropriate. Applicant represents that in the unlikely event that the market or fair value of securities in its portfolio were not substantially equivalent to their amortized cost value, its Board may determine that the securities should be valued on the basis of available market information. Applicant represents that it expects to refrain from exercising the stand-by commitments in such a situation to avoid imposing a loss on a seller of securities and jeopardizing Applicant's business relationship with that seller.

According to the application, Applicant expects that stand-by commitments generally will be available without the payment of any direct or indirect consideration. Applicant states that, if necessary or advisable, it will pay for stand-by commitments, either separately in cash or by paying a higher price for portfolio securities that are acquired subject to the commitment. Applicant states that, as a matter of policy, the total amount "paid" in either manner for outstanding stand-by commitments held in its portfolio will not exceed ½ of 1% of the value of its total assets calculated immediately after any stand-by commitment is acquired.

Applicant states that it will be difficult to evaluate the likelihood of use or the potential benefit of a stand-by commitment. Therefore, Applicant states that the Board believes that the value of a stand-by commitment is zero, regardless of whether any direct or indirect consideration is paid. Where Applicant has paid for a stand-by commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, Applicant states that for purposes of complying with the conditions of the amortized cost order it has requested, requiring that the dollar-weighted average maturity of Applicant's portfolio not exceed 120 days, the maturity of a portfolio security shall not be considered shortened or otherwise affected by the acquisition of a stand-by commitment.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant submits that the proposed acquisition of stand-by commitments will not affect the calculation of its net asset value per share and will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds promptly. Applicant represents that it will purchase stand-by commitments only from banks, brokers and dealers that, in its investment adviser's opinion, are of satisfactory credit standing. Applicant states that the acquisition of stand-by commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business, nor require it to evaluate the credit of dealers in determining its net asset value. Applicant asserts that, in addition to the credit of these institutions, its rights under the stand-by commitments will be secured to the extent of the value of the underlying securities that are subject to the stand-by commitments. In this regard, Applicant states that although the failure of a broker or dealer to fulfill its obligation under a stand-by commitment

could result in a loss to it, this risk of loss is not different qualitatively from the risk of loss faced by any investment company that is holding securities pending settlement after having agreed to sell the securities to a broker or dealer in the ordinary course of business. Finally, Applicant states that it will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its shares or to obtain research services.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the followup:

(a) Review by the Board of Directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations, from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review;[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds one-half of one percent, the Board of Directors will promptly consider what action, if any, should be initiated; and

(c) Where the Board of Directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above. Applicant will also record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place), a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of meetings of the Board. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments that the Board of Directors determines present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

6. Applicant will include in each quarterly report as an attachment to Form N-1Q, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 5, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-16332 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board of Directors in the exercise of its discretion to be appropriate indicators of value which may include, among other things: (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

[Release No. 19869; (File No. SR-OCC-83-9)]

Filing and Immediate Effectiveness of a Proposed Rule Change by the Options Clearing Corp.

June 13, 1983.

The Options Clearing Corporation ("OCC") filed a proposed rule change on May 20, 1983, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934, that amends OCC Rule 1401 to permit OCC, in accordance with OCC Rule 610(h)(1), to accept from registered securities depositories, such as The Depository Trust Company ("DTC") (and other "clearing corporations," as defined in Article 8 of the Uniform Commercial Code), depository receipts relating to U.S. Treasury bills underlying Debt Securities Clearing Members' ("Clearing Members") short call positions in U.S. Treasury bill option contracts. Previously, OCC Rule 1401 enabled Clearing Members to cover those short positions (and thereby exclude them from OCC's margin program) through OCC's Escrow Receipt Depository ("ERD") program only.[1]

The proposal provides Clearing Members with a second mechanism by which short calls in Treasury bill options can be covered. Under the

[1] The ERD program is authorized by OCC Rule 610(h)(3). The Commission approved the ERD program in Securities Exchange Act Release Nos. 16844 (June 25, 1982) (47 FR 29046) and 19669 (April 13, 1983) (48 FR 16793), File Nos. SR-OCC-82-6 and SR-OCC-82-24, respectively.

proposal, OCC will extend its current escrow monitoring procedures under OCC Rule 610(h)(1) to U.S. Treasury bills underlying U.S. Treasury bill options. Those current procedures require DTC [3] to report daily to OCC regarding the value of each Clearing Member's underlying escrowed securities pledged to OCC. In connection with this filing, OCC has adjusted those procedures to enable it to determine daily the deliverability of Treasury bills. For example, when an OCC Clearing Member/DTC participant instructs DTC to move a U.S. Treasury bill, by book-entry, from its DTC free account to OCC's pledge account at DTC, and the bill does not meet minimum "good delivery" requirements (*i.e.*, it has more than 14 weeks to maturity for a 13-week Treasury bill option or more than 27 weeks to maturity for a 26-week Treasury bill option), OCC will not recognize that instruction and automatically will include the now uncovered short position in calculating the Clearing Member's OCC margin requirment. Moreover, OCC, each night, will identify any escrowed Treasury bills at DTC that will become undeliverable the next business day. In the morning of that day, OCC, in its Daily Margin Report, will advise the depositing Clearing Member that the escrowed Treasury bills have become undeliverable, and that the Clearing Member must deliver to OCC that morning sufficient alternative escrow deposits or margin to meet OCC aggregate margin requirements. In any event, the undeliverable Treasury bills at DTC will remain in the pledge account until the Clearing Member delivers to OCC alternative escrow deposits or margin. When such delivery is accomplished, OCC will instruct DTC to release the undeliverable bills to the Clearing Member.

OCC states, in its filing, that the proposed rule change is consistent with Section 17A of the Act in that it promotes the prompt and accurate clearance and settlement of Treasury bill options by enhancing its systems for escrow deposits covering short positions in Treasury bill call options. The proposal should enable Clearing Members to effect escrow deposits via book-entry transfer at registered securities depositories (and other "clearing corporations") and should reduce those Members' OCC margin obligations consistent with OCC's need to protect itself against participant default.

[3] Currently, DTC is the only "clearing corporation" that has established a deopsitory receipt program under OCC Rule 601(h)(1).

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-OCC-83-9.

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, NW., 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. 83-16334 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19854; File No. SR-Amex-83-4]

Self-Regulatory Organization; Proposed Rule Change by American Stock Exchange, Inc.; Initiation Fees

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 4, 1983, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicite 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 is proposing to amend Article VII, Section 1 of the Exchange Constitution to eliminate payment of an initiation fee for certain intra-firm transfers where a membership has been temporarily transferred from an active Floor member to another person who is not active on the Floor and then retransferred to an active Floor member.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statment of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

Article IV, Section 1(f) of the Exchange Constitution requires that no person shall be approved for regular, options principal or associate membership until the Exchange receives an initiation fee. Initiation fees are intended to defray the administrative costs of processing a membership application. Article VII provides a schedule for determining the initiation fee based upon the latest market price at which a membership has been sold and transferred.

The Amex requires that all memberships be held in the name of an individual, even if the membership is purchased and beneficially owned by a member organization. If an individual who is not the beneficial owner of his seat leaves his firm and does not elect to retain the membership, it must either be sold or transferred to another person associated with the firm. However, on occasion a firm may not have decided which person should be designated as the transferee of the membership to "work" the membership on the Floor. In

that case, the membership must be transferred to a "caretaker" individual and later retransferred once the new Floor member is designated. This two-step transfer triggers a double initiation fee. Member firms had requested that the initiation fee payable with respect to the second transfer be eliminated to provide them with a reasonable period of time within which to retransfer the seat without incurring the burdensome double fee.

Article VII of the Exchange Constitution therefore has been amended to eliminate the second initiation fee when a membership is retransferred to an officer, partner or employee of a member organization within 90 days of the first transfer, provided that the first transfer is to an officer, partner or employee of the member organization not active on the Floor.

(b) Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objective of Section 6(b)(4) in particular by providing for the equitable allocation of fees among the Exchange's members.

B. Self-Regulatory Organization's Statement on Burden of Competition

The proposed rule change, by eliminating an unnecessary and burdensome fee, lessens an obstacle to competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes 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 5th Street, NW., Washington, D.C. 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: June 8, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-16269 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

[SR-AMEX-83-10; Rel. No. 19862]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

June 10, 1983.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, submitted on May 2, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to rescind Amex Rule 418, which prohibits a member or member organization from being associated with a "bucket-shop"; rescind Amex Rule 349, which prohibits the employment of a representative of the press for the purpose of obtaining confidential information; rescind Amex Rule 445, which requires members and member organizations to file with the Exchange weekly reports of net positions from security underwritings; amend paragraph (a) of Amex Rule 464 to make explicit the requirement that daily records be kept of margin calls resulting from market fluctuations; and amend paragraph (b) of Rule 464, which concerns "free-riding" in a margin account, to replace the current restatement of the Regulation T requirements in the rule with the incorporation of Regulation T by reference.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 19731, May 5, 1983) and by publication in the **Federal Register** (48 FR 21228, May 11, 1983). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and the regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary

[FR Doc. 83-16337 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

[SR-CBOE-83-12; Rel. No. 19859]

Chicago Board Options Exchange, Inc.; Filing and Order Granting Temporary and Accelerated Approval of Proposed Rule Change

June 9, 1983.

The Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") LaSalle at Jackson, Chicago, Illinois, 60604 submitted on June 6, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to provide for the delivery of an "exercise advice" to the Exchange no later than 3:10 p.m. (Chicago time) with respect to intended exercises of 25 or more index options contracts in the same series on the same business day on behalf of an individual customer, market-maker or firm accounts. For the purposes of this interpretation to CBOE Rule 11.1, exercises for all account controlled by the same individual must be aggregated. The proposed rule change is designed to ensure that persons exercising large positions in index options do not exercise on the basis of information

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[1] The proposed rule change parallels similar changes to the New York Stock Exchange's ("NYSE") rules that the Commission has previously approved. *See* File No. SR-NYSE-82-8, partially approved on October 7, 1982 (Securities Exchange Act Release No. 19112, 42 FR 46031, October 14, 1982) and File No. SR-NYSE-82-13, partially approved on October 7, 1982 (Securities Exchange Act Release No. 19111, 47 FR 46031, October 14, 1982).

acquired after the close of the options market at 3:10 p.m. (Chicago time). CBOE has requested that the Commission approve the proposed rule change on an accelerated basis for a period of 45 days so the rule will be in effect for the final week of trading in the June cycle of the CBOE–100 index options contract.[1]

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–CBOE–83–12.

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 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, because the proposed rule change will greatly aid the CBOE in enforcing the provisions in CBOE Rule 11.1 prohibiting the exercise of index options after 3:10 p.m. (Chicago time). Based on the pattern of exercises of index options which the CBOE has observed in the first months of trading and concerns about persons exercising on the basis of information available after the close of the CBOE index options market, the Exchange believes, and the Commission concurs, that the proposed rule is necessary to maintain the integrity of and investor confidence in the index options market and should be approved as soon as possible. Therefore, while the Commission requests comment on whether the proposed rule may impose any operational burdens on brokers and dealers, the Commission has determined that approval of the proposed rule change on a temporary basis until July 31, 1983, is necessary. During that period, in addition to evaluating comments received with respect to the proposal, the Commission and CBOE will review the pattern of exercises of stock index options that occurred during the June expiration cycle and subsequent exercises to determine the most appropriate means to ensure compliance with CBOE Rule 11.1. Finally, in order to give the CBOE an opportunity to advise member firms of the requirements of the new interpretation, the Commission is delaying the effective date of this approval order until Monday, June 13, 1983.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-16336 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* letter to Thomas G. Lovett, Branch Chief, Division of Market Regulation, SEC, from Anne Taylor, Secretary, CBOE, dated June 9, 1983.

[Rel. No. 19858]

New York Stock Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change (SR–NYSE–83–8).

June 9, 1983.

I. Introduction and Summary

The New York Stock Exchange, Inc., ("NYSE"), 11 Wall Street, New York, New York 10005, has filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder[2] a proposed rule change[3] that would extend its Registered Representative Rapid Response Service ("R4") for a year, at the same time expanding the program in a number of respects. The NYSE states that the extension is necessary to gain additional experience with the program; in its view, the pilot was an insufficient test of the system because it involved too few firms and too limited an array of stocks. At the request of the Commission's staff, the NYSE has filed for a temporary extension of the existing pilot until September 5, 1983, to allow the Commission time to receive comments on, and consider the extension of, R4 without the expiration of the program.[4]

The Commission has determined, because of the important questions raised by the expansion of the R4 program, to institute a review proceeding to consider whether to approve or disapprove the proposed rule change. In this regard, the Commission believes that such a proceeding is appropriate so that interested commentators will have an opportunity to discuss fully the benefits and costs (both direct and indirect) associated with the R4 program. In particular, as discussed more fully below,[5] the Commission requests that commentators focus on whether any actual or perceived increase in order execution efficiency (in terms of the speed of reporting completed transactions to customers) outweigh the possible adverse effects of the program on investors or the trading process.

II. Background

On September 14, 1982, the Commission approved a rule change submitted by the NYSE establishing R4 as a six month pilot program.[6] The NYSE's R4, in present form, allows a registered representative in a participating broker-dealer firm[7] to execute, in its office, an order of up to 299 shares in 30 stocks at the prevailing consolidated quotation, and then report the execution to the NYSE specialist in the stock who guarantees that price for the customer.[8] On receiving this report, if the report is at the quotation then prevailing on the floor, the specialist is required to offer participation on the *contra* side of the trade to other existing interest at the quote price including limit orders on the specialist's book and floor

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] File No. SR–NYSE–83–8. Notice of the filing was given by issuance of a Commission release and by publicaiton in the **Federal Register**. *See* Securities Exchange Act Release No. 19573 (March 8, 1983), 48 FR 10788.

[4] Securities Exchange Act Release No. 19857 (June 9, 1983), 48 FR ——. *Cf.* Securities Exchange Act Release Nos. 19593 (March 11, 1983), 48 FR 11544, and 19713 (April 27, 1983), 48 FR 20184.

[5] *See* text accompanying notes 27 to 34, *infra*.

[6] *See* Securities Exchange Act Release No. 19047 (September 14, 1982), 47 FR 41869.

[7] At present, there are two participating broker-dealers.

[8] The report is subject to validation checks at predetermined price parameters around the NYSE last-sale in the stock, depending on the stock, before being passed to the specialist.

brokers.[9] If the order is not at the then prevailing quotation, the specialist must accept the execution for his own account. The execution is then reported by the specialist to the consolidated transaction reporting system ("CTS").[10]

The Commission believes that there are important questions raised by operation of R4 in both its present form and in the NYSE's proposed expanded pilot. The Commission further believes that this program should be examined in the context of the Commission's broader concerns regarding derivative execution systems in the intensely competitive market for small orders. In particular, although the R4 program does offer investors the availability of an instant execution report, the likelihood of investors receiving the most favorable execution price for their orders is reduced because the execution of small orders through a system such as R4 does not provide for interaction between small orders and trading interest on the exchange floor. In addition, the potential removal of most orders from the exchange floor could adversely affect (perhaps substantially) the pricing mechanism of the market. Moreover, there may be alternative methods (at relatively low costs) which would provide increased order execution efficiencies without eliminating the intramarket order exposure which heretofore has been a central element of the exchange auction process.

Because the NYSE's expanded pilot does not propose to include any mechanism for R4 orders to interact with buying and selling interest on the NYSE floor, and thereby to obtain better prices where available in the NYSE market, the proposal may be inconsistent with Section 6(b)(5) of the Act, which requires exchange rules, among other things, "to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trades * * * to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest * * *," and Section 6(b)(8) of the Act, which prohibits exchange rules from imposing "any burden on competition not necessary or appopriate in furtherance of the purposes of [the Act]." Morevoer, expansion of the R4 pilot may be inconsistent with Congressional objectives in Section 11A of the Act to assure, among other things (i) "fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets," (ii) "the practicability of brokers executing investors' orders in the best market," and (iii) "an opportunity consistent with [execution efficiency and best execution possibilities] for investors' orders to be executed without the participation of a dealer."[11] As a result, the Commission is instituting proceedings to determine whether the rule filing should be approved or disapproved. The remainder of this release provides an overview of existing small order execution systems, a discussion of the comment letters on R4 and the Commission's concerns with respect to derivative execution systems in general, and R4 in particular.

A. Small Order Execution Systems

Apart from R4, existing small order processing systems fall into three categories: (1) automatic execution systems, including the Pacific Stock Exchange, Inc.'s ("PSE") SCOREX, the Philadelphia Stock Exchange, Inc.'s ("Phlx") PACE, and the Midwest Stock Exchange, Inc.'s ("MSE") MAX; (2) the Boston Stock Exchange, Inc.'s ("BSE") Guaranteed Execution System ("GES"); and (3) routing systems, such as the NYSE's Designated Order Turnaround ("DOT") system and the American Stock Exchange, Inc.'s ("Amex") Post Execution Report ("PER") system.

1. *Automatic Execution Systems.* In an attempt to provide more efficient executions, comparisons and clearing arrangements, the PSE, MSE and Phlx developed deriviative-pricing small order execution systems, named SCOREX, MAX and PACE, respectively. In general, these three regional automatic execution systems are vey similar in operation. All three systems afford small orders automatic executions at prices based on the inside consolidated quotation. These systems are available for a majority of the securities which are included in the Intermarket Trading System ("ITS"), and account for a significant portion of the trading volume on the three exchanges.

There is one major difference between these systems. Specifically, SCOREX and MAX are programmed to permit the specialist or other trading interest on the floor of the PSE and MSE to interact with orders received by the systems. Market orders entered into SCOREX and MAX on an agency basis are displayed to the specialist for 30 seconds in order to give the specialist and other floor trading interest an opportunity to improve on the proposed automatic execution price. If the price is not improved within 30 seconds, or if the speicalist accelerates the execution, the order will be executed at the quotation prevailing at the time of the receipt of the order, and an execution report will be sent to the entering firm and the CTS.

PACE differs from SCOREX and MAX in that it does not provide specialists or other trading interest the ability to improve the price at which orders are executed in the system. As a result, even if a superior price were available on the Phlx floor at the time an order was received by PACE, the PACE order would be unable to trade with it. Moreover, because trade prices cannot be changed in PACE, automatic executions in PACE can result in specialist trades in violation of the short sale rule, Rule 10a–1.[12] In light of these limitations, the Commission's Division of Market Regulation recently has expressed it concern to the Phlx over the inability of the PACE system to permit improved executions of retail orders and called for the system to be enhanced to permit an exposure period similar to that provided by SCOREX and MAX.[13]

2. *The BSE's GES.* The BSE's GES is a set of rules establishing execution requirements for small orders delivered in the ordinary fashion and executed manually on the floor of the BSE. GES requires specialists to guarantee executions at the best consolidated quotation to all agency orders of up to 1,099 shares in all ITS stocks traded on the BSE. Althought the BSE's GES offers

[9] Determination of which party receives the *contra* side of the trade is controlled by the NYSE's rules of priority, parity and precedence. *See* NYSE Rule 77. For comparison purposes, R4 uses universal *contra* names, and the system automatically submits trade data into comparison.

[10] If the execution report is outside the best intermarket quotation at the time it is received on the floor, the trade will be reported as late, or "sold." Otherwise, the trade will be reported regular way. Accordingly, even though transactions on an exchange generally must be reported within 90 seconds, an R4 trade could be reported as if it were a normal trade even though the execution may have occurred upstairs over 90 seconds earlier.

[11] *See* Section 11A(a)(1)(C)(ii), (iv) and (v) of the Act.

[12] Specifically, Rule 10a–1 permits short sales to be effected on plus or zero plus ticks based on the last consolidated trade price. Because PACE orders are executed for a specialist's account automatically without specialist intervention, Phlx specialists selling short to effectuate PACE orders may find themselves in situations where they are engaging in short sales on minus or zero minus ticks.

[13] The Commission encourages the Phlx to consider taking steps to include increased opportunities for interaction of PACE orders with Phlx floor interest. In the event that the Commission determines to disapprove the NYSE's proposed rule change or changes are made in R4 to provide for exposure to the NYSE floor, the Commission is prepared to consider taking more formal action to ensure that necessary modifications are effected to ensure intramarket order exposure is provided through PACE.

the same price parameters as the other regional exchange systems, and superior size parameters, it does not offer the advantages of an automatic execution or a locked-in trade report, and hence the BSE has not received the same volume of small orders as other regional exchanges.

3. *Order Routing Systems.* The NYSE's DOT system and the Amex's PER system were developed shortly after the implementation of the PSE's SCOREX system. They were intended to provide an efficient means of routing directly to a specialist those orders that would not profit significantly from individual handling by a broker (DOT presently accepts orders of up to 599 shares while PER accepts orders of up to 300 shares). Neither system, however, includes an automatic execution feature at present. Because orders delivered through DOT and PER are executed pursuant to traditional exchange market trading rules and are not derivatively priced, DOT and PER preserve the benefits of interaction between these orders and existing trading interest on the NYSE and Amex floors.

B. Comment Letters on R4

In response to the notice of the NYSE's proposed extension and expansion of the R4 pilot, the Commission received comment letters from the Cincinnati Stock Exchange, Inc. ("SCE"), the MSE and the PSE.[14] All three comment letters opposed the NYSE's filing. Specifically, the CSE believes that the R4 experiment is unwarranted in view of the system's detrimental impact on competition among market centers, its adverse effect on the ability of retail customers and other investors to gain improved executions, and its basic inconsistency with the statutory objectives of a national market system. In particular, the CSE raises best execution concerns with respect to the present structure of R4, indicating that an expansion of R4 would result in fewer trades being done between the NYSE spread and concomitantly more trade occurring at the quoted prices.

The MSE also opposes extension and expansion of R4. The MSE believes that, because the NYSE's public quotations often do not reflect the prices at which trades actually are executed, trades through R4 at those displayed quotations deprive customers of best execution. The MSE also states that R4 is inconsistent with the Commission's recent intermarket order exposure initiatives.

The PSE opposes the extension of R4 because "the program is inconsistent with the goals of a national market system, and because the program is directly contrary to the principles of the proposed order exposure rule . . . ." Specifically, the PSE asserts that R4 is inconsistent with the clear national market system goal of "brokers executing investors' orders in the best market," [15] because an R4 order "cannot be executed at a better price available on the floor from either another public order or from a floor professional." In addition, the PSE argues that R4 is contrary to the Commission's initiatives in the intermarket order exposure area in that R4 "does not hinder exposure, it prevents it, and therefore prevents the investor from obtaining the benefits of exposure . . . ." Finally, the PSE indicates that the PSE's "SCOREX system provides the opportunity for an order to obtain a better price, and [that] the Commission should not approve a system without that feature."

III. Questions With Respect to R4

Introduction of a derivative execution system on the primary exchange raises questions with respect to best execution of customers' orders, market maker competition, and optimal functioning of the pricing mechanism in general. In the first instance, the present operation of the R4 system is inconsistent with the NYSE's existing rules requiring interaction of orders with interest on the floor of the exchange. The premise of these NYSE requirements is, in part, to ensure that customers' orders are exposed to all trading interest on the NYSE floor and receive the best execution available.[16] NYSE Rule 91, for example, requires a specialist or other broker to expose a customer order accepted for execution to the NYSE crowd at an ⅛th point better than his bid or offer, as the case may be, before executing the customer order on a principal basis. R4 circumvents this Rule and effectively forecloses the opportunity of an order to obtain a better execution than the consolidated quotation price. Because, as discussed further in this release, large numbers of DOT orders presently are executed between the quotation spread, it is not a theoretical concern but rather there appears to be a high degree of probability that many of these orders will receive executions through the R4 system which are less favorable than the execution of orders exposed on the exchange floor through the auction process. On the other hand, the possibility that a customer might receive an inferior execution price must be weighed against the value some customers may place on an immediate execution. Because R4, in effect, provides customers with an instantaneous execution at a specific price, some customers may choose to forego the possibility of a better price as simply a cost they are willing to assume for an immediate execution.

A second question is whether an expanded R4 system on the NYSE could reduce the liquidity available for large customers orders, if floor brokers were denied the ability to interact with small orders.[17] By reducing or eliminating floor participants' access to those orders, such a system on the NYSE could reduce the ability of a broker-dealer representing institutional or other public investors to "work" an order on the floor of the NYSE.

Moreover, the interaction of orders on an exchange trading floor always has been the basic operating premise of an exchange market, making possible trades between the spread on an exchange floor and hence better executions for customers. It is this opportunity for increased interaction of orders within a market that constitutes a primary justification for centralization of orders on an exchange. Because the interaction of orders within a market is an important element of exchange operation, exchanges which choose (or are permitted) to eliminate any intramarket exposure in connection with the derivative execution of customer orders may lose their distinctive auction characteristics, tending to undermine any basis for continuing to prohibit upstairs execution of these orders.

R4 also may affect market maker competition and the pricing mechanism in general. With respect to market maker competition, R4, in conjunction with other derivative-pricing systems, would result in executions of orders at the consolidated quotation, regardless of the NYSE market. As a result, even if another market maker were displaying the best quote, it would not have an

[14] *See* Letter from James M. Anderson, Chairman of the Board, CSE, to George A. Fitzsimmons, Secretary, SEC, dated April 8, 1983; Letter from Kenneth I. Rosenblum, President, MSE, to Michael Simon, Branch Chief, Division, dated April 11, 1983; and Letter from Jim Gallagher, President, PSE, to George A. Fitzsimmons, Secretary, SEC, dated April 12, 1983.

[15] *See* Section 11A(a)(1)(C)(iv) of the Act.

[16] Indeed, as noted above, the goal of assuring that customers receive the best execution price of their orders is a fundamental objective of the Act. *See* Section 11A(a)(1)(C)(iv) of the Act, and Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360, 20363 n.30.

[17] Under R4 as currently operated, the specialist must give R4 orders to trading interest on the floor or in the limit order book, but only if the R4 report is at the prevailing quotation when it is received.

opportunity to attract the order either directly or through ITS. Instead, the order still would be routed to the NYSE even through the NYSE specialist did not publicly display to the entire market its willingness to trade at the quoted price. Because market makers generally display superior quotes in an attempt to attract order flow, the Commission is concerned about the competitive implications of a system which would deprive competing market makers of the ability to attract small order flow through competitive quotes. DOT trades currently account for a majority of the trades on the NYSE; if expanded, R4 could attract a far larger share of NYSE small trades, and, together with the regional automatic execution systems, could result in the great preponderance of small orders being executed derivatively. Consequently, the pricing mechanism would be based primarily on the direct interaction of orders of 600 shares or more, approximately 35 percent of present NYSE trades and 88 percent of NYSE volume.[18] While small orders would affect the market in an indirect manner by providing specialists with steady order flow, with imbalances eventually corrected by quotation changes as before, they would no longer be reflected directly in the market.

IV. Possible Modifications to R4

As discussed above, R4 makes no provisions for small orders to interact with existing trading interest at prices better than the prevailing quotation. As a result, these orders may be denied an opportunity to obtain the best price currently available on the exchange floor. In this respect, while the Commission, in the R4 pilot adoption release, indicated that it recognized the NYSE's need to respond to the competitive challenge of regional exchanges' automatic execution systems, the Commission also stated that:

> The Commission is * * * concerned that, although the proposed rules require that the *contra* side to any R4 execution be either the NYSE specialist or trading interest exposed on the floor at the same price at the time the "execution report" is received, there is no provision for the order to receive a superior price through exposure to other trading interest at the time the order is received on the floor. Because the R4 procedures, as currently constructed, provide no opportunity to receive executions uperior to the CQS "best quotation," the system would present * * * concerns if the NYSE were to propose to extend the program past its initial six month pilot phase. Where the "execution report" actually is sent to the NYSE floor, the Commission cannot identify reasons why the execution price should not be improved where the actual NYSE market is superior to the quoted market.[19]

As noted in comment letters, best execution concerns related to R4 trades are underscored by the significant percentage of executions that occur at prices between displayed quotation spreades in various market centers.[20] Accordingly, in the R4 Approval Order, the Commission suggested the possibility of the NYSE modifying R4 to allow a registered representative to "stop," rather than "execute," a customer order at the consolidated best quotation and then immediately route the order to the specialist's post where it would be permitted to interact with other trading interest. This modification would provide investors with assurance of an execution at the current consolidated quotation without foregoing the possibility of a superior execution, and would prevent R4 orders from being isolated from other trading interest on the NYSE market.

In response to the Commission's urging that a stop be included in R4, the NYSE, in its filing, states that a stop is unnecessary at the moment because it is merely seeking to extend the R4 pilot, not to obtain permanent approval of the R4 program in its present form. the NYSE also maintains that the stop would be cumbersome and inefficient, and thus would make the R4 system unattractive to those members it was designed to attract. Finally, the NYSE believes that a stop is unnecessary because customers can obtain exposure of their orders by requesting to have their orders routed through DOT.[21]

The Commission recognizes that the NYSE believes that it must take further steps to remain competitive in attracting small order flow.[22] Indeed, the Commission recognizes that the NYSE's competitive concerns in this area are legitimate. Nonetheless, the Commission believes that it is important that commentators focus on whether derivative execution systems developed by the NYSE should conform to certain minimum criteria, which, with the exception of the Phlx, have been met by the regional exchanges. In particular, the Commission solicits comment on whether, in view of the pricing efficiency, market maker competition, and best execution concerns discussed previously, it is important that the systems currently under development include some form of mechanism to allow for the interaction of orders, prior to their execution, with interest on the floor of the NYSE.

Under the present circumstances, the Commission believes that, unless a stop or similar procedure is introduced early in the R4 program, it will be more difficult to introduce it after the program has been in operation for a considerable period.[23] Finally, the Commission regards the NYSE's proposed expansion as more than a mere extension of its limited R4 pilot. The NYSE has proposed a substantial expansion of the pilot up to 599 shares, matching the regional systems' size parameters. The NYSE also plans to include a number of additional firms. Accordingly, the Commission requests comment on

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[18] Of this 88 percent, approximately 48% is accounted for by block trades of 10,000 shares or more which generally may not directly participate in the price discovery function of the exchange market. Accordingly, if blocks are excluded, orders of 500 shares or less account for 21% of total NYSE share volume.

[19] Securities Exchange Act Release No. 19047 (September 14, 1982) at 3-4.

[20] The NYSE has indicated that 38 percent of NYSE trades are done at prices better than the displayed inside market when the quotation spreads are larger than an ⅛ point. In addition, the Commission's latest monitoring report on the CSE's NSTS, and its monitoring report on Rule 19c-3 trading, indicates that a significant percentage of NSTS and over-the-counter ("OTC") trades in NYSE-listed stocks are executed at prices between the NYSE's inside market. For instance, during the sample period reviewed, 20 percent of all NSTS principal/agency trades and 29.5 percent of all NSTS agency/agency trades were executed at prices between the contemporaneous NYSE inside market quotations. *See* SEC, *A Report on the Operation of the CSE NSTS 1978-1982* (September 1982). Furthermore, a substantial number of OTC trades in Rule 19c-3 Securities listed on the NYSE and Amex were executed at prices between the contemporaneous NYSE and Amex inside market quotations. *See* SEC, *A Monitoring Report on the Operation and Effects of Rule 19c-3 Under the Securities Exchange Act of 1934* (August 1981).

[21] As described more fully below, even if one believes that investors are in a position to make an informed choice over the telephone between an R4 and DOT execution, such investor choices do not in any way address the competitive and pricing efficiency concerns raised by R4.

[22] The NYSE has stated that the "apparent continued erosion of the [NYSE's] share of the market for smaller-size trades underscored the need for stronger competitive efforts in that area." *See* NYSE, *Annual Report* 32 (1982).

[23] The Commission recognizes that providing a stop in connection with R4 executions may not provide opportunities for increased market maker competition between markets because, even with a stop, R4 will result in the NYSE matching another market's quotation rather than sending orders to the market displaying the superior quotation. The Commission, however, is cognizant of the competitive pressures being exerted upon the NYSE by the regional derivative execution systems and, because a stop would address the Commission's most serious concern by providing public customers' orders increased opportunities for improved executions, the Commission believes that it would be appropriate to extend and expand the R4 pilot if it included a stop. In light of the competition concerns that exchange small order systems raise, the Commission believes that it is important to continue to monitor generally the effects of such systems on the trading markets.

whether a stop or similar procedure should be included in the R4 program at this time.

With respect to the NYSE's efficiency argument, the Commission requests comment on whether the stop procedure would involve significantly greater practical problems for participating firms, particularly in the absence of any empirical experience to prove the contrary. While price corrections to reflect a better execution may reduce somewhat the comparison and clearing efficiencies derived from R4,[24] the Commission questions whether customers (even if satisfied with the initial instant confirmation at the quoted price) will be dissatisfied with the news that they have received an execution price superior to the one initially reported. The stop procedure, however, will result in some greater risk for the specialist providng the stop, because the stop will be used only if a better price is unavailable when the order is received on the NYSE. Thus, the specialist only would participate if the market had not changed or had moved against the specialist.[25] If specialists are not willing to accept this risk, however, the NYSE still has the opportunity to enhance R4 in some other manner that will ensure order interaction with other interest on the floor. In any event, the Commission requests comment on whether these questions buttress the need for inclusion of a stop or some similar procedure in the R4 pilot, where its effects can be assessed directly in a limited context.

With respect to the argument that use of R4 is voluntary and that customers are given the choice of using R4 or DOT, the Commission preliminarily questions whether it is sufficient merely to assert that an alternative system exists whereby orders sent to the floor may interact with other orders. To start, if R4 is successful it could ultimately divert a large proportion of small orders from the regular market, with foreseeable adverse effects on the pricing mechanism, as discussed previously.[26] In addition, it is unclear whether customers will, in fact, be sufficiently informed to make a reasoned choice between these systems,[27] particularly as the R4 system may offer special operational advantages to the registered representative and his firm.

V. Request for Comments

In light of the various issues discussed above, the Commission believes it is imporant that commentators have an opportunity to discuss fully the benefits and costs (both direct and indirect) associated with the R4 program. In particular, the Commission requests that commentators specifically address the following questions.

A. Direct Costs and Benefits

1. Is it possible to quantify or estimate the cost to investors if they decide to forego the possibility of an improved execution price in favor of a derivatively priced execution based on the best consolidated quotation? For example, assuming (a) 25% of the small orders sent to the floor of the NYSE will receive an execution superior to the displayed quotation,[28] and (b) the average price per share of an NYSE security is $30,[29] if (c) a customer accepts an R4 execution to seel 300 shares at $30, then (d) the customer will have foregone a 1 in 4 chance of receiving a price of $30.125. In effect, the customer will have bypassed the opportunity to save $37.50 on any particular trade (or an average of $9.37 per trade[30]) to obtain an immediate execution on a transaction involving $9,000.[31] The price of such an immediate execution thus would represent an average increased transaction cost of $9.37 per trade, or a 8.5% increase over the average commission charge of $110.10.[32]

Of course, these estimates are critically dependent on the assumptions which underlie the calculations. Therefore, the Commission urges commentators to focus with specificity on providing estimates of the possible costs to investors of the R4 program.[33]

2. Is it possible to estimate the benefits to investors and broker-dealers of an immediate execution? for example, is it possible reasonably to estimate the dollar value to investors of, in effect, purchasing an immediate execution by foregoing the possibility of an improved price? It would appear that the primary value-added of such an execution is the assurance that the market will not move against the customer prior to the time the firm executes the order on the floor of the exchange. Such a price movement is, of course, a random event, with an equal probability the price received will improve or become worse. Comment is requested, however, regarding the value of increased certainty as a result of immediate executions. Similarly, is it possible to estimate the cost savings to broker-dealers of being able to avoid the back office costs of improving their order delivery systems to provide quicker executions? In this regard, the Commission is especially interested in receiving specific estimates of the average time it takes a broker-dealer

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[24] Even this problem would appear to be addressed by the firm delaying input of reports to its back office system until it receives a final report back from the specialist.

[25] One possible way of addressing this risk would be for the NYSE to require participating firms to share the financial burden with specialists, particularly because the amount of risk involved is directly related to the length of time a firm takes to deliver its orders to the floor (a factor solely within the control of the member firm).

[26] In addition to directing market orders away from the floor for upstairs execution, the Commission believes that firms may well choose to hold limit orders upstairs as well, and execute them pursuant to R4 when they become marketable.

[27] The CSE's comment letter also did not give much credence to the NYSE's argument that R4 users and customers would have an alternative of bypassing R4 to have their orders interact with interest on the exchange floor. In this respect, the CSE believed that the attractiveness of instantaneous executions with confirmed prices in one phone call would compel firms to encourage the wide-scale use of R4 to the detriment of opportunities for improved executions.

[28] The NYSE has indicated that 28 percent of DOT orders are executed within the NYSE published quote. *See* letter from Robert McSweeney, Director, Market Surveillance, NYSE, to Richard G. Ketchum, then Assistant Director, Division of Market Regulation, dated October 27, 1981.

[29] *See* NYSE, *Fact Book* 5 (1982).

[30] The comparable estimates for orders of 500, 400, 200 and 100 shares are, respectively, $15.62 $12.50, $6.25 and $3.12.

[31] Although the opportunity costs to an individual investor associated with a particular quote-based execution may be small, in the aggregate these direct costs may be substantial. For example, applying these assumptions (appropriately modified to reflect different sized orders) to the more than 900,000 trades of less than 600 shares executed on the NYSE during the month of January 1983, R4 would represent an opportunity cost to investors of 7.1 million dollars per month or 85.2 million dollars per year.

Of course, not all of these transactions reflect trades by public investors who might otherwise receive an R4 execution. Instead, some indeterminate number of these transactions also reflect trading by institutions and other market professionals working larger orders. As noted in question number 7 below, however, the Commission is also concerned about the impact on such professional traders if they have reduced access to the small order flow. Accordingly, the Commission specifically requests that commentators provide estimates of the number of transactions of less than 600 shares which represent public customer orders of such size. For example, during 1980, NYSE member firms, institutions and financial intermediaries accounted for 74% of all NYSE volume, whereas public individuals accounted for only 26%. NYSE, *Fact Book* 51 (1982). Presumably, however, public individuals account for a larger percentage of the small order flow.

[32] *See* SEC, *Commission Rate Trends, 1975–1981* at Revised Appendix 2 (based on 200 to 900 share orders) (July 7, 1982, revised tables dated November 8, 1982).

[33] For example, the above analysis assumed that 25% of the small orders would receive a better price over the course of all transactions. If, however, the quote for a security represented an ⅛ point spread, then an improved price would not be possible absent a fundamental market price movement. Nevertheless, if one attempts to analyze only those orders executed in a market with a spread of greater than ⅛th, the NYSE has stated that in such markets 38.5 percent of all trades in 1981 took place between the quotes. *See* NYSE, *Report of the Quality of Markets Committee to the Board of Directors—1981* (March 4, 1982).

firm to deliver an order to the floor of the NYSE and to deliver an execution report back to its registered representative. Finally, comment is requested regarding whether existing small order processing systems, such as the PSE's SCOREX, provide investors with substantially equivalent benefits as R4 while still ensuring an opportunity to better the proposed quote based execution.

3. Irrespective of whether it is possible to quantify the potential costs and benefits to investors and broker-dealers, if investors are given the choice, on a trade-by-trade basis, to elect either an R4 or a regular way execution, what should be the disclosure obligations of a broker-dealer, consistent with its duty of best execution, to discuss the possible advantages and disadvantages associated with an R4 or regular way transaction? In addition, are these obligations or a different magnitude if the broker-dealer not only offers the opportunity for an R4 execution, but actually recommends an R4 execution?

4. What are the direct costs to specialists of guaranteeing an R4 execution at the quotation and assuming the risk of adverse price movements between the time of execution and the time the report is received on the floor? Is that cost equal to the benefits obtained by the specialist when the market price moves with the order during that period?

5. If the NYSE required that specialists or broker-dealers participating in R4 "stop" the customer order before sending it to the floor (in other words, guarantee the customer an execution based on the quote but giving the customer the benefit of an execution between the spread), what would be the additional cost?

B. Indirect Costs and Benefits

6. If, as a result of R4, 65 percent of the transactions and 12 percent of the volume (21% excluding blocks) are removed from the auction process (and only interact with other trading interest in repot form), what would be the effect on pricing efficiency?

7. Similarly, if a significant percentage of the small order transactions and share volume is extracted from the trading process, what will be the effect on the ability of broker-dealers to execute larger sized orders? What will be the effect on the ability of other secondary market makers to attract orders through ITS?

8. Will specialists have an incentive to widen their quotations to reflect their increased market risk? If so, will competitive forces counterbalance such an incentive?

9. If broker-dealer firms are provided with the opportunity to rely on R4 executions, will this provide a disincentive for such firms to improve their back office facilities to increase the speed at which they route orders and transmit execution reports back to the account executive and enhance their back office capacity to accommodate increased levels of trading volume?

C. Other

10. Because R4 guarantees an execution equal to the best quotation disseminated by any ITS participant, comment also is requested as to the percentage of executions which occur within the ITS best bid and offer. In particular, because the proposed rule change focuses on the most actively traded securities, commentators are urged to address whether actively traded securities have an increased potential for execution between the quoted spread.

11. Would an expanded pilot R4 program provide useful empirical data with which to evaluate the long term implications of R4? If so, should the program, as proposed by the NYSE, include up to 200 stocks and orders up to 599 shares with all member firms eligible to participate?

12. If the Commission determines that the R4 program should not continue as currently proposed, should the Commission similarly seek to have the Phlx's PACE system modified?

13. What is the value, in general, of derivative pricing systems? In this regard, the Commission is particularly interested in receiving the views of broker-dealer firms who use the regional exchange derivative pricing systems with respect to how rapidly an order can be executed within those systems.

14. If the Commission concludes that the benefits of the R4 program outweigh the potential costs which may be associated with the program, should the Commission or NYSE increase the size of the odd-lot so that investors and broker-dealers can take maximum advantage of the execution efficiencies associated with such a program?

15. Apart from the specific issues raised by the R4 program, in particular, and derivative pricing systems, in general, the Commission also solicits comment on the more basic question of how small orders, as a whole, should be processed. For example, it has been suggested that, in light of increasing volume throughout the securities industry, ultimately it will be necessary to execute all orders of 1,000 shares or less through a computerized facility so that market professionals can concentrate on larger sized orders.[34] Such a development would, under current trading conditions, remove 82% of NYSE transactions from the auction process and 23% of the volume (41% excluding blocks). Accordingly, the Commission solicits comment on whether, in the long term, all small orders should be executed separately from other orders and, if so, whether those orders should be derivatively priced or whether a separate trading facility should be developed to provide those orders with an auction market environment consistent with efficient execution procedures, market maker competition, and opportunities for orders to meet without the intervention of a dealer.

VI. Institution of Proceedings To Determine Whether To Approve or Disapprove SR-NYSE-83-8

In light of the questions raised by the R4 system and its implications for derivative execution systems in general, the Commission is concerned about the extension and expansion of R4 without modification to provide some form of access to trading interest on the NYSE floor. Accordingly, because the NYSE has filed for extension of the pilot without modification, the Commission is unable to conclude at this time and without specific comment on the questions listed above, that the proposed rule change is consistent with the Act. The potential grounds for disapproving the proposed rule change under consideration by the Commission are that, for the reasons set forth above, the proposed rule change is inconsistent with Sections 6(b)(5) and 6(b)(8) of the Act, and the objectives set forth in Sections 11A(a)(1)(C) (ii), (iv) and (v) of the Act.[35]

Accordingly, the Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the potential grounds for disapproval identified

[34] Remarks of John Phelan, President, NYSE, *as reported in*, 15 *Secs. Reg. & L. Rep.* (BNA) No. 19 at 922 (May 13, 1983). Indeed, by 1981, the average order size on the NYSE already had reached 1,013 shares. NYSE, *Fact Book* 8 (1982).

[35] The Commission, of course, recognizes the importance of the Congressional finding that it is in the public interest to assure economically efficient execution of securities transactions. *See* Section 11A(a)(1)(c)(i) of the Act. The Commission also believes, however, this finding cannot be pursued to the exclusion of the other goals and objectives of the Act. In this instance, such as with the introduction of a stop in the R4 pilot, the Commission believes that the goal of achieving economically efficient executions may still be achieved without sacrificing the other goals and objectives of the Act discussed above.

above. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is inconsistent with the provisions of the Act and the rules and regulations thereunder, including, but not limited to, Sections 6(b) and 11A(a)(1)(C).

Interested persons are invited to submit written data, views and arguments regarding the proposed rule change by August 1, 1983. Persons desiring to submit written data, views and arguments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-83-8.

Copies of the submissions, 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 5th Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

It is hereby ordered, pursuant to Section 19(b)(2) of the Act that proceedings be instituted to determine whether to approve or disapprove proposed rule change NYSE-83-8.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-16331 Filed 6-16-83; 8:45 am]

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[SR-NYSE-83-17; Rel. No. 19857]

New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

June 9, 1983.

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 June 7, 1983, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, 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 would extend the operation of the NYSE's Registered Representative Rapid Response Service ("R4") until September 5, 1983. R4 is currently a pilot program which terminated on June 1, 1983.[1] The NYSE has filed with the Commission a proposed rule change that would extend the R4 pilot program for one year.[2] The Commission, at a meeting on May 26, 1983, instituted proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether that proposal should be approved or disapproved. According to the NYSE, the purpose of the extension of R4 proposed by the instant filing is to keep R4 in effect while the Commission reviews any comments it receives on the NYSE proposal to extend R4 for one year and to expand its use. The NYSE in its filing states that section 11A(a)(1) and 17A(a)(1) of the Act are the statutory bases for the proposed rule change.

Publication of the proposed rule change in the **Federal Register** is expected during the week of June 13, 1983. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-83-17.

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 5th 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 NYSE.

The Commission finds that the proposed rule change, in light of its limited purpose, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder. In addition, the Commission believes it is appropriate to extend the R4 pilot program to September 5, 1983 to afford the Commission an opportunity to consider, in the course of its proceeding under Section 19(b)(2)(B), the issues raised by NYSE's proposal to extend R4 for a year and to expand its use.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the NYSE R4 experiment expired on June 1, 1983, and an extension is necessary to allow the pilot to continue in its present form while the Commission conducts its proceeding under Section 19(b)(2)(B) to consider the NYSE's proposal for a one-year extension and expansion of the system. The Commission believes, therefore, that it is appropriate to extend the R4 pilot program to September 5, 1983.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc 83-16328 Filed 6-16-83; 8:45 am]

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[1] On September 14, 1982, the Commission approved R4 as a six-month pilot program. Securities Exchange Act Release No. 19047, September 14, 1982; 47 FR 41896, September 22, 1982. On March 11, 1983, the Commission approved an extension of the operation of the R4 pilot through May 1, 1983. Securities Exchange Act Release No. 19593, March 11, 1983; 48 FR 11544, March 18, 1983. On April 27, 1983, the Commission approved an extension of R4 through June 1, 1983. Securities Exchange Act Release No. 19713, April 27, 1983; 48 FR 20184, May 4, 1983.

[2] Securities Exchange Act Release No. 19573, March 8, 1983; 48 FR 10788, March 14, 1983. The proposed rule change (File No. SR-NYSE-83-8), in addition to extending the effectiveness of the R4 pilot program for one year, would allow the NYSE to expand R4 to additional member firms, add eligible stocks in stages up to approximately 200 stocks, and increase the size of eligible orders to 599 shares.

[SR-Phlx-83-5; Rel. No. 19774]

Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

May 17, 1983.

The Philadelphia Stock Exchange, Inc. ("Phlx") submitted on May 9, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder to enable Phlx member organizations to electronically transmit, directly to the specialist post, orders in "eligible

issues." Eligible issues are those designated by the specialist, with a minimum order are those designated by the specialist, with a minimum order size of 600 shares. Such orders will be executed manually, based upon arrangements worked out by the specialist and the member organization transmitting the order.[1]

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submissions in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SP–Phlx–83–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change will facilitate the execution of orders on the Phlx and is, therefore, consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities and in particular, the requirements of Section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the rules of at least two other regional exchanges (Pacific Stock Exchange, Inc. and Midwest Stock Exchange, Inc.) for a period of time have allowed the type of order routing the proposed rule change will allow at Phlx.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-16329 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

[1] In a letter submitted on May 13, 1983, the Phlx explained that the arrangements worked out between the specialist and the member organization could include ones allowed by Phlx Rule 228a.(iii) (specialist agreements to provide primary market protection); and must at a minimum comply with all Phlx rules including, *e.g.*, Phlx Rule 2005A (tradethroughs in securities traded in the Intermarket Trading System). *See* letter dated May 12, 1983, from Michael A. Finnegan, Senior Vice President, Phlx, to Alden Adkins, Staff Attorney, Division of Market Regulation.

[812-5517; Rel. No. 13316]

Shearson Daily Dividend Inc., et al.; Filing of Application Pursuant to Section 6(c) of the Act for an Order of Exemption From Section 2(a)(19) of the Act

June 10, 1983.

In the matter of Shearson Daily Dividend Inc., Shearson Government and Agencies Inc., Shearson High Yield Fund Inc., Shearson Managed Municipals Inc., Shearson/American Express Inc., and Robinson-Humphrey/American Express Inc., 3333 Peachtree Road, N.E., Atlanta, Georgia 30326.

Notice is hereby given that Shearson Daily Dividend Inc., Shearson Government and Agencies Inc., Shearson High Yield Fund Inc., Shearson Managed Municipals Inc. (collectively, the "Funds"), each registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified management investment company, Shearson/American Express Inc. ("Shearson"), principal underwriter of the Funds, and Robinson-Humphrey/American Express Inc. ("Robinson-Humphrey"), a wholly-owned subsidiary of Shearson and a broker-dealer registered under the Securities Exchange Act of 1934 (collectively with the Funds and Shearson, "Applicants"), filed an application on March 29, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, declaring that Mr. Martin Brody shall not be deemed an "interested person", as defined in Section 2(a)(19) of the Act, of the Funds, Shearson or any of its subsidiaries, or any investment company as to which Shearson or any of its subsidiaries may, in the future act as investment adviser, sub-investment adviser, administrator and/or principal underwriter, by reason of Mr. Brody's status as the father of Mrs. Renee Levow, an employee of Robinson-Humphrey. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of those provisions from which an exemption is being sought.

Applicants maintain that Mr. Brody's principal occupation is Chief Executive Officer and Chairman of the Board of Restaurant Associates Industries, Inc. Applicants state that Mr. Brody was originally elected as a director of each Fund at its respective organizational meeting.

Mr. Brody has been deemed at all times to be a non-interested person of the Funds and their advisers and their principal underwriters and he continues to serve as such. Applicants submit that Mrs. Levow is Mr. Brody's daughter and that Mrs. Levow became an employee of Robinson-Humphrey commencing on or about April 1, 1983, at which time she entered its broker training program. It is stated that Mrs. Levow has been recently employed as Supervisor of Public Affairs of Chesebrough Pond's Inc. and, prior to such time, as manager of an art gallery. Applicants state that Mrs. Levow has lived apart from Mr. Brody and been financially independent continuously for the last six years. It is further stated that Applicants' respective Boards of Directors have determined in good faith that Mr. Brody is in a position to act independently on behalf of the Funds and their respective shareholders without any possible impairment arising out of his daughter's employment with Robinson-Humphrey and that it is in the best interests of the Funds to have Mr. Brody's status as a disinterested director clearly acknowledged.

Applicants state that Shearson Daily Dividend Inc. ("SDDI") and Shearson Government and Agencies Inc. ("SGAI") are designed as investment vehicles for investors who desire to place assets in money market investments where the primary considerations are safety, liquidity and, to the extent consistent with the foregoing, a high income return. SDDI and SGAI, according to the application, each seek to provide a convenient means of investing short-term funds where the direct purchase of money market instruments may be undesirable or impractical.

Shearson High Yield Fund Inc. ("SHYI") is designed as an investment vehicle for investors who desire to place assets in high yielding fixed income securities. Applicants maintain that SHYI's secondary objective is to seek capital appreciation to the extent consistent with maximizing current income. Applicants submit that shares of SHYI are sold with a sales charge.

Applicants state that, Shearson Managed Municipals Inc. ("SMMI") is designed for the investor who desires to place assets in a fund investing principally in intermediate and long-term municipal bonds where the primary consideration is to maximize current interest income, exempt from federal income taxation, to the extent consistent with preservation of capital. Applicants state that Berstein-Macaulay, Inc., a wholly-owned subsidiary of Shearson, is the investment adviser to SDDI, SGAI and SHYI and that Shearson/American Express Asset Management Inc., a wholly-owned subsidiary of Shearson, is investment adviser to SMMI.

Applicants state that Shearson, a wholly-owned subsidiary of American Express Company, is one of the largest full-line investment services firms serving the United States and foreign securities and commodities markets. Applicants state further that Shearson engages in the general brokerage, commission, clearing, investment banking, investment advisory, real estate, insurance and related businesses including, without limitation, the underwriting of securities. Applicants represent that Shearson acts as principal underwriter of the Funds' shares and in the future may act as the principal underwriter of shares of other investment companies. Applicants maintain that no portfolio transactions of any of the Funds are executed through Shearson.

Applicants state further that Robinson-Humphrey, a wholly-owned subsidiary of Shearson, is principally an investment banking and securities brokerage firm that is a member of the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc. and all other principal securities exchanges in the United States. Applicants represent that Robinson-Humphrey is also engaged in personal financial planning and investment. Applicants submit that other activities in which Robinson-Humphrey engages include the sale of life insurance and deferred annuities to its clients, real estate brokerage and development activities, investment in a company that advises two money-market mutual funds, sponsorship of a series of municipal bond unit trusts and provision of administrative services to pension and profit sharing plans. Applicants maintain that Robinson-Humphrey does not serve as underwriter or investment adviser for any of the Funds and that no portfolio transactions of any of the Funds are executed through Robinson-Humphrey. However, in the event that it is determined that portfolio transactions of any of the Funds may be executed through Robinson-Humphrey, Mr. Brody will undertake not to vote, nor participate in any deliberations, as a Director of any of the Funds with respect to allocation of brokerage to Robinson-Humphrey as long as Mrs. Levow is employed by Robinson-Humphrey.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the Board of Directors of each Fund has determined that Mr. Brody's professional background, prior and current business experience and personal qualities enhance the diversity of each of the Funds' Boards and provide broadened perspectives on investment policies and overall management. Applicants state further that Mrs. Levow will receive no additional compensation benefits or preferential or other special treatment by virtue of her relationship to Mr. Brody.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 5, 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 Applicants at the address stated above. Please 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. 83-16330 Filed 6-16-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0313]

PCF Venture Capital Corporation; Issuance of a License To Operate as a Small Business Investment Company

On October 14, 1982, a notice was published in the **Federal Register** (47 FR 46042), stating that PCF Venture Capital Corporation, located at 3420 East Third Avenue, Foster City, California 94404, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1983), for a license to operate as a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on October 29, 1982, and no significant comments were received.

Notice is hereby given that considering the application and other pertinent information, SBA has issued License No. 09/09-0313 to PCF Venture Capital Corporation.

(Catalog of Federal Domestic Assistance, Program Number 59.011, Small Business Investment Companies)

Dated: June 8, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-16352 Filed 6-16-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 867]

Protection Against Products Harmful to Health and the Environment; Meeting

AGENCY: Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

ACTION: Notice of public meeting.

SUMMARY: The Government of the United States has received a diplomatic note from the Secretary General of the United Nations pursuant to the General Assembly resolution 37/137 of 17

December 1982, "Protection Against Products Harmful to Health and the Environment". Relative to the resolution, the Secretary-General is requested to prepare a consolidated list of products "whose consumption and/or sale have been banned, withdrawn, severely restricted or, in the case of pharmaceuticals, not approved by Governments". This list "should contain both generic/chemical and brand names in alphabetical order, as well as the names of all manufacturers; and a short reference to the grounds and decisions taken by Governments that have led to the banning, withdrawal or severe restriction of such products."

A meeting will be convened so that representatives of interested U.S. Government agencies may receive public comments, based on review of the diplomatic note, on what the U.S. should take into account in preparing its response to the Secretary General.

DATE: A public meeting will be held on June 24, 1983, at 10:00 a.m., in Room 1107, Department of State, 2201 C Street, NW., Washington, D.C. All attendees must use the C Street entrance. Members of the general public are also invited to attend the meeting and participate in the discussion, subject to the instructions of the chairperson. Those wishing to speak at the meeting should notify Nancy Snow (telephone: (202) 632–9278) prior to June 24 so that a speakers' list may be prepared. Admittance will be limited to seating available.

Prior to June 24, members of the general public who plan to attend the meeting should contact Dr. Jack Blanchard, Acting Director, Office of Environment and Health, Department of State, Washington, D.C. 20520, (telephone: (202) 632–9266).

ADDRESS: A copy of the diplomatic note, annexes and resolution may be obtained by contacting Nancy Snow, Office of Environment and Health, Room 7820, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, D.C. 20520.

Written comments (10 copies) should be submitted to Nancy Snow at the above address prior to June 24, 1983.

SUPPLEMENTARY INFORMATION: As a first step in preparing the consolidated list, the Secretary-General has consulted with the organizations of the United Nations system concerned, and collected information on substances which seem to meet the criteria set out in the resolution. On the basis of this information, which consists exclusively of official information transmitted to organizations by governments, three tentative lists have been prepared covering, respectively, pharmaceutical, chemical and narcotic and psychotropic substances. The Secretary-General has invited the U.S. to review these tentative lists and provide information on any action it has taken on the substances listed or other similar substances, and to respond by July 15, 1983.

Attachments to the diplomatic note include three annexes, as well as a copy of the resolution. Annex I contains an "explanatory note" on the implementation process. Annex II contains a "tentative list" of substances which has been prepared by the U.N. secretariat relative to the criteria of the resolution. The tentative list is divided into three sections: (1) Chemicals, (2) pharmaceuticals, and (3) narcotic and psychotropic substances. Annex III contains a suggested format for governments to use in submitting their replies.

Dated: June 13, 1983.

Mary Rose Hughes,

Deputy Assistant Secretary, Environment, Health and Natural Resources.

[FR Doc. 83-16288 Filed 6-16-83; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

On June 14, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureau), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–0519
Form Number: 4428/4428 SP, 4428B/4428B SP, 4188/4188 SP
Title: BMF General Purpose Forms
OMB Number: 1545–0260
Form Number: 706–CE
Title: Certificate of Payment of Foreign Death Tax
OMB Reviewer: Norman Frumkin, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Dated: June 14, 1983.

Cathy Thomas,

Acting Departmental Reports Management Officer.

[FR Doc. 83-16353 Filed 6-16-83; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Construction Projects at Medical Centers and National Cemeteries; Finding of No Significant Impact

The Veterans Administration (VA) has determined that potential environmental impacts will be minimal from development of the following projects:

Albuquerque, New Mexico, *120 Bed Nursing Home
Alexandria, Louisiana, *120 Bed Nursing Home
American Lake, Washington, *Laundry Building
Durham, North Carolina, 120 Bed Nursing Home
Durham, North Carolina, Clinical Addition
Fort Richardson, Alaska *Develop 3,900 Gravesites
Fort Sam Houston, Texas, *Develop 20,000 Gravesites
Hines, Illinois, *40 Bed Spinal Cord Injury Building
Lexington, Kentucky, Clinical Addition
Louisville, Kentucky, Clinical Addition
Murfreesboro, Tennessee *120 Bed Nursing Home
Prescott, Arizona *120 Bed Nursing Home
Sheridan, Wyoming, *Clinical Addition
Shreveport, Louisiana, Outpatient Care Building
Sioux Falls, South Dakota, *Construct Warehouse and Offices
St. Louis, Missouri, Replacement Laundry
Washington, D.C., Enclose "C" Roof for Computers
Wilmington, Delaware, Clinical Addition

An * designates projects that require compliance with Section 106, Historic Preservation Act of 1966.

Development of the projects will have minor temporary impacts on the human and natural environment affecting open space, air quality, noise levels, solid waste, water quality or visual impacts during construction of the projects. During construction and operation, the VA will adhere to all applicable Federal, State and local environmental regulations.

Mitigation of the projects' impacts on the environment include appropriate erosion, noise, dust, and fume control during construction as delineated in the Veterans Administration Standard Specifications, Environmental Protection Section.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality (Title 40 CFR 1508.27).

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based on the information presented in each document.

The assessments have been placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of a document may do so at the following office: Mr. William F. Sullivan, Director, Office of Environmental Affairs (088C), Room 423, Veterans Administration, 811 Vermont Avenue, N.W., Washington, D.C. 20420, (202) 389-3316. Questions or requests for single copies of the Environmental Assessments may be addressed to the above office.

Dated: June 10, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 83-16285 Filed 6-16-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 118
Friday, June 17, 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

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 115, Tuesday, June 14, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, June 21, 1983.

CHANGES IN THE MEETING: Addition:

NYME—Proposed Amendments Relating to the Round White Potato Futures Contract (Cash Settlement)

[S-864-83 Filed 6-15-83; 10:53 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 112, Thursday, June 9, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, June 17, 1983.

CHANGES IN THE MEETING: Changed to:

Thursday, June 16, 1983 11 a.m.

[FR S-865-83 Filed 6-15-83; 10:53 am]

BILLING CODE 6351-01-M

3

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 2:30 p.m. on Monday, June 13, 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 matter:

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 this change in the subject matter 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) and (c)(8) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4) and (c)(8)).

Dated: June 13, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-867-83 Filed 6-15-83; 11:40 am]

BILLING CODE 6714-01-M

4

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 2 p.m. on Monday, June 13, 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 Maritime Bank of California, Los Angeles (Wilmington), California, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Century City Branch, Los Angeles, of Central Bank, San Francisco, California, and to establish the Century City Branch as a branch of Maritime Bank of California.

Recommendations 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. 45,698-L—The Ina State Bank, Ina, Illinois

Case No. 45,702-L—The Ina State Bank, Ina, Illinois

Memorandum and Resolution re: Final amendments to Parts 304 and 309 of the Corporation's rules and regulations, entitled "Forms, Instructions, and Reports" and "Disclosure of Information," respectively, which would discontinue confidential treatment of information filed by insured banks with the Corporation on the size and number of the bank's deposit accounts and make several related technical changes.

Memorandum and Resolution: General Statement of Policy and Criteria with Respect to Assistance to Operating Insured Banks Which Are in Danger of Failing.

Memorandum and Resolution re: The Howard Savings Bank, Newark, New Jersey.

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: June 13, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-868-83 Filed 6-15-83; 11:40 am]

BILLING CODE 6714-01-M

5

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 27339, June 14, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., June 15, 1983.

CHANGE IN THE MEETING: The following item has been added to the agenda:

Item No., and Docket No., and Company

CAG-38: CP79-332-002, Natural Gas Pipeline Company of America

Kenneth F. Plumb,

Secretary.

[S-863-83 Filed 6-15-83; 10:35 am]

BILLING CODE 6717-01-M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 14, 1983.

TIME AND DATE: 10 a.m., Wednesday, June 15, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Meeting postponed.

CHANGES IN THE MEETING: The following item has been postponed:

1. United States Steel Corporation, Docket Nos. WEST 80-386-RM, WEST 81-58-M, WEST 80-160-M. (Issues include whether the judge erred in concluding that the operator violated 30 CFR 55.12-14, a safety standard dealing with movement of power cables.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-866-83 Filed 6-15-83; 10:56 am]

BILLING CODE 6735-01-M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-29]

TIME AND DATE: 10 a.m., Friday, July 1, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Certain Plastic Food Storage Containers (Docket No. 942).
5. Investigations 701-TA-187 (Final) and 731-TA-100 (Final) (Certain Tool Steels from Brazil and the Federal Republic of Germany)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-862-83 Filed 6-14-83; 4:34 pm]

BILLING CODE 7020-02-M

8

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-30]

TIME AND DATE: 11 a.m., Monday, July 11, 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, if necessary.
5. Investigation 701-TA-184 (Final) (Frozen Concentrated Orange Juice 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-870-83 Filed 6-15-83; 3:16 pm]

BILLING CODE 7010-02-M

9

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-31]

TIME AND DATE: 2:30 p.m., Wednesday, July 13, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436,

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigation 731-TA-136 (Preliminary) (Cyanuric Acid and Its Chlorinated Derivatives from Japan)—briefing and vote.
2. Petitions and complaints:
   a. Certain Microprocessors, Related Parts and Systems (Docket No. 743).

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S. 869-83 Filed 6-15-83; 3:16 p.m.]

BILLING CODE 7020-02-M

10

POSTAL SERVICE

(Board of Governors)

Vote To Close Meeting

At its meeting of June 13, 1983, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting scheduled for July 7, 1983. The meeting will involve: (1) A discussion of strategic planning in connection with possible future rate adjustments; and (2) a resumption in the Board's consideration of the recommended decision of the Postal Rate Commission on third-class bulk rates for nonprofit mail in Docket No. R80-1, dated April 18, 1983.

The meeting is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, McKean, Ryan, Sullivan and Voss; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmaster General Coughlin; and Counsel to the Governors Califano.

The Board is of the opinion that public access to this discussion would be likely to disclose information that will become involved in future rate or classification litigation.

Accordingly, the Board has determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Fedeal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to sections 552b(c)(3) and (10) of title 5 and section 410(c)(4) of title 39, United States Code, and § 7.3 (c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 245-3734.

David F. Harris,

Secretary.

[S-871-83 Filed 6-15-83; 3:45 pm]

BILLING CODE 7710-12-M

federal register

Friday
June 17, 1983

Part II

Department of Agriculture

Food and Nutrition Service

National School Lunch Program and State Administrative Expense Funds; Assessment, Improvement and Monitoring System; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 235

[Amendments 60 and 11 Respectively]

National School Lunch Program and State Administrative Expense Funds—Assessment, Improvement and Monitoring System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: These amendments to the regulations for Part 210, National School Lunch Program, and Part 235, State Administrative Expense Funds are known collectively as the Assesssment, Improvement and Monitoring System (AIMS). This rule finalizes AIMS interim regulations which were published on September 26, 1980 at 45 FR 64068 and April 30, 1982 at 47 FR 18842. AIMS is an initiative that was undertaken by the Department to improve overall management of the National School Lunch Program. The objectives of the AIM System are: to assess current school lunch program management by State agencies; to foster improvements in program management by States; to monitor effectively the use of Federal funds; and to protect the nutritional integrity of meals served under the program.

EFFECTIVE DATE: July 18, 1983, except for the reporting and recordkeeping requirements contained in § 210.14, paragraphs (a)(3)(iv), (a)(7)(v), and (g)(4)(iii) which are being submitted for approval to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507) and are not effective until approved by that office.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291 and has been classified not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more nor will it result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

This rule has also been reviewed with regard to the requirements of Pub. L. 96-354. Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

With the exception of § 210.14, paragraphs (a)(3)(iv), (a)(7)(v) and (g)(4)(iii), the reporting and recordkeeping requirements contained in this final rule have been approved by the Office of Management and Budget for use through September 1983. The reporting and recordkeeping requirements contained in the three noted paragraphs have been submitted to the Office of Management and Budget for approval.

Background

In response to Congressional concern and in a major effort to improve the overall management of the National School Lunch Program, the Department developed an Assessment, Improvement and Monitoring System and proposed regulations on October 30, 1979, at 44 FR 62453 to implement that system. Those regulations set forth minimum performance standards to identify operational problems and established standard procedures for taking corrective action to achieve better program management. Seven regional Food and Nutrition Service public briefings were held upon issuance of the proposed regulations to explain AIMS and to elicit public comment. The AIMS proposal was also discussed at several meetings between State and FNS personnel that were held during the public comment period. Furthermore, in response to public concern for additional time to comment on the relatively complex and comprehensive AIMS proposal, the Department extended the initial 64-day comment period by an additional 30 days. A total of 555 written public comments were received during the 94-day comment period.

On September 26, 1980, the Department published an interim rule implementing AIMS. The interim rule differed substantially from the proposed rule with all changes being based on the full consideration of comments received on the AIMS proposal. The interim rule became effective on January 1, 1981, and provided for public comment through June 30, 1981. This public comment period was extended to December 31, 1981, to enable commentors to gain additional operating experience with AIMS and thus provide specific comments based on that experience. Thirty-eight comments were received on the interim AIMS rule during the one-year comment period.

On April 30, 1982, an amendment to the interim AIMS rule was published. This amendment responded to: (1) The major commentor concerns that were expressed on the AIMS interim rule; and (2) the provisions of Pub. L. 97-35, enacted on August 13, 1981, which necessitated changes in AIMS. Eight public comments were received during the 60-day comment period for this amendment.

System Overview

Under these final rules, AIMS includes four specific performance standards against which State agencies are to measure compliance with program requirements. These standards are:

(1) Within the School Food Authority, each child's application for free and reduced price meals is correctly approved or denied in accordance with the applicable provisions of Part 245;

(2) The numbers of free and reduced price meals claimed for reimbursement by each school for any review period are, in each case, less than or equal to the number of children in that school correctly approved for free and reduced price meals, respectively, for the review period times the days of operation for the review period;

(3) The system for counting and recording meal totals for paid, free and reduced price meals claimed for reimbursement at both the School Food Authority and school levels yields correct claims; and

(4) Meals claimed for reimbursement within the School Food Authority contain food components as required by regulations.

Each State agency is required to select one of four options for ensuring compliance with the AIMS standards. It can (1) perform AIMS reviews of all School Food Authorities once every two years, (2) perform AIMS audits of all School Food Authorities once every four years, (3) perform a combination of AIMS reviews and audits, or (4) perform visits under its own compliance monitoring system. Each State agency should find one of these options more desirable to meet its particular circumstances and to utilize its existing resources to the maximum extent.

If a State agency selects the AIMS review option, it must perform reviews

which cover the four performance standards and it must perform follow-up reviews on all large School Food Authorities which exceed established error tolerance levels and on 25% of the small School Food Authorities which exceed the tolerance levels. Under this option, claims need not be assessed on first reviews except where meal counts are incorrectly compiled and overcounted at the School Food Authority level; however, formal corrective action plans are required for all School Food Authorities exceeding the tolerances. This option requires that claims be assessed on all second reviews for any violation of Performance Standards 2, 3 and/or 4.

When the audit option is selected by the State agency, the audits must cover all performance standards and must be conducted by independent State auditors or State contracted auditors. USDA's audit guide or an audit guide approved by FNS and the Department's Office of the Inspector General must be used. Under this option, no follow-up audits are specifically required; however, claims must be assessed for all violations of Performance Standards 2, 3 and/or 4. Additionally, corrective action must be taken to correct the problems.

A State agency can also use a combination of AIMS audits and reviews to monitor compliance with the AIMS performance standards. Under this option, a State agency could monitor specific School Food Authorities or specific performance standards with either reviews or audits.

Finally, a State agency could elect to develop its own compliance monitoring system that is equivalent to AIMS in scope and meets specific criteria. Prior to implementing its own system, the State agency would have to obtain FNS regional office approval.

Emphasis throughout this final rule is on achieving corrective action. All deficiencies found during an AIMS review or an AIMS audit must be discussed with the School Food Authority and, along with corrective actions to be undertaken, documented in writing from the State agency to the School Food Authority. When deficiencies found in an AIMS review exceed the tolerance levels, corrective action plans executed between the School Food Authority and the State agency become more formal and are discussed at the exit conference. Although fiscal action is not required for most performance standard violations on first AIMS reviews, fiscal action is an integral component of AIMS. It is required for any violation of Performance Standards 2, 3, or 4 found during second AIMS reviews and during any AIMS audit. Furthermore, if a State agency develops its own compliance monitoring system, it must provide for fiscal action and set forth its criteria for taking such action.

If a State agency fails to collect a claim assessed against a School Food Authority and FNS determines that a claim against the State agency is warranted, FNS will take action to liquidate the indebtedness.

To assist State agencies in carrying out the requirements of AIMS, a minimum of four million dollars in available State Administrative Expense funds (SAE) is provided annually to State agencies through a four-part allocation formula. The formula is based in large part on factors which reflect State agency workloads under AIMS. SAE funds provided for AIMS as well as the nondiscretionary SAE funds provided for overall school nutrition program administration are subject to specific sanction provisions if a State agency fails to properly implement and carry out its responsibilities under AIMS. Prior to imposing such a sanction, however, a corrective action procedure would be implemented. Finally, the SAE regulations provide an administrative review procedure if a State agency wishes to appeal an SAE sanction action.

Discussion of Changes

This final rule responds to: (1) Those commentor concerns on the September 26, 1980 AIMS interim rule which were not addressed by the April 30, 1982 AIMS interim amendment, (2) comments, received on the April 30, 1982 amendment. The Department has made every effort to incorporate into the final AIMS rule all commentor suggestions which clarify or improve AIMS and yet are consistent with the objectives of the overall system as set forth in the interim rule. The balance of this preamble will discuss the most significant changes that have been made within the major subject areas of AIMS.

Performance Standards

a. Performance Standard 1—In response to several comments, language has been added to Performance Standard 1 to clarify the standard and make it consistent with its error tolerance level. Since error tolerance for this standard is determined on a School Food Authority basis, the performance standard has been prefaced by the phrase "within the School Food Authority". Furthermore, the phrase "in accordance with the applicable provisions of Part 245" has been added to the end of the performance standard since the specific requirements relating to free and reduced price applications are contained in that part. Commentors expressed concern that the AIMS regulations did not specify what information was required for a complete application nor what was meant by "correctly approved or denied". The Department's Part 245 interim rule on revised application procedures which was published on July 23, 1982, specifies what is required for a complete application as well as the procedures for approving or denying free and reduced price meal or free milk benefits. It should be noted that Performance Standard 1 does not address the verification of information contained on applications. However, the approval or denial of benefits based on information obtained from any verification effort would be subject to the standard.

b. Performance Standard 2—Several commentors pointed out that if a prior month's claim were being reviewed under this standard, it may not be appropriate to use the current number of correctly approved children times the days of operation of the month under review to determine the maximum numbers of free and reduced price meals that could be claimed. The number of children correctly approved in the current month might be greater or lesser than the number correctly approved for the month under review. School Food Authorities with rapidly changing enrollments such as those in communities experiencing increased joblessness due to plant shutdowns or layoffs could have a different number of approved children from month to month. In addition, one commentor pointed out that since the interim standard was on a reporting period basis (i.e. month), a school with a low rate of participation could prepare, serve and claim an excessive number of free and reduced price meals as seconds on several days during the month (to maximize its income from Federal free and reduce price reimbursements) without violating the performance standard. The commentor felt that the performance standard was inconsistent with § 210.11(a) of the regulations which requires School Food Authorities to plan for and prepare lunches on the basis of participation trends, with the objective of providing one lunch per child per day.

In view of these comments, the Department has revised Performance Standard 2 to apply to any review period and to base the number of correctly approved applications on that period.

c. Performance Standard 4—Since error tolerance for this standard is also determined on a School Food Authority

basis, the standard has been revised to make it apply to the School Food Authority.

Reviews/Audits

a. School Selection—several commentors stated that the requirement to select as equal a number of schools as possible from each type of attendance unit, when doing an initial AIMS review, resulted in a disproportionate number of secondary school reviews since many districts contain more elementary than secondary schools. It was recommended that the number of schools to be selected for each type of attendance unit be on a proportionate basis. For example, a State agency conducting an initial AIMS review in a School Food Authority with 30 elementary schools and three high schools would be required to review four schools. Three elementary and one high school would be selected under this approach rather than two elementary and two high schools as required by the interim rule. The Department concurs with the commentors' recommendation on this matter and has amended the AIMS regulations accordingly. However, the Department believes that a State agency should select at least one school from each type of attendance unit within each School Food Authority that is undergoing an initial AIMS review if the sample size permits. For example, if a School Food Authority with elementary, middle and high schools has a sample size of three schools, the State agency should select one school from each of the three attendance groups.

b. Notification of Review/Audit Findings—The interim AIMS regulations required the State to notify the superintendent of each reviewed School Food Authority in writing of AIMS review/audit findings. One commentor pointed out that, in some States, the president or other member of the local board of education signs the School Food Authority/State agency agreement thereby making the school board legally responsible for the agreement. In such States it would be more appropriate for the State to provide written notification to the authorized School Food Authority representative who signed the agreement. In recognition of this, the final AIMS regulations will require the State to provide written notification of the review/audit findings to the School Food Authority's superintendent or representative who signed the State agency/School Food Authority agreement after any AIMS review/audit.

c. Corrective Action Plan Submission—Under the AIMS interim rule of September 26, 1980, a corrective action plan, when required, was to be submitted to and approved by the State agency within 60 days following the exit conference of a review. As a result of initial comments received, the period for submission and approval of corrective action plans was increased to 90 days in the AIMS interim amendment of April 30, 1982. Commentor response to this change indicated that in many cases there would be little or no opportunity for corrective action to be taken before the end of the school year if an initial AIMS review were conducted any time during the second half of the school year. It was pointed out that, in the majority of cases, corrective action plans can be readily developed and approved within 60 days of the exit conference. For difficult or unusual cases, additional time might be required and it was suggested that the State agency be authorized to extend the submission and approval deadline by 30 days for a total of 90 days. The Department agrees with this approach and has revised the final AIMS regulations to reflect this change. Furthermore, the final rule retains the provision contained within the interim amendment of April 30, 1982 which allows State agencies to extend the deadline beyond 90 days, for cause, with written justification to and approval by FNSRO.

d. Alternate System Option—Six commentors addressed this issue. The commentors felt that in those States with effective ongoing compliance monitoring systems, the AIMS requirements represent an unnecessary administrative burden. The commentors indicated that FNS should assess these State compliance monitoring systems to determine if the systems implement the AIMS principles. The Department is sensitive to the concerns expressed by the commentors and believes that a degree of flexibility would be desirable in helping States to address their individual program needs within current restraints on State administrative budgets. This final AIMS rule provides States the option of developing their own compliance monitoring systems in lieu of implementing AIMS. However, since the Department remains committed to the original objectives of AIMS, the final regulations require that alternate State systems be equivalent to AIMS in scope, meet specific AIMS related criteria and be subject to FNS approval before being implemented.

Failure To Collect Overpayments

Comments on behalf of eleven State Directors were received on the interim AIMS provision dealing with the failure of State agencies to recover overpayments made to School Food Authorities. Under that provision, a State agency could be held liable for failure to recover an overpayment and FNS would recover the amount of the overpayment from the State agency by reducing the State agency's subsequent Letter of Credit. Furthermore, the State agency would be required to provide the funds necessary to maintain program participation at the level of operation reached prior to the Letter of Credit reduction. The commentors felt that this provision was too severe and questioned USDA's authority to require State agencies to spend State funds. Furthermore, the commentors stated that State agencies do not have access to any available State funds for making up Letter of Credit reductions.

State agencies are responsible, under the State-Federal agreement, for insuring that program funds are used only for authorized purposes. Under AIMS, State agencies must recover program funds shown to be not properly payable through the AIMS review process. This obligation exists without regard to the School Food Authority's willingness to repay such funds.

If a State agency has exhausted all available means of recovering overpayments of program funds and has been unsuccessful, FNS will consider the State's liability for those unrecovered funds on a case-by-case basis.

Of course, in all instances where FNS determines that a claim should be asserted against the State agency, either because the State agency did not take fiscal action required under AIMS or because the State did not collect overpayments of programs funds, the State agency will be given an opportunity to submit evidence to FNS concerning the matter.

The Department's method of recovering program funds from the State agency is a separate issue. Section 210.16(e) which dealt with this was confusing to some commentors. Furthermore, it has been superseded by the Department's regulations for the administration of grants and cooperative agreements (7 CFR Part 3015) which became effective on November 10, 1981 subsequent to the issuance of the interim AIMS rule. Subpart L of these regulations addresses the withholding of grant payments when the recipient is indebted to the United States. Under that Subpart, when a debt is to be collected, USDA awarding agencies may withhold payments from a grantee in order to liquidate the indebtedness. Therefore, FNS could reduce a State agency's Letter of Credit in order to

liquidate a claim against the State agency. The final AIMS regulations have been revised to incorporate by reference the provisions of 7 CFR Part 3015, Subpart L. However, FNS retains the option of first resolving a claim through direct payment by the State agency. The interim language which required State agencies to make up letter of credit reductions has been omitted, however. States would be expected to make up any such reductions with State and/or local funds in order to maintain the ongoing level of program operations. We believe this addresses the concerns raised by commentors.

SAE Provisions

a. School Food Authority Data—The interim AIMS rule of September 26, 1980 required each State agency to submit, as part of its annual State Plan of Child Nutrition Operations, information on the number of School Food Authorities in the State. This information is necessary for allocating the SAE funds that are designated for AIMS. However, Pub. L. 97-35 eliminated the State plan requirements for school nutrition programs. Amendment 52 to the National School Lunch Program regulations dated April 30, 1982 removed the State plan requirements but no alternative method was established to collect the School Food Authority information necessary for allocating the AIMS SAE funds. These final regulations require that this information be submitted annually by each State agency on a form provided by FNS.

b. Administrative Review Process—Under the interim AIMS regulations, a State could appeal an SAE sanction by requesting a hearing or a review of the record by an FNS Administrative Review Officer or an independent USDA appeal board. One commentor pointed out that an independent USDA appeal board had not been established to handle these appeals. This is correct. The Department believes the State agencies will have an adequate opportunity to present information concerning a proposed SAE sanction through an administrative review. Therefore, the Department has decided not to establish an independent appeal board for SAE sanction appeals. Instead the final AIMS regulations have been revised to simplify the administrative review process by eliminating the more formal hearing option and providing solely for an administrative review before a member of the Administrative Review Staff. Also, the amount of time within which the FNS Administrative Review Officer must make a final determination has been increased from 30 to 45 days to make it consistent with the Food Stamp administrative review process before the Administrative Review Staff.

Miscellaneous Provisions

The interim AIMS regulations contained several provisions that were extraneous to the AIM System. These provisions included: (1) Amending § 210.5 to allow FNS to pay States by Treasury check as well as by Letter of Credit, (2) amending § 210.13 to establish time limitations on the submission and payment of School Food Authority Claims for Reimbursement, and (3) amending § 210.14 and § 210.19 to establish grant closeout procedures. These provisions are not included in these final AIMS rules but will be addressed in separate rulemaking.

List of Subjects

7 CFR Part 210

Food assistance programs, National school lunch program, Grant programs—Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 235

Food assistance programs, National school lunch program, School breakfast program, Special milk program, Grants administration, Intergovernmental relations, Reporting and recordkeeping requirements, Administrative practice and procedure.

Accordingly, Parts 210 and 235 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In § 210.2, the interim redesignation of paragraphs (h–6) through (h–8) as (h–7) through (h–9) is adopted without change; interim paragraphs (b), (b–1), and (b–4) are adopted without change; and paragraphs (b–2), (b–3), (h–6), and (q–2) are revised.

§ 210.2 Definitions.

* * * * *

(b) "AIMS" means the Assessment, Improvement and Monitoring System. This is a management improvement system used in the National School Lunch Program and the Commodity School Program.

(b–1) "AIMS Audits" means on-site evaluations of all School Food Authorities participating in the National School Lunch Program or Commoditiy School Program, by State auditors or State contracted auditors once every two years, with a minimum of 33⅓ percent of all School Food Authorities being reviewed in the first year of the first two year AIMS cycle, for compliance with AIMS Performance Standards 1 through 4, and which are conducted in accordance with USDA's audit guide or an audit guide approved by FNS and USDA's Office of the Inspector General.

(b–2) "AIMS error tolerance level" means the degree of error of an AIMS performance standard which if exceeded by a reviewed School Food Authority triggers a second AIMS review in all large School Food Authorities and in 25% of small School Food Authorities.

(b–3) "AIMS Performance Standards" means the following four standards which measure compliance with existing regulations:

(1) Within the School Food Authority, each child's application for free and reduced price meals is correctly approved or denied in accordance with the applicable provisions of Part 245;

(2) The numbers of free and reduced price meals claimed for reimbursement by each school for any review period are, in each case, less than or equal to the number of children in that school corrrectly approved for free and reduced price meals, respectively for the review period, times the days of operation for the review period;

(3) The system for counting and recording meal totals for paid, free and reduced price meals claimed for reimbursement at both the School Food Authority and school levels yields correct claims; and

(4) Meals claimed for reimbursement within the School Food Authority contain food components as required by regulations.

(b–4) "AIMS reviews" means on-site evaluations of all School Food Authorities participating in the National School Lunch Program or Commodity School Program once every four years by the State agency or State auditors with at least 20 percent of all School Food Authorities reviewed in each of the first two years of the first four year cycle, for compliance with the AIMS Performance Standards, and follow-up reviews as required.

* * * * *

(h–6) "Large School Food Authority" means, in any State:

(1) The two largest School Food Authorities that participate in the National School Lunch or Commodity School Programs and have enrollments of 2,000 students or more each; and (2) all other School Food Authorities that participate in the National School Lunch or Commodity School Programs and

have enrollments of 40,000 students or more each.

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(q–2) "Small School Food Authority" means, in any State, a School Food Authority that participates in the National School Lunch or Commodity School Program and is not a large School Food Authority.

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2. In § 210.8, interim paragraph (e)(18) is adopted without change.

§ 210.8 Requirements for participation.

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(e) * * *

(18) Maintain files of currently approved and denied (i) free and (ii) reduced price applications, respectively. If applications are maintained at the School Food Authority level, they shall be readily retrievable by school.

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3. In § 210.14, paragraphs (a)(2), (a)(3), (a)(4), and (g)(4) are revised; and paragraphs (a)(5), (a)(6), and (a)(7) are added.

§ 210.14 Special responsibilities of State agencies.

(a) * * *

(2) Such assistance shall include visits to participating School Food Authorities and schools to ensure compliance with program regulations and with the Department's nondiscrimination regulations (Part 15 of this title), issued under Title VI of the Civil Rights Act of 1964. AIMS reviews, AIMS audits, a combination of AIMS reviews and AIMS audits, or compliance monitoring visits as described in this section, shall be made in all participating School Food Authorities.

(3) AIMS Reviews. (i) Scope of AIMS reviews: States doing AIMS reviews shall monitor compliance with the AIMS Performance Standards described in § 210.2 of this part. On a first AIMS review, the State agency shall review the School Food Authority for Performance Standards 1–4. On second AIMS reviews, the State agency shall, as a minimum, review the School Food Authority for the performance standards which exceeded error tolerances in the first review. In reviewing for performance standards:

(A) The State agency shall analyze and determine the adequacy of local approval procedures for free and reduced price meals by examining the eligibility determinations made within the School Food Authority. This shall be accomplished by reviewing the applications for all children who attend the reviewed schools and for whom application was made, or for a statistically valid sample of such children. If a statistically valid sample is chosen, the State agency shall ensure that the sample size is large enough so that there is a 95 percent chance that the actual error rate for all applications is not less than 2 percentage points less than the error rate found in the sample (i.e., the lower bound of the one-sided 95 percent confidence interval is no more than two percentage points less than the point estimate) and, shall assess the need for a second review and base fiscal action upon the error rate found in the sample. The State agency shall also ensure that the system to update applications is adequate.

(B) The State agency shall ensure that, at a minimum, for each school reviewed, the number of free and the number of reduced price meals (by type) claimed in the School Food Authority's most recent claim for reimbursement does not exceed the number of children correctly approved for free and reduced price meals (by type) for the claim period times the days of operation of that school as reported to the School Food Authority for the claim month.

(C) The State agency shall ensure that each school reviewed has an adequate system for counting and recording meals served by type (i.e., free, reduced price and paid) and that the School Food Authority properly consolidates meal counts from its schools.

(D) The State agency shall determine by observation of a representative sample of meals that all meals contain all required components.

(ii) Frequency of AIMS reviews: The State agency shall review all School Food Authorities at least once every four years, with a minimum of 20 percent of all School Food Authorities to be reviewed for each of the first two years of the first four-year period. The State agency shall use its own criteria to select SFAs for AIMS reviews.

(iii) Timing of AIMS reviews: The first AIMS review of a School Food Authority shall be completed within the school year in which it is scheduled for review. A second AIMS review, when required, is recommended to be conducted in the same school year as the first review and is required to be conducted no later than December 31 of the school year following the first review.

(iv) Method of selecting specific schools to review on AIMS reviews: On a first AIMS review the State agency shall select the required minimum number of schools to review on a proportionate basis from each type of attendance unit (elementary school, middle school, high school, etc.), and shall select schools within attendance unit groupings either randomly or by using State agency criteria which shall be kept on file at the State agency. The State agency's criteria shall ensure that some of the schools selected are chosen because of the likelihood of problems. On a second AIMS review, the State agency shall choose schools using State agency criteria, which may include random selection. State agency criteria for selecting schools for second AIMS reviews shall also be kept on file. The total minimum number of schools to be selected and reviewed during a first or second AIMS review of a School Food Authority is specified in § 210.14(a)(4).

(v) Error tolerance for AIMS review: A corrective action plan as described in this Section shall be undertaken in all School Food Authorities and a second review shall be triggered in all large and one-quarter of all small School Food Authorities, if on a first AIMS review the State agency finds that the following error tolerance levels are exceeded:

(A) For AIMS Performance Standard 1, 10 percent or more (but not less than 10 children), of the children listed on reviewed applications and attending reviewed schools in a SFA are incorrectly approved or denied for free or reduced price meal benefits; and/or

(B) For AIMS Performance Standard 2, a number of schools reviewed in a School Food Authority, as specified in the following table, claim reimbursement for more free or more reduced price meals, respectively, than the number of children correctly approved for such meals for the test period times the days of operation for the period; and/or

(C) For AIMS Performance Standard 3, a number of schools reviewed in a School Food Authority, as specified in the following table, do not have an adequate system for counting and recording meal totals for paid, free and reduced price meals claimed for reimbursement which yields correct claims, or the School Food Authority does not use valid procedures for consolidating claims; and/or

(D) For AIMS Performance Standard 4, 10 percent or more of the total meals observed in a School Food Authority are missing one or more components.

The following chart indicates the number of schools violating Performance Standards 2 or 3, which would trigger a corrective action plan in the applicable School Food Authority and a second review in all large School Food Authorities and 25 percent of the small School Food Authorities.

Number of schools reviewed	Number of schools [1]
1 to 10	1
11 to 20	2
21 to 30	3
31 to 40	4
41 to 50	5
51 to 60	6
61 to 70	7
71 to 80	8
81 to 90	9
91 to 100	10
101 or more	[2] 10

[1] Number of schools violating Performance Standards 2 or 3 respectively, thus necessitating a second review of the School Food Authority.
[2] 10 plus the number identified above for the appropriate increment.

(vi) Corrective action plans for AIMS reviews: Corrective action plans are required to address AIMS performance standard deficiencies exceeding the error tolerance level described in this section. The following procedures shall be followed to develop a corrective action plan:

(A) The State agency shall assist the School Food Authority in developing a mutually agreed upon corrective action plan.

(B) The corrective action plan shall identify the actions and timeframes needed to correct the deficiencies found during the review. Corrective action shall include amending claims for reimbursement if necessary.

(C) The plan shall be written, signed by the School Food Authority, and submitted to and approved by the State agency within 60 days following the exit conference of a review. State agencies may extend this deadline to 90 days. Extensions beyond 90 days may be made for cause, with written justification to and approval by FNSRO.

(D) The State agency shall require the School Food Authority to implement an amended or extended corrective action plan when error tolerance levels described in this section are exceeded on a second AIMS review.

(vii) New violations found on a second AIMS review: If during the course of a second AIMS review a performance standard violation is found that has not been noted on a previous AIMS review, the State agency shall institute and document appropriate corrective action. If the violation exceeds the error tolerance level described in this section, a corrective action plan as described in this section shall be developed and corrective action shall be taken. In either case a claim shall be assessed as described in § 210.16 of this part.

(4) AIMS audit: Audits by State agency, State, or State contracted auditors may be used as an alternative to AIMS reviews as described in this section. If the State agency chooses this option, the audit must determine whether the four performance standards listed under § 210.2 of this part are being complied with by the audited School Food Authority. This includes performing all activities described in § 210.14(a)(3)(i)(A)–(D) under "AIMS reviews." Additionally, a State using AIMS audits in place of AIMS reviews shall:

(i) Audit all School Food Authorities once every two years;

(ii) Take fiscal action against a School Food Authority for any degree of violation of Performance Standards 2 through 4 using its own methodology which reflects the longevity and severity of the problem;

(iii) Have a documented system for achieving corrective action;

(iv) Use USDA's audit guide or have its State audit guide approved by the Department's Office of the Inspector General (OIG). A State agency shall submit its guide to FNSRO by February 1 of each year; and

(v) Select schools within a School Food Authority based upon generally accepted audit principles.

(5) Number of schools the State shall review or audit for AIMS: The number of schools within the School Food Authority which must be included in a review/audit is dependent upon the number of schools in the School Food Authority. The minimum number of schools the State agency shall review/audit is illustrated in the following table:

Number of schools in the School Food Authority	Minimum number of schools to be reviewed/audited
1 to 5	1
6 to 10	2
11 to 20	3
21 to 40	4
41 to 60	6
61 to 80	8
81 to 100	10
101 or more	[1] 12

[1] 12 + 5% of the number of schools over 100. Fractions shall be rounded to the nearest whole number.

(6) Exit conference notification and correction action.

(i) The State and the School Food Authority shall hold an exit conference at the close of an AIMS review/audit to discuss the deficiencies observed, the extent of the deficiencies and the corrective action needed to correct the deficiencies. If a corrective action plan is needed, as described in § 210.14(a)(3)(v), it shall be discussed during the exit conference. After every AIMS review/audit the State shall provide written notification of the review/audit findings to the School Food Authority's superintendent or representative who signed the State agency/School Food Authority agreement.

(ii) The State shall require that the School Food Authority take and document corrective action for any program deficiency found on any review/audit. Corrective action can include training, assistance, recalculation of data to ensure the correctness of any claim that the School Food Authority is preparing at the time of the review or other actions. As discussed in this section, a formal corrective action plan shall be developed if error tolerance levels are exceeded on an AIMS review.

(7) In lieu of implementing AIMS, as described in this section, a State agency may develop its own compliance monitoring system that is equivalent to AIMS in scope. A State agency's compliance monitoring system must be approved by FNSRO prior to being implemented and must meet the following criteria:

(i) It monitors compliance with AIMS Performance Standards 1–4,

(ii) It includes on-site monitoring of all School Food Authorities on a cyclical basis,

(iii) It requires that corrective action be taken and documented for any program deficiency found;

(iv) It provides for fiscal action and sets forth the State agency's criteria for taking such action; and

(v) It provides that the following documentation be maintained by the State agency:

(A) A detailed description of the monitoring system, and

(B) Records of all monitoring visits and activities which demonstrate the degree of compliance with AIMS performance standards, corrective action needed and taken, and fiscal action taken. This documentation must be kept on file by the State agency for a minimum of three years after the year of activity or the year in which problems have been resolved.

* * * * *

(g) * * *

(4) Each State agency shall report to FNSRO the type and extent of regulatory violations and the name of any School Food Authority which exceeds an error tolerance level on a second AIMS review. Each State agency shall keep records which document the details of all AIMS reviews/audits and demonstrate the degree of compliance with AIMS performance standards. When necessary, the records must include a formal corrective action plan as described in this section.

Additionally, the State agency must have on file: (i) Its criteria for selecting schools on first and second reviews, if the selection is not random; (ii) its system for selecting small School Food Authorities for second review; and (iii) documentation demonstrating compliance with the statistical sampling requirements specified in § 210.14(a)(3). AIMS records must be kept on file by the State agency for a minimum of three years after the year of activity or the year in which problems have been resolved.

* * * * *

4. In § 210.16, paragraphs (a), (b) and (e) are revised.

§ 210.16 Claims against School Food Authorities.

(a) State agencies shall take fiscal action, as described in this section, against School Food Authorities on Claims for Reimbursement that are not properly payable under this part. In taking fiscal action, State agencies shall use their own procedures, within the constraints of this section.

(b) The State shall determine the extent of fiscal action which must be taken to address the severity and longevity of the problems. Fiscal action includes but is not limited to: the adjustment of paid Claims for Reimbursement with recovery of overpayments through direct assessment or offset of future claims; disallowance of all or part of any unpaid Claims for Reimbursement; and correction of records to ensure that unfiled Claims for Reimbursement will be corrected when filed.

(1) When a State agency chooses to conduct AIMS reviews, as described in § 210.14, fiscal action may be assessed on a first review except fiscal action must be taken when, under Performance Standard 3, the number of meals claimed for School Food Authority reimbursement has been incorrectly aggregated from individual school reports so that an excessive number of meals has been claimed. State agencies are required to take fiscal action on the second review for any degree of violation of AIMS Performance Standards 2, 3, and 4.

(2) When a State agency chooses to conduct AIMS audits as described in § 210.14, fiscal action is required for any degree of violation of Performance Standards 2, 3, and 4.

(3) When a State agency develops its own compliance monitoring system in accordance with § 210.14(a)(7), fiscal action shall be taken in accordance with the criteria established under that system. These criteria shall be consistent in principle with the fiscal action requirements for AIMS reviews and audits as set forth in this section.

* * * * *

(e) If a State agency fails to disallow a claim or recover an overpayment from a School Food Authority, as described in this section, FNS shall notify the State agency that a claim shall be asserted against the State agency. In all such cases, the State agency shall have full opportunity to submit evidence concerning the overpayment. If, after considering all available information, FNS determines that a claim is warranted, FNS shall assess a claim against the State agency. If the State agency fails to pay the claim, FNS shall take action in accordance with 7 CFR Part 3015, Subpart L to liquidate the indebtedness.

5. In § 210.17, interim paragraph (f) is adopted without change.

§ 210.17 Management evaluations and audits.

* * * * *

(f) As a part of its Management Evaluation of a State agency, FNSRO shall evaluate the State's progress in effectively meeting the AIMS requirements.

* * * * *

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

1. In § 235.4, paragraph (b)(3) is revised.

§ 235.4 Allocation of funds to States.

* * * * *

(b) * * *

(3) For each fiscal year, FNS shall allocate to each State agency amounts derived by application of the following four-part formula:

(i) One equal share of forty (40) percent of the funds designated by FNS for the Assessment, Improvement and Monitoring System (AIMS).

(ii) The ratio of the number of School Food Authorities participating in the National School Lunch or Commodity School Programs under the jurisdiction of the State agency to such School Food Authorities in all States times twenty (20) percent of the funds designated by FNS for AIMS.

(iii) The ratio of the number of free and reduced price meals served in School Food Authorities under the jurisdiction of the State agency during the second preceding fiscal year to the number of free and reduced price meals served in all States in the second preceding fiscal year times twenty (20) percent of the funds designated by FNS for AIMS.

(iv) Equal shares of twenty (20) percent of the funds designated by FNS for AIMS for each School Food Authority under the jurisdiction of the State agency participating in the National School Lunch or Commodity School Programs which has an enrollment of 40,000 or more; *Provided*, however, that for State agencies with fewer than two School Food Authorities with enrollments of 40,000 or more, an equal share shall be provided to the State agency, for either, or both, of the two largest School Food Authorities which have enrollments of more than 2,000; and *Provided, further*, that State agencies with only one School Food Authority, regardless of size, shall be provided with one equal share. Funds issued under this paragraph shall be subject to the recall and reallocation provision of paragraph (e) of this section. For each fiscal year, the amount of State Administrative Expense Funds designated by FNS for AIMS and subject to allocation under this paragraph shall be equal to or greater than the amount designated by FNS for program management improvements for the fiscal year ending September 30, 1980.

* * * * *

2. In § 235.6, interim paragraph (a–1) is adopted without change.

§ 235.6 Use of funds.

(a–1) State Administrative Expense Funds paid to any State agency under § 235.4(b)(3) shall be available for AIMS activities associated with carrying out actions to ensure adherence to the program performance standards in § 210.2.

* * * * *

3. In § 235.7, paragraph (b) is amended by adding a sentence to the end of the paragraph.

§ 235.7 Records and reports.

* * * * *

(b) * * * Each State agency shall also submit an annual report containing information on School Food Authorities under agreement with the State agency to participate in the National School Lunch or Commodity School programs.

* * * * *

4. In § 235.11, paragraphs (b) and (e) are revised.

§ 235.11 Other provisions.

* * * * *

(b) Sanctions imposed.

(1) FNS may recover, withhold or cancel payment of up to one hundred (100) percent of the funds payable to a State agency under this part, whenever it is determined by FNS that the State

agency has failed to comply with the requirements contained in this part.

(2) In addition to the general provisions found in paragraph (b)(1) of this section, FNS may, for any fiscal year, recover, withhold or cancel payment of up to thirty-three and one-third (33⅓) percent of the funds payable to, and to be used by, a State agency under § 235.4(a) and § 235.4(b)(3) for administration of school nutrition programs in FNS determines that a State agency is deficient in one or more of the following:

(i) Implementing the requirements in § 210.14 of this title;

(ii) Conducting the number of reviews or audits required in § 210.14 of this title within the timeframes specified;

(iii) Covering the performance standards set forth in § 210.2 in the conduct of reviews or audits as required in § 210.14, carrying out corrective action, and assessing and recovering claims as prescribed in § 210.14 and § 210.16 of this title;

(iv) Conducting reviews or audits with sufficient thoroughness to identify violations of the performance standards listed in § 210.2 of this title; and,

(v) Meeting the reporting deadlines prescribed for the form (FNS–10) and the form (SF–269) required under § 210.4 and § 210.14 of this title.

(3) In establishing the amounts of funds to be recovered, withheld or cancelled under paragraph (b)(2) of this section, FNS shall determine the current or projected rate of funds usage by the State agency for all funds allocated under § 235.4(a) and § 235.4(b)(3), and after considering the severity and longevity of the cumulative deficiencies, shall apply an appropriate sanction percentage to the amount so determined. During the fiscal year under sanction, a State agency may not use funds not included in the determination of funds usage to replace sanctioned funds. The maximum sanction percentage that may be imposed against a State agency for failure within one or more of the five deficiency areas specified in paragraph (b)(2) of this section for any fiscal year shall be thirty-three and one-third (33⅓) percent of the funds payable under § 235.4(a) and § 235.4(b)(3) for administration of school nutrition programs for such fiscal year.

(4) Before carrying out any sanction against a State agency in accordance with this paragraph, the following procedures shall be implemented:

(i) FNS shall notify the Chief State School Officer or equivalent of the deficiencies found and of its intention to impose sanctions unless an acceptable corrective action plan is submitted and approved by FNS within 60 calendar days.

(ii) The State agency shall develop a corrective action plan with specific timeframes to correct the deficiencies and/or prevent their future recurrence. The plan will include dates by which the State agency will accomplish such corrective action.

(iii) FNS shall review the corrective action plan. If it is acceptable, FNS shall issue a letter to the Chief State School Officer or equivalent approving the corrective action plan, and detailing the technical assistance that is available to the State agency to correct the deficiencies. The letter shall advise the Chief State School Officer or equivalent of the specific sanctions to be imposed if the corrective action plan is not implemented within timeframes set forth in the approved plan.

(iv) Upon advice from the State agency that corrective action has been taken, FNS shall assess such action and, if necessary, shall perform a follow-up review to determine if the noted deficiencies have been corrected. FNS shall then advise the State agency if the actions taken are in compliance with the corrective action plan or if additional corrective action is needed.

(v) If an acceptable corrective action plan is not submitted and approved within 60 calendar days, or if corrective action is not completed within the time limits established in the corrective action plan, FNS may impose a sanction by assessing a claim against the State agency or taking action in accordance with 7 CFR Part 3015, Subpart L. FNS shall notify the Chief State School Officer or equivalent of any such action.

(vi) If, subsequent to the imposition of any sanction, FNS determines that the noted deficiencies have been resolved and that the school nutrition programs are being operated in an acceptable manner, FNS may return to the State agency or restore to the State agency's Letter of Credit (LOC) part or all of any sanctioned SAE funds.

(5) In carrying out sanctions under this part for any fiscal year, FNS may reduce the amount of allocated SAE funds payable to a State agency in whole or in part during such fiscal year and during following fiscal years if necessary.

(6) Any State agency which has a sanction imposed against it in accordance with this paragraph shall not be eligible to participate in any reallocation of SAE funds under § 235.4(e) of this part during any fiscal year in which such sanction is being applied.

* * * * *

(e) Administrative Review Process. When FNS asserts a sanction against a State agency under the provisions of paragraph (b) above, the State agency may appeal the case and be afforded a review by an FNS Administrative Review Officer of the record including any additional written submissions prepared by the State agency. FNS shall provide a written notice and shall ensure the receipt of such notice when asserting a sanction against a State agency. A State agency aggrieved by a sanction asserted against it may file a written request with the Director, Administrative Review Staff, U.S. Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Va. 22302 for a review of the record. Such request must be postmarked within 30 calendar days of the date of delivery of the sanction notice and the envelope containing the request shall be prominently marked "REQUEST FOR REVIEW." If the State agency does not request a review within 30 calendar days of the date of delivery of the sanction notice, the administrative decision on the sanction shall be final.

(3) Upon receipt of a request for review, FNS shall promptly provide the State agency with a written acknowledgment of the request. The acknowledgment shall include the name and address of the FNS Administrative Review Officer reviewing the sanction. The acknowledgment shall also notify the State agency that any additional information in support of its position must be submitted within 30 calendar days of the receipt of the acknowledgment.

(4) When a review is requested, the FNS Administrative Review Officer shall review all available information and shall make a final determination within 45 calendar days after receipt of the State agency's additional information. The final determination shall take effect upon delivery of the written notice of this final decision to the State agency.

(5) The final determination of the FNS Administrative Review Officer will be the Department's final decision in the case and will not be subject to reconsideration.

* * * * *

(Catalog of Federal Domestic Assistance No. 10.555 and 10.560)

(Sec. 7(a), Pub. L. 95–627, 92 Stat. 3622, 42 U.S.C. 1751)

Dated: June 8, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83–15878 Filed 6–16–83 8:45 am]

BILLING CODE 3410–30–M

federal register

Friday
June 17, 1983

Part III

Department of the Interior

Fish and Wildlife Service

Oil and Gas Exploration Plans; Arctic National Wildlife Refuge

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Oil and Gas Exploration Plans, Arctic National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Publication of exploration plans; notice of public hearings; solicitation of public comments; State of Alaska review for consistency with the Alaska Coastal Management Program.

SUMMARY: This notice contains the complete texts of proposed plans for oil and gas exploration on the coastal plain of the Arctic National Wildlife Refuge (ANWR), Alaska. The notice also announces the dates and locations of four public hearings that will be held to receive comments on the plans and solicits written comments on the plans as well. Public comments are solicited by the U.S. Fish and Wildlife Service (FIS) relative to all aspects of the plans, but particularly to potential impacts on fish, wildlife, their habitats, the environment, and on subsistence uses and needs. The State of Alaska is reviewing most of the plans for consistency with the Alaska Coastal Management Program (ACMP) pursuant to the coastal Zone Management Act of 1972, as amended. This notice also solicits written comments to be submitted to the State of Alaska concerning ACMP consistency. The exploration plans were submitted to the FWS on May 20, 1983, by persons interested in exploring for oil and gas on the ANWR coastal plain. The plans were accepted by the FWS in accordance with the Alaska National Interest Lands Conservation Act of 1980, (ANILCA) as amended, and 50 CFR 37. ANILCA provides for oil and gas exploration within the coastal plain of ANWR in a manner that avoids significant adverse effects on the fish and wildlife, their habitats or the environment.

DATES: In order to be considered, written comments to the FWS on all proposed exploration plans must be submitted no later than July 15, 1983. However, persons wishing to comment on those plans which are to receive expedited review (as further described below) should submit their comments to the FWS no later than July 5, 1983.

Comments on consistency of these plans with the ACMP must be submitted to the State of Alaska no later than July 15, 1983.

See Supplementary Information for dates of public hearings.

ADDRESSES:

Written comments on all aspects of the exploration plans other than consistency with the ACMP should be submitted to:

Regional Director, U.S. Fish and Wildlife Service, Attn: Oil, Gas, and Minerals Specialists (AWR/PSS), 1011 East Tudor Road, Anchorage, Alaska 99503

Writen comments concerning consistency of the exploration plans with the ACMP should be submitted to: State of Alaska, Division of Policy, and Development and Planning, Pouch AW, Juneau, Alaska 99811

See supplementary information for locations of public hearings.

FOR FURTHER INFORMATION CONTACT: Doug Fruge, (907) 786-3381, or Ted Heuer, (907) 786-3384.

SUPPLEMENTARY INFORMATION: Final regulations for oil and gas exploration within the coastal plain of the ANWR, Alaska, were published in Part IV of the **Federal Register** (pages 16838-16872) on Tuesday, April 19, 1983. These regulations require that persons interested in exploring for oil and gas on the coastal plain of ANWR submit exploration plans to the Regional Director, U.S. Fish and Wildlife Service, Anchorage, Alaska. The regulations, 50 CFR 37.22(b), also require that the tests of the exploration plans be published in the **Federal Register** and newspapers of general circulation in the State of Alaska.

Some of the plans contain appendices which have not been published. These appendices are described in administrative notes which appear in this notice at the points where the appendices would have been printed. Persons wishing to examine these appendices may do so at the FWS Regional Office, Anchorage, Alaska, or at the ANWR Office in Fairbanks, Alaska. Copies of this information may also be obtained by calling the numbers listed above. Maps or other items which were impossible to legibly reproduce in this notice may be viewed or obtained in a similar manner.

All of the exploration plans, printed herein, require the approval of the FWS, Alaska Regional Director, and the issuance of a special use permit before any exploration can begin. All public comments will be considered before the Regional Director approves or disapproves of any exploration plan. These plans propose exploration by means other than exploratory drilling. Leasing and other development leading to production of oil and gas is prohibited on ANWR by ANILCA Section 1003 and can only be authorized by legislative action.

The FWS intends to approve, approve with modifications, or disapprove all exploration plans by August 18, 1983 (90 days following plan submission as provided for in 50 CFR 37.22(b)). However, an additional 30 days may be utilized for review if considered necessary by the Regional Director. Written comments on all exploration plans must be received by the FWS no later than July 15, 1983.

Certain exploration plans involving preliminary field investigations and/or surface geological exploration proposed to commence before August 1, 1983, will be subjected to an expedited review as requested by the applicants and provided for in 50 CFR 37.21(c). Expedited review will allow the permittee to gather surface geological data or conduct preliminary field activities that need to occur prior to snow covering the coastal plain. The FWS intends to approve or disapprove of these plans on or about July 15, 1983. Therefore written comments on plans undergoing expedited review must be received by the FWS by July 5, 1983. The exploration plans and portions of plans which will receive expedited review are as follows:

ARCO Alaska, Inc. (Surface Geology Only)
BP Alaska Exploration, Inc.
Exxon Company, USA
Gulf Oil Exploration and Production Company
Shell Oil Company
SOHIO Alaska Petroleum Company
Texaco, Inc.
Union Oil Company of California
International Technology, Ltd.

The FWS is soliciting public comments on all aspects of the exploration plans, but particularly to the potential impacts that these plans, if approved, may have on fish, wildlife, their habitats or the environment. Another area of specific concern is the potential effects of the proposed plans on subsistence uses and needs on the ANWR coastal plain. The FWS is soliciting comments as to these potential effects, the availability for exploration of alternate areas within the coastal plain, and alternatives to the proposed activities which would reduce or eliminate the use (by these proposed activities) of areas within the coastal plain needed for subsistence purposes. Public hearings will be used to gather testimony on the above concerns. These hearings will also be used to satisfy the requirement of ANILCA Section 810(a)(2) to hold a public hearing in the vicinity of the area involved to gather testimony on the potential effect of the proposed actions on subsistence, as

noted above. Times and locations of these public hearings are noted below.

Most of the applicants have determined that their proposed activities may impact Alaska's Coastal Zone. These applicants have certified that their activities will be conducted in a manner consistent with the standards of the ACMP as directed by Section 307(c)(3) of the Coastal Zone Management Act of 1972, Pub. L. 92-583. The State of Alaska is currently reviewing these exploration plans to determine if the proposed activities are consistent with the ACMP standard, 6 AAC 80. Interested persons are requested to submit comments to the State of Alaska at the address given above. The deadline for submitting these comments is July 15, 1983.

Public Hearings

Public hearings on these plans will be held on the dates and at the locations listed below.

Tuesday, June 21, 1983

Kaktovik, Alaska
Location: City Council Meeting Hall
Time: 7:00 p.m.

Wednesday, June 22, 1983

Fairbanks, Alaska
Location: Federal Building and Courthouse, Rm. 236, 101 12th Avenue
Time: 7:00 p.m.

Thursday, June 23, 1983

Barrow, Alaska
Location: North Slope Borough Assembly Room
Time: 7:00 p.m.

Friday, June 24, 1983

Anchorage, Alaska
Location: Regional Office, U.S. Fish and Wildlife Service, Room 1110, 1011 East Tudor Road
Time: 7:00 p.m.

Exploration Plans

The texts of the exploration plans submitted to the FWS in accordance with ANILCA Section 1002 and 50 CFR 37 are presented below:

Dated: June 7, 1983.

James F. Gillett,

Acting Deputy Associate Director, U.S. Fish and Wildlife Service.

ALASKA RESEARCH ASSOCIATES, INC. PLAN FOR SURFACE GEOLOGICAL EXPLORATION

Exploration Plan; Surface Geological Exploration

With respect to 50 CFR 37.21(d), the following is herein submitted:

The exploratory activities will be conducted by: Alaska Research Associates, Inc., 2420 Foxhall Drive, Anchorage, AK 99504.

Responsible officials are as follows:

Charles T. Siemers, President, Alaska Research Associates, Inc., 100 Arapahoe Avenue, Suite 8, Boulder, CO 80302
Michael D. Wilson, Secretary, Alaska Research Associates, Inc., 100 Arapahoe Avenue, Suite 8, Boulder, CO 80302
Arlen Ehm, Vice President, Alaska Research Associates, Inc., 2420 Foxhall Drive, Anchorage, AK 99504

(2) The exploratory activities will be conducted by Alaska Research Associates, Inc., with the data and information resulting from such activities to be made available to prospective clients on a nonexclusive basis. Such exploratory activities will form the basis for a secondary study which will follow a study now being initiated by Alaska Research Associates, Inc. utilizing existing well data and other public data. Subscriber companies to be included under this exploration plan are unknown at this time.

(2) The three principals of Alaska Research Associates listed above have all participated previously in surface geologic investigations in Alaska. Additionally, Arlen Ehm has had a considerable amount of experience in planning and conducting all aspects of surface geologic investigations. He has had experience in acquiring the necessary permits from various governmental bodies and native corporations. In 1980 he conducted surface geological studies in the ANWR for a client company, Cities Service Company. All provisions of such permits have been complied with in their entirety. The exploratory activities will be funded entirely by the subscriber companies and sufficient revenues will be on hand prior to initiating the investigation. All necessary and desired bonding and insurance will be acquired.

(4) The attached map does not list fuel caches as it has not yet been determined whether such will be neccessary or desirable. In general practice it is planned that such will be avoided. When and if they are utilized, it will be to extend the range of the helicopter for certain aspects of the work. There will be no major support facilities.

(5) Exploratory activities being planned are those that are normal to surface geological investigation. These include: (1) examination of outcropping rocks to determine structural and stratigraphic conditions, (2) recording of these observations in written form, (3) photographing of pertinent geologic conditions, and (4) collecting hand specimens of these rocks.

(6) A detailed plan for conducting these investigations will be formulated based, in part, on the results of the current study given above. Once adequate data are collected to satisfy the individual elements of this plan, such will be duly noted, thus negating any possibility for duplication.

(7) It is anticipated that the surface geological investigations will be conducted from July 1-31, 1984.

(8) Communication between the helicopter and the members of the investigating team on the ground will be by "walkie-talkie" type of radios. Communication between the helicopter and the base camp will be by vhf or single side-band radio. Communication between the base camp and Fairbanks and Anchorage will be by single side-band radio.

(9) Equipment: 1 jet turbine helicopter.

Support facilities: Fueling and maintenance equipment for helicopter. Tent camp for 8 men (outside the 1002 area)*

Method of access: Helicopter.

Personnel:

3 geologists
2 assistants
1 pilot
1 mechanic
1 cook*

(10) The only hazardous substance to be involved will be jet fuel. Since fuel caches will be avoided or very limited, the possibility of a handling spill or accident will also be avoided or very limited. When and if fuel is cached, it will be in sealed barrels which will be immediately uprighted after delivery to the site. The cache locations will be in bare ground areas devoid of vegetation and away from streams or other critical habitat areas. Any handling spills, therefore, would involve only a fraction of a barrel. Such would probably dissipate into the barren ground with only minimal cleanup measures required.

(11) As stated in the Final Environmental Impact Statement, no significant environmental disturbance is anticipated from surface geological investigations. Additionally, it is our conclusion that such investigations will have no impact on the refuge's habitats, its subsistence uses and needs or its cultural resources.

Anticipated impacts could occur to the refuge's wildlife, however, in the disturbance of their normal activities by helicopter flights or ground personnel. To minimize such occurrences, known and observed concentrations or localities of such wildlife will be avoided or approached in such a manner as to reduce any possible disturbance to a minimum. Additionally, activities by the helicopter and by the ground personnel will be conducted so as to avoid or greatly reduce the accidental disturbance of previously undetected wildlife.

(12) All operations will be observed by or monitored by Arlen Ehm, the general representative and field representative, on a daily basis while field operations are underway. Such monitoring will include the possible environmental impacts of such operations as well as the compliance with all regulatory and permit requirements. Such monitoring and control is familiar to Mr. Ehm.

(13) If authorized to conduct exploratory activities, Alaska Research Associates shall comply with 50 CFR 37.21(d) as well as its special use permit, its approved exploration plan, plan of operation, and all reasonable stipulations, demands and orders issued by the Regional Director.

(14) Plans for proposed data quality assurance and control have limited application in surface geological investigations. Data collected under this plan, however, will be according to accepted practices for such surface geological investigations. Additionally, all efforts

*Camp facilities may be shared with other permittees.

possible will be made to insure that the data so collected or any resultant analyses and interpretations are of the highest quality.

(15) The proposed activity complies with Alaska approved coastal management program and will be conducted in a manner consistent with such program.

Fig. 1. Map depicting areas of proposed exploratory activities, Alaska Research Associates, Inc.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

ARCO ALASKA, INC. PLAN FOR SURFACE GEOLOGICAL EXPLORATION

Exploration Plan for Geologic Field Program; Arctic National Wildlife Refuge; Coastal Plain

Submitted by: ARCO Alaska, Inc.
To: U.S. Fish and Wildlife Service.
May 20, 1983.

Arctic National Wildlife Refuge—Coastal Plain ARCO Geological Reconnaissance Program Exploration Plan

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Introduction

This Exploration Plan is submitted by ARCO Alaska, Inc. for the purpose of obtaining a special use permit for the 1983 and 1984 summer field seasons to conduct surface geological investigations of the Coastal Plain area of the Arctic National Wildlife Refuge (ANWR), as defined by the Alaska National Interest Lands Conservation Act of 1980.

The format of this plan follows the points defined in 50 CFR 37.21(d)(1) through (15) of the U.S. Fish and Wildlife Service regulations, as published in the **Federal Register** April 19, 1983.

ARCO Alaska, Inc. will conduct an approved geologic field program in the summer of 1983 in the eastern North Slope of Alaska on predominantly State of Alaska acreage and some portions of the ANWR outside of the Coastal Plain area. Permit LUP/NC83–147 has been issued by the State of Alaska, and Permit 83–G7 for operations in the ANWR, outside of the Coastal Plain, has been granted by the U.S. Fish and Wildlife Service for this program.

The field program will be in progress prior to the issuance of a permit for the Coastal Plain, but field personnel will be prepared to direct their effort totally to the Coastal Plain as soon as a permit may be granted by the U.S. Fish and Wildlife Service.

Consistency Certification, ARCO Alaska, Inc. Geological Exploration Plan Arctic National Wildlife Refuge

ARCO Alaska, Inc., hereby certifies, to the best of our knowledge, that the activities pursuant to this Exploration Plan are in accord with the goals, guidelines, and objectives of the Alaska Coastal Management Program and will be undertaken in a manner consistent with the program.

Expedited Review

ARCO respectfully request an expedited review of this Exploration Plan, pursuant to 50 CFR 37.21(c). This action is necessary in order to meet the objectives of the program in the Coastal Plain area, prior to the onset of precluding winter weather conditions in 1983. Additionally, the data acquired during this program will be fundamental to planning future exploration efforts in the Coastal Plain area.

Item 1: Responsible Officials

The proposed activity will be conducted by ARCO Alaska, Incorporated, sometimes hereinafter referred to as ARCO, a wholly-owned subsidiary of the Atlantic Richfield Company incorporated in the State of Delaware.

The ARCO official responsible for the conduct of the proposed activity is: Mr. G. T. Wilkinson, Executive Vice President, ARCO Alaska, Inc.

Mr. Wilkinson is assigned to ARCO Alaska, Inc., P.O. Box 100360, Anchorage, Alaska 99510.

Names of those individuals responsible for specific activities will be provided with a Plan of Operation, pursuant to 50 CFR 37.21(b), should this Exploration Plan be approved.

Item 2: Participants

ARCO Alaska, Inc. intends to conduct the herein described activities on its own behalf. However, it is recognized that the Regional Director, U.S. Fish and Wildlife Service may decide to include other interested parties in the terms of a Special Use Permit, if granted.

Item 3: Evidence of Financial and Technical Ability

ARCO Alaska, Inc. is both financially and technically able to conduct the proposed geological activities described in this Exploration Plan. ARCO has in excess of two thousand employees in the State of Alaska and maintains a large and highly qualified staff of exploration geologists.

Since 1958, ARCO Alaska, Inc. or its precedessor companies have been heavily involved in exploration and production activities in Alaska; a majority of the company's reserves are located in the Prudhoe Bay and Kuparuk fields.

Financial Ability. As evidence of our financial ability to conduct the proposed geological program, we submit the following Consolidate Balance Sheet for 1981 and 1982 of our parent corporation, the Atlantic Richfield Company (Table 1.). This table is exerted from the Atlantic Richfield Company *1982 Annual Report.* Copies of this report are available upon request.

TABLE 1.

Current liabilities	1982	1981
Notes payable	$261,001	$327,265
Accounts payable	2,045,819	2,097,312
Taxes payable, including excise taxes collected from customers	117,107	340,500
Long-term debt and capital leases obligations due within one year	319,697	462,698
Advances and production payments due within one year	25,622	58,071
Accrued interest	139,810	119,027
Other	367,046	380,833
	3,276,102	3,785,706
Long-Term Debt	3,500,792	3,239,309
Capital Lease Obligation	400,494	445,514
Advance and Production Payments	1,170,325	771,654
Deferred Income Taxes	2,704,255	2,301,607
Other Deferred Liabilities and Credits	712,490	523,528
Shareholders' Equity:		
Capital stock	654,514	641,513
Capital in excess of par value of stock	1,219,046	1,080,514
Retained earnings	8,024,538	6,943,194
Foreign currency translation	(29,781)	
	9,868,317	8,665,221
	21,632,775	19,732,539
Consolidated Balance Sheet (Thousands of dollars)		
Assets		
Current Assets:		
Cash	296,114	114,297
Short-term investments	476,401	397,958
Accounts receivable	1,312,865	1,763,304
Inventories	1,572,005	1,753,304
Prepaid expenses and other current assets	122,712	188,969
	3,782,097	4,449,681
Investments and Long-term Receivables:		
Affiliated companies accounted for on the equity method	1,109,735	693,591
Other investment and long-term receivables, at cost	581,984	325,231
	1,691,719	1,218,822
Fixed Assets:		
Property, plant and equipment, including capitalized leases	22,744,694	19,845,013
Less accumulated depreciation, depletion and amortization	6,974,581	6,168,679
	15,770,113	13,676,334
Deferred Charges	388,846	387,702
	21,632,775	19,732,539

Technical Ability. ARCO has been and is still heavily involved in both geological and geophysical exploratory programs on the North Slope. For this reason, many geological and geophysical field studies (Table 2.) have been conducted over the years in order

to evaluate the oil and gas potential of various portions of the North Slope area.

TABLE 2.—NORTH SLOPE GEOLOGICAL PROGRAMS, ARCO ALASKA, INC., OR PREDECESSOR COMPANIES

Year	Area	No. crew personnel	Permit No.
1959	Central Northern Foothills.	8	N/A.
1959	Central & Western Southern Foothills.	16	N/A.
1960	East-Central North Slope.	20	N/A.
1961	Eastern North Slope	4	N/A.
1963	Umiat-Canning River	6	N/A.
1963	Central North Slope	17	N/A.
1963	Eastern North Slope	7	N/A.
1964	Western DeLong Mountains.	12	N/A.
1964	Kugururok-Feniak Lake.	5	N/A.
1964	Western North Slope	8	N/A.
1964	Central North Slope	8	N/A.
1965	Sagavanirktok-Jago Rivers.	10	32940.
1965	Mulgrave Hills, DeLong Mtns..	7	N/A.
1965	Lisburne Peninsula	6	N/A.
1965	East to West North Slope.	10	32940.
1966	Sadlerochit Mountains	5	AR-66-2.
1969	Sadlerochit Mountains	14	AR-69-3.
1971	Arctic Wildlife Range Kavik Airstrip.	12	USF&WS 71-1.
1972	Eastern North Slope	7	AR-72-4.
1972	Central North Slope	7	AR-72-4.
1978	Arctic National Wildlife Refuge Kavik Airstrip.	8	USF&WS 78-9.
1980	Western Brooks Range.	8	USNPS CS-9100-0-0023, Alaska NS 80-20, BLM Letter 2-22-80.
1981	Central North Slope, Umiat.	10	USF&WS 81-28, USNPS CK-9100-1-0016, BLM Letter 4-21-81, Alaska 81-59.
1982	Arctic National Wildlife Reguge Kavik Aristrip.	8	USF&WS 82-06, Alaska 82-44.

No significant adverse affects on the fragile arctic environment have occurred as a result of these surface geolgical activities. The Alaska State Department of Environmental Conservation monitored ARCO's geologic field camp at Kavik during the summer of 1982. They reported that ARCO more than complied with the State's regulations and camp stipulations.

ARCO has also been involved as an operator in 21 seismic surveys covering the North Slope and Beaufort Sea areas from 1965 through 1982. These geophysical studies represent a total of 4771 miles of seismic data obtained without any significant adverse affect on the arctic environment.

However, this application is being filed only for the purpose of acquiring a permit for geological field investigations in the summer seasons of 1983 and 1984. ARCO Alaska, Inc. will file a separate Exploration Plan as the operator of an industry group for the purpose of geophysical reconnaissance. The purpose of including this geophysical information is to provide supplemental documentation of ARCO's ability to conduct arctic field programs in an environmentally acceptable manner.

Item 4: Activity Map/Program Scope

Illustrations. The 1:250,000 scale topographic map, attached to and made a part of this Exploration Plan, illustrates the flight corridors, known geologic outcrops, and routes that will be flown to look for additional outcrops. Special areas and sites, as defined by the U.S. Fish and Wildlife Service, are also shown on the map.

As requested by the Regional Director, a one-page map (8½" X 11") suitable for duplication is also attached. This map illustrates the same information as the larger scale 1:250,000 map.

Scope. This field program will provide detailed information regarding known surface exposures of rocks over the entire Coastal Plain area. Additionally, a search will be conducted to find other outcrops that have not been identified to date. The data obtained from all outcrops will be integrated with data derived from geophysical sources to develop a comprehensive understanding of geologic conditions that exist throughout the area and the geologic history of the Coastal Plain. With this interpretation, a viable assessment of the exploration potential of the Coastal Plain can be made.

Fig. 1. Map depicting approximate flight corridor and routes to examine and/or look for outcrops, ARCO Alaska, Inc.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

Item 5: Description of Exploratory Methods and Techniques

The 1983 ARCO Geologic Field Program is organized to undertake the following activities in the sequence described below.

1983 Geological Program

First: Survey of Previous Work.

This pre-field effort consists primarily of a pre-field literature search, evaluation of previous field efforts, and an analysis of available geologic maps and aerial photographs. The purpose of this effort is to capitalize on work already done and to eliminate duplication. The study of maps and photographs will help define specific areas of interest.

Second: Surface Reconnaissance.

This effort consists of systematic aerial survey and limited surface examination by helicopter. It is conducted in conjunction with detailed surface study. Typically, areas are flown first to verify specific areas of interest which are later visited, depending on weather, permit scheduling, personnel, etc.

Third: Detailed Surface Study.

This effort consists primarily of examination of outcrops, management of stratigraphic sections, interpretation and sampling of specific geologic sites. Samples are typically fist-sized or slightly larger, and are extracted by hand with a geologic hammer. No power equipment or tools will be used.

1984 Geological Program

A geologic field program is also proposed for the summer of 1984, consistent with designated dates and stipulations of the U.S. Fish and Wildlife Service Special Use Permit. Field operations will be conducted as in 1983. However, program specifics can not be defined at this time because they will require the data, interpretations and analyses obtained during the 1983 program. If this information indicates any necessary changes to the proposed activities in the 1984 season, they will be submitted to the U.S. Fish and Wildlife Service, as prescribed in the regulations.

Alternate Exploratory Methods and Techniques

No alternate methods have been considered at this time.

Item 6: Application of Techniques to Avoid Duplication of Exploratory Work

A survey of previous work includes an extensive literature search of published as well as internal proprietary reports. State-of-the-art computer techniques are utilized as much as possible in cross-referencing and searching to facilitate proper planning and maximum efficiency in the field program. Results from this preparation, in addition to increasing general geologic understanding, are used to eliminate, or reduce as much as possible, the degree of activity that will be necessary in areas previously studied by ARCO. However, new technologies, such as age dating techniques and/or enhanced interpretive capabilities may require revisiting some areas previously examined.

The systematic sequence of field party activities explained in Item 5, is designed to eliminate duplication of work and maximize cost effectiveness of the field program. For example, while flying to a distant area for surface investigations, another area may be flown over for preliminary reconnaissance. This will maximize the use of and minimize the amount of helicopter time, as well as ground disturbance.

ARCO's field effort will begin in the eastern part of the Coastal Plain, and will sequentially move westward across the province, so that overflight reconnaissance may be utilized over most of the area before making onsite ground observations.

Item 7: Work Schedule

ARCO Alasks, Inc. will conduct a geologic field program in the summer of 1983 in the eastern North Slope of Alaska on predominantly State of Alaska acreage and some portions of ANWR outside of the Coastal Plain area.

The field program will be in progress, commencing June 25, 1983, prior to the issuance of a permit for the Coastal Plain. Field personnel will be prepared to direct their effort totally to the Coastal Plain as soon as a Special Use Permit may be granted and Plan of Operation is submitted to and approved by the U.S. Fish and Wildlife Service.

Item 8: Communication Network

Communications for geological activities will be provided by the Anchorage based telecommunications group of ARCO Alaska, Inc. This communications capability will be supplied by three interconnected systems:

(1) Microwave Telephone.

The microwave link between Deadhorse and Exxon's existing Ignek repeater facility will be used. We will utilize two channels of this 300 channel radio and group connect to a portable microwave hut to be placed next to the camp facilities at Kavik Airstrip. This path will provide telephone service to Prudhoe Bay, Anchorage or any other point with regular telephone service.

(2) A single portable solar powered mountain top repeater system will be used to insure field party communications with the Kavik camp. This repeater will be moved to selected high points in the area of interest. It is not anticipated that the repeater will ever be placed within the boundaries of the Coastal Plain area.

Hand held transceivers will be used for intraparty use on one frequency and repeater use on a second frequency.

(3) Helicopter to the Kavik base communicatons will be provided on the aviation band using the 122.8 MHZ unicom frequency. Helicopter work party communications will use the frequencies referred to in Item 2.

These communications techniques rely on state-of-the-art devices and will provide maximum utilization and insure safety considerations. It is our intent to use this sophisticated system in order to operate in an efficient manner, as well as provide immediate response to any emergency situation that may arise.

Item 9: Equipment, Facilities and Access

During the ANWR Coastal Plain geologic investigations, a maximum of two helicopters will be utilized to transport up to eight geologists daily from the base camp. Depending on the date of receipt of a Special Use Permit, these numbers could be reduced to one helicopter and three geologists. All access to and from the Coastal Plain, as well as mobility during field investigations, will be by helicopter or on foot. No fuel caches will be placed within the Coastal Plain.

The base camp will be located outside of ANWR on the upper gravel pad between the Kavik Airstrip and the Kavik River and will consist of approximately nine Hansen weatherport tents. The camp will include sleeping, kitchen, eating and bathing facilities as well as refuse treatment and gray water disposal systems. It will be mobilized, operated and demobilized by a highly experienced independent catering contractor. ARCO will ensure that the contractor personnel in camp will in no way be involved with the Coastal Plain investigations per se.

While working in the eastern part of the Coastal Plain, fuel for the helicopter may be purchased from commercial sources in Kaktovik. These purchases have been made in past years with no adverse effect on either supplies or subsistence activities of local residents. However, verification of adequate fuel reserves will be made with the commercial supplier in Kaktovik in advance to any purchase. Activities in the western part of the area will be close enough to our base camp for round trip helicopter operations.

Field activities will commence as soon as possible and will comply with all stipulations of the Special Use Permit. Approximately seven days of actual field time will be adequate for the proposed investigations. However, it should be noted that typically days of bad weather, when helicopter transportation is impossible or unsafe, start to occur in late July to early August in the Coastal Plain area. Therefore, in order to accomplish the magnitulde of projected field work, ARCO would appreciate receiving the permit by mid-July.

The field investigations will terminate August 9, 1983 or sooner, if stipulated in the permit. There will be virtually no visible evidence left in the ANWR Coastal Plain to support the presence of ARCO's geologic field program.

Field personnel will all be qualified geologists each with at least a masters degree or equivalent experience. Numerous areas of expertise such as sedimentology, structure and petrography will be represented by members of the field program, so that as much information as possible will be obtained from each investigation site.

Item 10: Hazardous Substance Control and Contingency Plan

Because access to and from the Coastal Plain area will be by helicopter and no refueling of such is anticipated in the area, chances of large scale spills of hazardous substances are expected to be virtually non-existent. The only possibility might result from a mechanical failure or crash of the helicopter. The aircraft will be equipped with adequate absorbent material and equipment in order to cope with this type of spill. Additionally, all field personnel will be instructed as to how to manage this unlikely event. Should this type of spill occur, it will be contained at the site, and all contaminated material will be packaged and removed from the Coastal Plain area for approved disposal.

Item 11: Anticipated Impacts/Mitigating Measures

The proper design and careful monitoring of this exploration program and adherence to the regulations and permits should preclude significant environmental impacts. The Final Environment Impact Statement, "Proposed Oil and Gas Exploration within the Coastal Plain of the Arctic National Wildlife Refuge", lists several impacts that could occur during the conduct of geological exploration activities in the Coastal Plain. The following lists those potential impacts and procedures that our plan employs to mitigate them.

(1) Disturbance to vegetation. Impacts are unlikely since the camp will be located at Kavik Airstrip—outside of the ANWR. Some dust will be generated by helicopter operations, but this will be minor and localized. If accidental fuel spills occur they will be properly contained, cleaned up and disposed of in an approved manner, as described in Item 10.

(2) Disturbance to wildlife. Concentrations of birds, caribou and muskox will be avoided. Helicopters will maintain proper distance and altitude from wildlife. Harrassment or hunting of wildlife, including feeding, is prohibited by field personnel.

(3) Disturbance to local economy and subsistence. If fuel resupply is obtained from Kaktovik, proper planning will ensure that local needs are not affected. Areas of village withdrawal and claimed or selected small parcels will not be considered for surface investigations. However, helicopter landings may be necessary on commercial facilities at Kaktovik. Subsistence activities will not be impacted due to aircraft restrictions.

(4) Disturbance to endangered species. Known Peregrin falcon sites will be avoided. If new sites are located, they will be plotted on a map, reported to the Field Monitor and avoided.

Item 12: Monitoring of Environmental Impacts

ARCO Alaska, Inc. will monitor the activities of itself and its subcontractors to ensure compliance with all terms, stipulations and conditions of the Regulations and Special Use Permit issued in accordance with our Exploration Plan and Plan of Operation. ARCO and subcontractor employees will attend environmental briefings conducted by the U.S. Fish and Wildlife Service Regional Director or his Field Monitor and all personnel will be responsible for compliance with the regulations and special use permit stipulations. Particular attention will be devoted to monitoring the following during the conduct of our exploration operations.

(1) Contact with or harrassment of wildlife, even if unintentional, will be noted. Feeding or hunting of wildlife is prohibited by field personnel.

(2) Known archaeological sites will be avoided, and if unknown sites are encountered, their locations will be marked on a map, reported to the field monitor and the area left undisturbed by the field operation.

(3) Should spills of hazardous substances occur, they will be contained, cleaned up, and disposed of in accordance with the prescribed procedures.

The Regulations, Special Use Permits, Exploration Plan and Plan of Operation will be posted in camp. All personnel who witness violations of the above will report them to the Operations Supervisor on site. The Operations Supervisor will then report them to the Field Monitor. These and any other unusal environmental conditions will be noted in the daily operations log.

Should any employee be found in noncompliance of regulations, that employee will be removed from the operation.

ARCO Alaska, Inc. is sensitive to the special status of the ANWR and will ensure that the environmental and cultural values contained therein are not adversely affected. ARCO's reputation of environmental concern is built upon many years of experience in the arctic and other areas around the world.

Item 13: Statement of Intent to Comply

Pursuant to 50 CFR Part 37, and as required in Subpart C, § 37.21(d)(13), ARCO Alaska, Inc. as applicant for a Special Use Permit with this submitted Exploration Plan, shall if authorized to conduct exploratory activities within the Coastal Plain of the Artic National Wildlife Refuge, Alaska, comply with said regulations, applicant's Special Use Permit, approved Exploration Plan and Plan of Operation, and all reasonable stipulations, demands and orders issued by the Regional Director pursuant to 50 CFR Part 37.

Item 14: Quality Control Program

Because geologic data collected during field investigations is interpretive and does not involve sophisticated electronic equipment, data quality assurance and control becomes a subjective issue. Control thereof then becomes a personnel selection process.

ARCO Alaska, Inc.'s field party chief will be an experienced field geologist, who has previously worked in the eastern North Slope area and is cognizant of the geological issues to be resolved by the field program. Other field geologists in our party will work under the direction of the party chief and will also be experienced in their particular areas of expertise.

This group, who will work together in the field, will have had months of collective literature search, review of previous work in the area, and definition of the issues to be assessed. They will work in the field as a closely integrated team, both as to the collection of geologic data and operational procedures.

Item 15: Other Pertinent Information

This Exploration Plan also includes "other pertinent information" that the Regional Director, in a letter dated May 16, 1983 referenced by the U.S. Fish and Wildlife Service as "PSS", asked to be added. This letter, received by the applicant May 19, 1983, requires the following additional items:

(1) A one-page (8½" by 11") map, suitable for publication, that depicts the information requested in 50 CFR 3721(d)(4).

(2) Submittal of one double-spaced copy of the Exploration Plan in addition to the three single-spaced copies previously required.

A double-spaced copy of the Exploration Plan is included with the three single-spaced copies.

(3) A statement of consistency with the State of Alaska's Coastal Management Program.

This statement is included in this Exploration Plan as Item ii.

These three items are the only additional items that the Regional Director is requesting prior to submission of the Exploration Plan. ARCO is prepared to provide any "other pertinent information" relating to this Exploration Plan as the Regional Director may reasonably require.

BP ALASKA EXPLORATION INC. PLAN FOR SURFACE GEOLOGICAL EXPLORATION

Exploration Plan for the Exploration of the Designated Coastal Plain of the Arctic National Wildlife Refuge, Alaska, July 1, 1983 to May 31, 1986 including an Exploration Plan for a Geological Field Survey, Summer 1983

By: BP Alaska Exploration Inc., 1 Maritime Plaza, Suite 500, San Francisco, California 94111.

Responsible Officials: President: John R. Grundon, Vice President (Exploration): Terence D. Adams, Chief Geologist: Richard J. Hubbard.

Contents

1. Introduction
2. Exploration Plan, July 1, 1983 to May 31, 1986
3. Detailed Exploration Plan, Goological Survey Summer 1983
   3.1 Description of Proposed Geological Survey
   3.2 Logistics
   3.3 Environmental Protection
   3.4 Consistency with Other Existing Regulations
   3.5 Statement of Compliance
4. Conclusion

Attachment

1:250,000 Scale Map Showing Exploration Areas.

Figure

1. Generalized Map Showing Exploration Areas.

Tables

1. BPAE Exploration Activity, ANWR Coastal Plain.

1. Introduction

British Petroleum (BP) has been in the forefront of oil exploration in Arctic Alaska since 1960. From that time, through the present day, BP has participated in many geologic and seismic surveys, State and Federal lease sales, and the drilling of exploration wells on leases acquired. The company operated ten geological field surveys in North Alaska between 1960 and 1973, three of which carried out reconnaissance studies in parts of the Arctic National Wildlife Refuge (ANWR). We have a long record of experience working carefully and responsibly, in compliance with permits received, in the environmentally sensitive Arctic North Slope region of Alaska.

In particular, subsequent to the discovery of the Prudhoe Bay Field in 1969, BP, both directly, and through our association with Sohio, participated in the environmental studies for, and the construction, of the Prudhoe Production Facilities and the Trans-Alaska Pipeline. The company is presently participating in the development of the Kuparuk River oil field. We are continuing to make substantial financial investments in northern Alaska, typified most recently by successful bids in excess of $200 million in the Federal OCS #71 Lease Sale. Our technical and financial ability to explore in a safe and efficient manner in Arctic Alaska is proven. BP Alaska Exploration Inc. (BPAE) handles the Alaskan exploration interests of BP.

Our Exploration Plan for the Coastal Plain from July 1, 1983 to May 31, 1986 is described in Section 2. We intend to acquire geologic data and participate in seismic programs in the manner described, to obtain an integrated data base which will allow full assessment of the hydrocarbon potential of the coastal plain with minimized environmental impact, as requested by 50 CFR sections 37.1 and 37.21(c).

Section 3 describes in detail the Exploration Plan for a proposed Joint BPAE/Sohio Geological Survey for summer 1983 on the Coastal Plain of the ANWR. This survey forms part of a larger study of northeast Alaska east of the Sagavanirktok River. An expedited review of Section 3 is requested to allow the survey to be conducted this summer.

The survey will study a number of geological problems identified from our existing data base and interpretation of the area. Investigation of the geology of the Coastal Plain within the context of a regional survey will, we feel, provide the geological framework to obtain the best possible data from the Coastal Plain.

Field investigation, interpretation and subsequent analysis will study aspects of the stratigraphy, geochemistry, reservoir potential and structural geology relevant to the assessment of the hydrocarbon potential of the area. These data may allow refinement of the seismic program on the Coastal Plain, which we hope will commence in January 1984.

The information contained in these Exploration Plans is required by § 37.21 of the Final Exploration Regulations which implement the requirement of Section 1002(d) of ANILCA as amended by Sec. 1101 Pub. L. 97-394, 96 Stat. 1982.

2. Exploration Plan, June 1983 to May 1986

(As requested by 50 CFR 37.21 (b), (c))

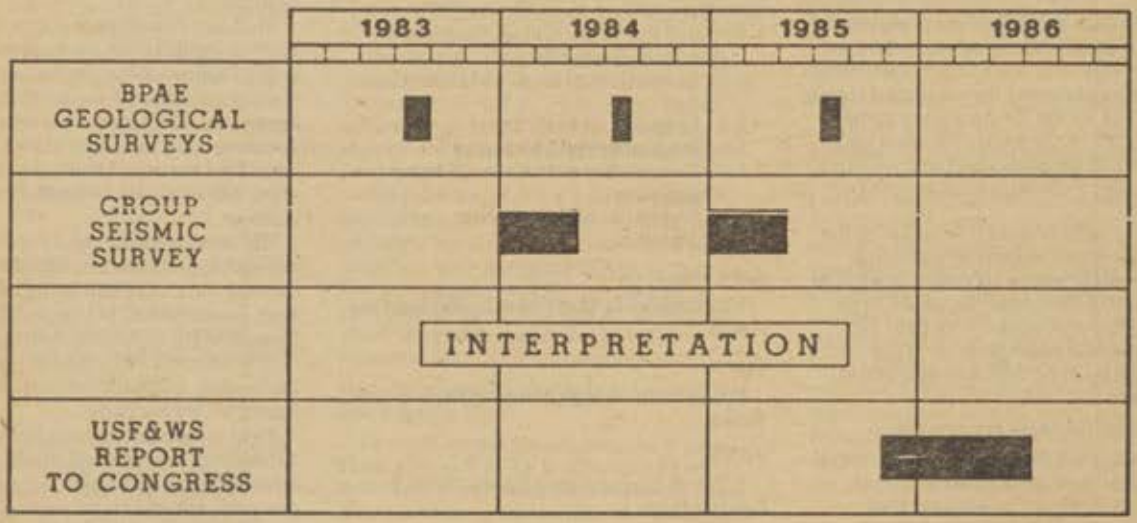
BP Alaska Exploration Inc.'s proposed exploration activities on the ANWR Coastal Plain are described below and summarized on Table 1.

Summer 1983: Joint BPAE/Sohio Geoglogical Field Survey. Will be conducted by eleven geologists, transported from Base Camp at Kavik Airstrip to field areas by two Bell Long Ranger helicopters. Areas for geological field investigation are identified on Figure 1 and Attachment 1. Field work will consist of observations and interpretations, and collection of rock samples, for later laboratory analysis. This survey is fully described in a detailed exploration plan in Section 3.

This joint BPAE/Sohio survey will obtain geological data essential for the evaluation of the hydrocarbon potential of the Coastal Plain, whilst preventing duplication of effort by BPAE and Sohio. The survey will have minimal environmental impact on the area.

Table 1

TIMETABLE FOR BPAE PROPOSED EXPLORATION ACTIVITY, ANWR COASTAL PLAIN



■ for description of activities see text section 2

Winter 1983–84: Seismic Group Shoot. BPAE intend to participate with Sohio and several other oil companies in a group reconnaissance seismic survey which we hope will commence in January 1984. The details of this survey are the subject of a separate Exploration Plan which has been submitted by the operator of the survey on behalf of the group.

A reconnaissance seismic program of 1000–1500 miles has been designed by the group such that the resulting data will demonstrate regional subsurface geologic structure and stratigraphy throughout the Coastal Plain. Existing aeromagnetic, gravity and surface geologic data was used to ensure optimum orientation and line spacing (6 miles x 4 miles) of this program.

Winter seismic work will reduce the impact to the environment to an absolute minimum. We know that several seismic contractors have sufficient past experience working on the North Slope to carry out the work in a satisifactory manner. The formation of a single group seismic survey in which all interested oil companies may participate will eliminate any unnecessary duplication of effort and minimize the impact to the environment. We would prefer an oil company operated group survey.

The reconnaissance seismic data in conjunction with the results of the 1983 BPAE/Sohio geologic survey and other supporting data, will allow a preliminary regional evaluation of the hydrocarbon prospects of the Coastal Plain, and plans for further work to be refined.

Summer 1984. BPAE Geological Survey. The objectives of this survey are two-fold:

(i) To obtain data from areas which could not be visited during the 1983 survey (due to bad weather, permit restrictions or unexpected movements of wildlife).

(ii) To obtain additional data to follow up the 1983 survey, especially any problems or ambiguities identified by the first year's geologic and seismic work.

Whilst it is not possible at this stage to provide a detailed plan for this survey, we envisage that it will consist of a smaller number of geologists, probably supported by logistics similar to those described for the 1983 survey in section 3. As required by the exploration regulations, we will submit a detailed Plan of Operations for this survey no later than 30 days before commencement. At that time our analysis of 1983 data will have revealed the scope of additional work required.

Winter 1984/85: Proposed Seismic Group Shoot. It is likely that the acquistion of further seismic data will be required in 1984/85, probably to detail structural leads identified from the first year's work. This detailing survey is described in the separate Exploration Plan submitted by the operator on behalf of the seismic group.

It is possible that it may be necessary to change line orientation and data acquisition parameters depending on the results of the interpretation of the reconnaissance data.

Summer 1985: BPAE Geological Survey. Further geological data acquisition will be dependent on results of the previous surveys, and of the seismic interpretation. Full details cannot be projected at this stage, but the survey will probably be of small extent, with similar logistical support to that described in section 3. An operations plan describing the details of the survey will be submitted no later than 30 days prior to commencement of any survey.

Summer Seismic. Although we consider it unlikely that summer seismic will be environmentally acceptable, or indeed necessary, we would probably wish to participate in any group survey that was permitted.

Interpretation. Geological, aeromagnetic, gravity and seismic data will be interpreted and integrated as they become available, allowing continual refinement of exploration activities. Raw and interpreted data will be submitted to the Regional Director, U.S. Fish and Wildlife Service as required by, and under the conditions of, §§ 37.4(b), 37.22(d), 37.53 and 37.54 of the Exploration Regulations.

Statement of Compliance (37.21(d)(13)). If authorized by approval of this Exploration Plan and by issuance of a Special Use Permit to conduct, and participate in the above described exploration activities, BP Alaska Exploration Inc. agrees to comply with the conditions of the Exploration Regulations (50 (FR Part 37)), the contents of this Exploration Plan, the plans of operation, the Special Use Permit(s) and with all reasonable stipulations and orders as may be issued by the Regional Director.

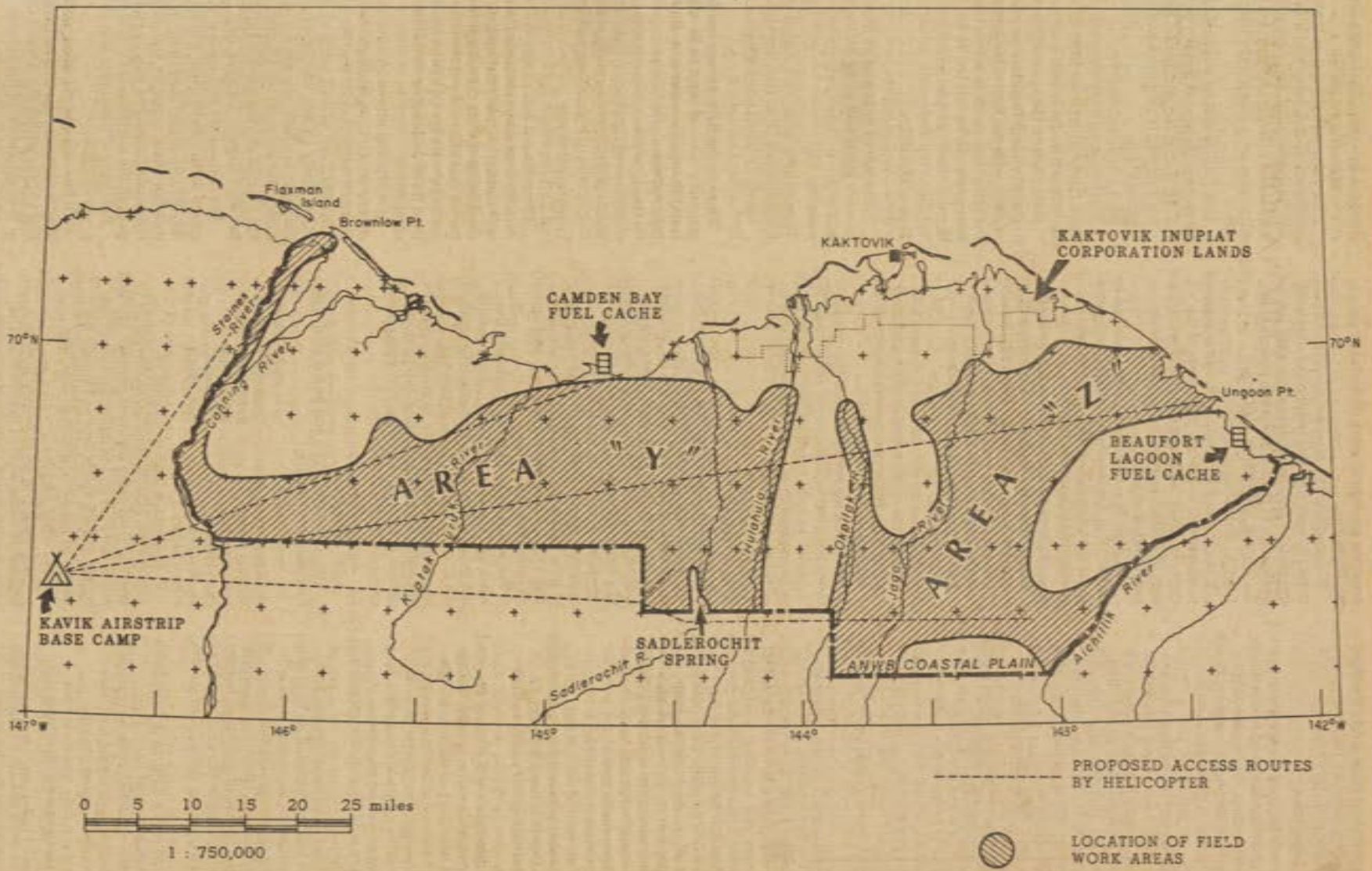
T. D. Adams,

Vice President Exploration, BP Alaska Exploration Inc., San Francisco.

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Fig. 1

GENERAL FIELD AREAS, BPAE/SOHIO JOINT GEOLOGICAL FIELD SURVEY, ANWR COASTAL PLAIN, SUMMER 1983



BILLING CODE 4310-55-C

3. Detailed Exploration Plan, BPAE/SOHIO Geological Survey, Summer 1983, for Expedited Review and Approval

Participating Companies

This survey will be conducted jointly by: BP Alaska Exploration Inc., 1 Maritime Plaza, Suite 500, San Francisco, California 94111, and Sohio Alaska Petroleum Company, Pouch 6-612, 3111 C Street, Anchorage, Alaska 99502.

BPAE and Sohio are submitting separate exploration plans for the period July 1, 1983 to May 31, 1988, describing each company's planned ANWR Coastal Plain exploration activities. However, this detailed exploration plan for the joint BPAE/Sohio geological survey in Summer 1983 is included as a sub-part of these documents.

3.1 *Description of Proposed Survey*

3.1.1 *Survey Areas*

Figure 1 illustrates the general areas on the Coastal Plain proposed geological investigations. The areas are briefly described below in terms of the major geographic features which they encompass.

Area Y Hula Hula River westward to Canning River

Area Z Okpilak River eastward to Ungoon Point.

These are both priority areas crucial for evaluation of the hydrocarbon potential of the ANWR Coastal Plain. They include areas of major rock exposure where stratigraphic, geochemical, reservoir and structural studies will be conducted. Also included are the sites of reported oil seeps. Additional aerial reconnaissance will be made over portions of areas Y and Z where aerial photographs suggest some limited rock exposure may occur. If the reconnaisance confirms outcrop of strata then a short visit will be made to describe and sample the rocks.

3.1.2 *Description of Field Work*

The field work will be carried out by eleven BPAE/Sohio geologists, transported to field areas by two Bell Long Ranger helicopters. Staff are listed under section 3.2.1. below.

In the field, geologists will work in two and three-man teams. This will allow maximum efficiency and flexibility of data collection and the best chance of achieving survey objectives within the constraints of permit restrictions, weather, personnel, safety, and within restrictions for the maximum protection of the wildlife and environment of the Coastal Plain.

Geological field data, observations and interpretations will be recorded on field maps and in field notebooks. Structural data will measured using compass/clinometers. Samples for subsequent laboratory analysis will be collected by use of geological hammer and cold chisel. Stratigraphic thicknesses will be determined using tape measure or Jacob's staff.

The objectives of the field work have been determined from review of the reconnaissance data we already have from previous field surveys. Specific problems have been identified, concerning the stratigraphy, source rock and reservoir potential of strata exposed on the coastal plain.

In accordance with 50 CFR 37.21(d)(6), the above objectives do not duplicate any previous geological work undertaken by BPAE/Sohio.

We consider the program described above to be the only practical method of obtaining the surface geological data necessary for the evaluation of the hydrocarbon potential of the ANWR. (50 CFR 37.21[d][5]).

3.1.3 *Schedule of Activity*

The complete Geological survey is planned to commence mid-June, 1983, west of the Canning River, with work in the mountainous part of ANWR east of the Canning River permitted after July 1st.

The draft Special Areas maps provided by USF&WS at the Pre-Application Conference show that Areas Y-Z will be open for geologic field work as follows:

Area Y: Area around Sadlerochit Spring and Creek closed completely. Northern and eastern areas open after July 15th. Small area in extreme east closed from August 20th. Small area in northwest only open from August 1st. Remaining areas unrestricted.

Area Z: Between July 15th and August 20th (except for small areas in north and east along Jago River and near Humphrey Point, only open August 1st-20th).

The following are estimated approximate times required to achieve our objectives. This is quoted in total calendar days and includes an allowance for possible downtime due to inclement weather:

Area Y: 19 days
Area A: 7 days

The above described time requirements and restrictions, coupled with the deteriorating weather expected by late July and the early part of August, makes is difficult to propose a more detailed schedule. We request that we be given flexibility to arrange the schedule to reflect these constraints, and that we are allowed access to both areas Y and Z by, if possible, July 15th (end of caribou restrictions), and certaily no later than July 20th.

We will then be able to coordinate the work and the logistical arrangements with the schedule for areas immediately south of the Coastal Plain. This will prevent unnecessary disturbance to wildlife and the environment by eliminating duplication of access to immediately adjacent areas inside and outside the Coastal Plain.

3.2 *Logistics*

3.2.1 *Personnel*

The following BPAE and Sohio staff will form the survey party:

Steven Edrich	*Paul Weimer*
(Joint Party Leader)	(Joint Party Leader)
William Senior	Keith James
Peter Rattey	Steven Wild
Colin Percival	Ed Duncan
Joe Brannan	John Melvin
Steven Rogers	

In addition, a limited number of Exploration Management personnel wish to visit the field party for short periods. We will notify the Fish and Wildlife Service of the timing of such visits, and will supply the names of the participants at that time.

3.2.2 *Base Camp*

Base camp will be at Kavik Airstrip, located 15 miles west of the ANWR. The camp facility will be provided by: Production Services Inc. (PSI), 4113 Ingra Street, Anchorage, Alaska 99503.

This camp will consist of tented accommodations, mess and office facilities. It will have electrical, fuel and water supplied and waste filtering and incineration facilities. All necessary permits have been obtained by PSI.

This facility will be a joint camp to be used by companies operating field parties in ANWR during the summer of 1983.

No camping is proposed within the ANWR Coastal Plain.

3.2.3 *Communications*

The following equipment will be available:

Base Camp: Telephone link.
Helicopter: Radio link to base camp.
Field Parties: Hand-held FM radios.

USF&WS will therefore be able to stay in contact with the BPAE/Sohio party through the telephone patch to Kavik base camp. Messages can be relayed to field parties through the helicopter's radio system. Full details of the above will be included in the Plan of Operations.

3.2.4 *Transportation*

Transport of field parties from base camp to work areas will be by helicopter. All staff will return to base camp by helicopter each evening.

Type of helicopter: Bell 206L (Long Ranger)
Identification Nos.: (contract tenders currently being processed)
Helicopter Contractor:

Once in the field, survey parties will generally move around on foot. Visits to isolated, small exposures will be made by helicopter and the field party will fly on to further localities after completing the limited objectives at these sites. Approximate access routes to field areas are shown on Figure 1. Full details of helicopters will be given in the Plan of operations.

3.2.5 *Fuel Supplies*

The principal fuel supply will be at Kavik Airstrip base camp, outside the ANWR, and will consist of bulk steel tanks and dispensing equipment with surrounding berms and absorbent materials in case of spills. Permits for this have been obtained from State authorities by the fuel supply company.

BPAE/Sohio propose to use both of the fuel caches which have been allowed as part of BPAE/Sohio's Special Use Permit from the USF&WLS for ANWR south of the Coastal Plain. These caches are for refuelling purposes to allow safe access to, and return from, field areas on the Coastal Plain. They are located at: Abandoned DEWline Sites—Beaufort Lagoon; Camden Bay.

The fuel caches will consist of up to six 55-gallon drums. Each drum will be stored upright and properly sealed and labelled with owner's name, contents and date of filling. Locations for caches will be on the gravel pads of the abandoned DEWline sites.

Refueling of helicopter will be by hand pump and hose.

All fuel, barrels, refueling equipment and absorbent materials will be removed from the fuel caches within the ANWR Coastal Plain at the completion of the survey.

3.2.6 *Field Equipment*

Geological field equipment to be used by the survey will include the following:

—Geological hammers, cold chisels, compass clinometers, Tape measures, Jacob staffs.
—Field notebooks, maps, aerial photographs.

3.2.7 *Sofety of Personnel*

The field survey will be carried out with full regard for the safety and health of personnel. Both Sohio and BPAE have established standard procedures for staff safety. Statements have been published describing general policy for the protection and safeguarding of health, safety, and the environment. All staff are required, as a matter of course, to be familiar with these procedures and policies.

The operation of the survey will follow the standard procedures as they specifically apply to operations within ANWR. These are briefly described in items (i) and (ii) below:

(i) *Helicopter Operations.* A technical/safety audit will be conducted prior to award of contract. The contractor chosen must satisfy auditors that they have strict standard safety procedures governing maintenance, operations, refueling and fuel quality control. Their pilot must have proven Arctic and mountain experience and training.

A hilicopter emergency location beacon must be provided. Fuel supplies will be stored at a safe distance from all accommodation units. A qualified mechanic will be based at Kavik Camp to carrry out all routine maintenance required to keep the helicopter in proper operating condition. Survey staff have attended contractor's helicopter safety briefing.

The helicopter will be equipped with all necessary equipment and maps to allow safe navigation in this remote area. Standard procedures will be put into action in the event of personal injury, weather close-in or helicopter failure.

(ii) *Field Work Operations.* Field survey personnel have training in basic survival and First Aid procedures. Personal clothing and equipment will be of the standard required for the climate, geography and remoteness of the area. Field teams will each have a 12-gauge pump action shotgun for protection of human life in the unlikely occurrence of attack by wild animals. Staff will have firearms training prior to departure for field area. Proper emergency equipment will be available and each field team will have an emergency survival pack in the field. Helicopter and field teams will have detailed maps. Each day, location of field team work areas will be available at base camp from Sohio/BPAE representative. Communications equipment will allow immediate notification of any emergency situations to authorities.

3.3 *Environmental Protection*

The proposed field survey will be conducted in a manner which will minimize impact on wildlife and the environment. All Sohio/BPAE survey members will be familiar with the contents of the Fish and Wildlife Baseline Study, the Final Environmental Impact Study (FEIS) and the Exploration Regulations (50 CFR Part 37) for the ANWR Coastal Plain. Staff will, in particular, be fully briefed on the requirements of §§ 37.31 and 37.32. All the above documents have been read by staff. Copies will be available at base camp, together with this exploration plan, the plan of operations, the Special Use Permit and attached stipulations and guidelines. All personnel will be required to attend the environmental briefing to be given by the Regional Director. Such a briefing will be scheduled prior to commencement of the field work in ANWR. All staff have viewed training films on the biological and physical environment of Arctic Alaska, the Culture of the area and survival.

The FEIS anticipates that a geological survey will have no impact, or only minor impact on the environment and wildlife. Personnel involved will, through the above training, be able to take all necessary measures to safeguard and protect the wildlife and environment and ensure that the anticipated minor impact to the ANWR is minimized. This familiarization will also ensure that survey staff know how to react to chance encounters with wildlife in the field.

The following specific measures will be implemented at all times:

3.3.1 *To Prevent Disturbance to Wildlife*

Known wildlife restricted areas have been identified to BPAE/Sohio by the USF&WS. The proposed field work will be conducted on such areas outside restricted periods. Section 3.1.3 has identified the restrictions relevant to the survey and the schedule is arranged around these.

Periodic contact will be maintained with the USF&WS field station at Kaktovik to discuss progress of work in relation to the movement of wildlife within the survey area. Our itinerary will be flexible to accommodate wildlife movements, and avoid these, both while working and while in transit by helicopter.

Particular care will be taken to minimize the disturbance to wildlife by helicopters: At all feasible times flights will be made at least 1500' above ground level, following the most direct route that is safe, practical and enironmentally permissible. It is recognized that it may be impractical to attain this altitude for flights over very short distances, during inclement weather, or for safety purposes. Additionally, limited aerial reconnaissance may be required to identify and minimize landing sites.

While working on foot in the field all party members will take special care to minimize the disturbance when any wildlife are encountered.

Under no circumstances will hunting, fishing, trapping or feeding of wildlife take place. Firearms will be carried and will only be used in exceptional circumstances to protect human life.

Finally, if at any time Peregine Falcon eyries are identified, then no approach will be made within one mile on ground and below 1500' altitude in the helicopter.

3.3.2 *To Prevent Disturbance to the Environment*

Geological field work, sample collection and the general conduct of field activities will be carriedout in a careful manner. Helicopter landing sites will be carefully chosen to avoid wet areas and vegetation wherever possible. All equipment and litter taken into the area will be removed from the ANWR.

Cultural resource sites will not be entered. Any sites encountered which are not already on the Cultural Resource Map provided by FWS will be reported. Geodetic markers will not be disturbed or damaged.

No exploration activity will be conducted within one-half mile of Sadlerochit Spring, or within one-quarter mile either side of the Sadlerochit Spring Creek for a distance of five miles downstream from the spring.

Any other reasonable preventative measures, as notified to us by the USF&WS, will be taken by the field party.

3.3.3 *Hazardous Substance Contingency Plan*

The only hazardous substance to be used in the operation of this field survey within ANWR is aviation fuel, stored at approved fuel caches (section 3.2.5) for refuling of helicopters to allow safe access to and from the more distant field areas.

Offloading, storage and transfer of fuel will be carried out with all care and attention to prevent spillage, in accordance with the requirements of 50 CFR 37.31(1)(e).(3) and (5). Personnel will conform with fuel handling safety standards, and equipment will be maintained to minimize fuel leakage.

Absorbant materials will be available on site to allow immediate and effective clean-up in the unlikely event of an accidental spill occurring. If used, such materials will be backhauled from ANWR for proper disposal. Any fuel spill will be reported to the Regional Director as required by section 50 CFR 37.31(e).

3.3.4 *Monitoring of Potential Impacts*

All field party personnel will be aware of potential impacts and will take all reasonable steps to minimize these.

BPAE/Sohio will welcome visits by a USF&WS field monitor to observe our survey. We will have accommodation available at the base camp for this person, and will transport him/her to and from field areas in our helicopter.

3.4 *Consistency with Other Existing Regulations*

(1) *The Coastal Zone Manogement Act (1972) Section 307C)3)(a).* The proposed activity complies with Alaska's approved coastal management program and will be conducted in a manner consistent with such program.

(2) *Alaska Water Certifications, Section 401 of Federal Clean Water Act* and *Alaska Department of Fish and Game, Alaska Statutes Title 16.* The proposed activity is consisternt with the above regulations.

3.5 *Statement of Compliance*

If authorized by issuance of a Special Use, Permit to conduct the above described exploratory activities on the ANWR Coastal Plain, BP Alaska Exploration Inc. and Sohio Alaska Petroleum Company agree to comply with the conditions of the Exploration Regulations (50 CFR Part37), the contents of this exploration plan, the plan of operations, the Special Use Permit and with all stipulations and orders as may be issued by the Regional Director.

4. Conclusion

This exploration plan describes how BPAE intends to conduct an integrated exploration of the ANWR Coastal Plain. Data relevant to specific geologic problems we have identified will be obtained in a joint BPAE/Sohio

geological survey which will have only minimal impact on the area. Seismic data will be acquired by participation in group surveys to minimize the impact on the area.

T. D. Adams,

Vice President Exploration for BP Alaska Exploration Inc.

CONOCO INC. PLAN FOR SURFACE GEOLOGICAL EXPLORATION

Exploration Plan for the Arctic National Wildlife Refuge

By Conoco Inc. (a requirement of Title X of the Alaska National Interest Lands Conservation Act)

Plan Summary

Conoco Inc. proposes a two year exploration plan for geologic evaluation of the petroleum resource potential of the Arctic National Wildlife Refuge (ANWR). This plan calls for one geological field crew per year to work six weeks each summer for two years, beginning with the summer of 1984 and ending with the summer of 1985. Initially, Conoco would conduct a reconnaissance survey of the geology of the coastal plain of ANWR, followed by detailed geological work in areas of interest. The purpose of doing surface geology work is to develop framework geology for ANWR.

Conoco's Arctic experience began in 1959 and includes numerous summers of geological field parties on the North Slope and in southern Alaska. In 1969, 1970, and 1971 Conoco conducted limited surface geological studies in the Sadlerochit-Shublik Mountains in ANWR. The most recent geological field party was in 1981 in the Southern Foothills in NPR-A.

Permittee, Designees and Participants

This section covers the name and address, and the legal structure of the applicant/permittee; the designation of persons primarily responsible for the execution and implementation of the exploration plan, and how to contact them; and the designation of the persons planning to participate in the proposed field party at the time the plan is submitted.

Conoco Inc. is a wholly-owned subsidiary of E. I. du Pont de nemours and Company, and is a registered Delaware corporation.

The Offshore East and West Coasts and Alaska Division of Conoco Inc. will conduct and plan its own geological field party. The addresses for the Offshore East and West Coasts and Alaska Division are:

Conoco Inc., P.O. Box 218850, Houston, Texas 77218.

Conoco Inc., 2525 C Street, Suite 100 Anchorage, Alaska 99503.

The manager of the Offshore East and West Coasts and Alaska Division of Conoco is Don E. Trapnell. The Assistant Division Manager, Projects is George C. Soronen. Both of these people may be contacted at the above Houston address. Don E. Trapnell is the person that will be primarily responsible for managing Conoco's authorized activities in ANWR. George C. Soronen will be his alternate, should he not be available. Don E. Trapnell's office number is 713-492-8151, and his home number is 713-496-1890. George C. Soronen's office number is the same as Don E. Trapnell's, and his home number is 713-781-1383.

The designation of the people doing the field work will be made 30 days prior to going into the field in the plan of operation.

Technical and Financial Ability of Conoco

Even though Conoco has not sent a geology field party up to Alaska every summer, Conoco is very aware of the working conditions in the arctic and subarctic environment through its drilling operations at Milne Point. Conoco has conducted field parties in Alaska since 1959. In 1971, Conoco was issued Special Use Permits AR 69-6, AR 70-2 and AR 71-3 by the U.S. Fish and Wildlife Service for doing field work in ANWR. Conoco was in full compliance with the permit regulations as evidenced by a letter sent in 1972 by USFWS to Conoco. In 1981, Conoco was issued Special Use Permits by the Bureau of Land Management and the Arctic Slope Regional Corporation for doing field work in the NPR-A. As evidence of Conoco being in full compliance with the requirements of these permits, no complaints were registered against Conoco by the permitting agencies.

The financial ability of Conoco to conduct surface geology studies on the North Slope of Alaska is demonstrated by the following du Pont 1982 consolidated balance sheet values:

CONSOLIDATED BALANCE SHEET VALUES FOR DECEMBER 31, 1982, EI DU PONT DE NEMOURS AND COMPANY

[Dollars in millions]

Assets	
Current assets	$9,269
Plant and equipment	14,004
Investment in affiliates	362
Other assets	708
Total assets	24,343
Liabilities	
Current liabilities	4,794
Other liabilities	19,549
Total liabilities	24,343

Location for Surface Geology Study

A map at a scale of 1:250,000 shows the proposed study area, and locations for fuel caches and support facilities. No travel routes are plotted, because Concoco will be using helicopters exclusively for traveling to, from, and within ANWR.

The study area encompasses the entire Arctic Coastal Plain of ANWR. Our base field camp (main support facility) will be the Kavik airstrip, just west of the western boundary of ANWR, consequently the camp will be under the jurisdication of the State of Alaska and not USFWS. A portable or temporary field camp and fuel cache have been designated on the map, inside the boundaries of ANWR. The temporary field camp will only be occupied if the field party finds it necessary to camp at an intermediate location in order to reach the extreme eastern areas of ANWR near the Canadian border. The temporary field camp will be equivalent to a backpacker's camp, cooking with portable stoves and sleeping in lightweight tents. Semi-permanent structures will not be constructed. Conoco does not anticipate more than a couple of nights at the temporary campsite.

Conoco's exploration plan calls for two (2) summer reasons, each six (6) weeks long, collecting geological data. The first season would be a reconnaissance study, while the last season would be detailed geologic studies in areas of interest. All field studies would involve sampling, measuring sections, collecting structural data and attitudes, describing rocks, lithologies, environments of deposition, and bedforms.

Each season will follow a similar sequence of events. The field party would arrive at base field camp (Kavik airstrip) on July 1 and would collect data until August 11 (six weeks or forty-two days), contingent upon the USFWS special use permit stipulations. Samples would be shipped from Kavik airstrip about every week, depending on when the base field camp is resupplied.

Communication Techniques

A geology field party does not require an elaborate radio network. Conoco plans to subcontract their radio equipment and call numbers for the base camp from a company in Anchorage or Fairbanks. The radio will be used mainly for emergencies. Specific details about the radio and its operation will be in the plan of operation.

Most of the communication between the field party and Conoco's management in Houston will be in the form of written daily summaries. These summaries will be mailed to George C. Soronen in Houston depending on the schedule of supply planes landing Kavik airstrip.

Equipment, Personnel and Facilities

The only major piece of equipment that will be used by Conoco's geological field party is a helicopter for transportation into the field.

The field party will consist of seven (7) people. They will be: 1 camp cook, 1 helicopter pilot, 1 helicopter mechanic, and 4 geologists.

The base camp for the field party will be at Kavik airstrip outside of ANWR.

Hazardous Substances Control and Contingency Plan

Jet fuel for refueling the helicopter will be the only hazardous substance used by the Conoco field party in ANWR. The helicopter will be mainly refueled outside of ANWR. However, when refueling is necessary inside ANWR, drip buckets will be used to prevent fuel spills. If a fuel spill does occur, the field crew will use absorbent material to wipe up the spill.

All garbage generated inside ANWR will be properly disposed of outside of ANWR.

Environmental Impacts

Geological field work has very little impact on the environment. One kind of impact a field party could have on the environment is litter. A no littering law will be strictly enforced. A second kind of impact involves the helicopter disturbing herds of animals. All helicopter flying will only be for the specific purpose of traveling to or from an outcrop, and not to disturb the wildlife.

Compliance With Regulations and Data Quality

Conoco will comply with all regulations for exploration in ANWR associated with the special use permit. Conoco will follow its exploration plan and all stipulations and orders issued by the Regional Director of Region 7, U.S. Fish and Wildlife Service.

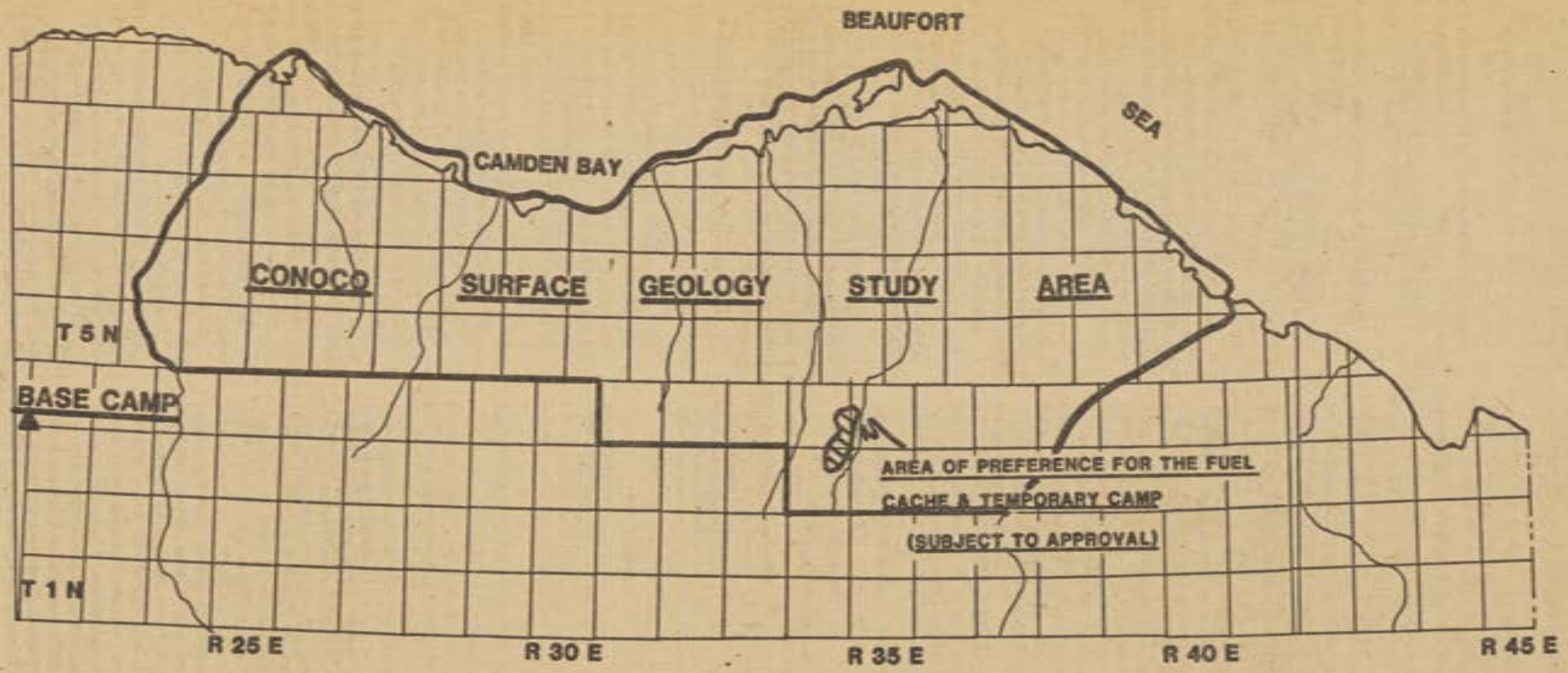
The proposed program complies with Alaska's approved Coastal Management Program, and will be conducted in a manner consistent with such program.

It is our belief that geological field parties do not require any formalized check on data quality.

Don E. Trapnell,

Manager, Offshore East and West Coasts and Alaska Division.

BILLING CODE 4310-55-M



CONOCO
ANWR GEOLOGICAL STUDY
MAY 20,1983

BILLING CODE 4310-55-C

EXXON COMPANY, U.S.A. PLAN FOR SURFACE GEOLOGICAL EXPLORATION

Exploration Plan To Conduct Surface Geological Exploration In The Coastal Plain of the Arctic National Wildlife Refuge

Submitted by: Exxon Company, U.S.A. (a division of Exxon Corporation).
Date: May 20, 1983.

Introduction

Exxon Company, U.S.A., a division of Exxon Corporation (Exxon), proposes to conduct surface geological field work in the coastal plain of the Arctic National Wildlife Refuge (ANWR) during a two and one-half week period this summer, weather, wildlife concentrations and the absence of cultural resources permitting utilization of proposed landing sites and travel routes. This exploration plan describes Exxon's proposed exploration activities and sets forth in general terms, in the format outlined in 50 CFR 37.21(d)(1)-(15), such information as is required by 50 CFR Part 37 and by the Regional Director in determining whether this exploration plan is consistent with the Alaska National Interest Lands Conservation Act (ANILCA), and the regulations promulgated pursuant thereto. A written request for an expedited review and approval of the entirety of this exploration plan has been submitted to the Regional Director, U.S. Fish and Wildlife Service, pursuant to the provisions of 50 CFR 37.21(c)

Applicant and Responsible Officials

The activities proposed herein will be conducted by the Alaska/Pacific Division of Exxon Company, U.S.A., a division of Exxon Corporation, incorporated under the laws of the State of New Jersey. The applicant's official mailing address is: Exxon Company, U.S.A., Alaska/Pacific Division, P.O. Box 4279, Houston, Texas 77001.

Officials responsible for planning and conducting the surface geological field work proposed herein are: Hugh P. Bushnell, *Position:* Geological Manager, Alaska/Pacific Division. *Responsibilities:* Directs work by all Alaska/Pacific Division Geologists. Approves all Alaska/Pacific Division geological investigations. *Phone:* Office (713) 591-5291 Home (713) 893-1605.

Gene A. Aydinian, *Position:* North Alaska Project Manager, Alaska/Pacific Division. *Responsibilities:* Plans and approves work to be conducted by the North Alaska Project. *Phone:* Office (713) 591-5129.

Howard S. Sonneman, *Position:* North Alaska Project Senior Exploration Geologist and Field Party Lead Geologist, Alaska/Pacific Division. *Responsibilities:* Will supervise the geologists in the field each day and will direct both the technical work in the field and the folow-up work. *Phone:* Office (713) 591-5234 Home: (713) 358-6302.

Exploration Plan Participants

The Alaska/Pacific Division of Exxon requests approval to conduct the proposed activities at its sole expense. Exxon's geological field work, which is an integral part of the oil and gas exploration activities of the Alaska/Pacific Division, has always been conducted by the same geologists and geophysicists who are actually involved in making subsurface geologic interpretations. Exxon considers it essential that the explorationists who are making the geologic evaluation of the Artic National Wildlife Refuge and Eastern Beaufort Sea be able to see and interpret the surface geology on a first-hand basis. Therefore, Exxon would prefer to undertake this exploration utilizing a crew of three Exxon geologists, even if this would result in a reduction of the period of time allotted for Exxon's field work, rather than be requested to conducted surface geological exploration jointly with other industry geologists.

Evidence of Exxon's Technical and Financial Ability

Technical Ability: Exxon is a major participant in all phases of North Slope oil exploration and production activities, and as such has demonstrated the technical capability to explore for, find, and produce oil in the Artic in a safe, lawful, and environmentally-sound manner.

Financial Ability: Exxon Corporation is the world's largest integrated oil company, with assets of $62,289 million and net worth of $28,440 million at year-end 1982. Net income totaled $4,186 million in 1982 on revenues of $103,558 million. An income statement and balance sheet for 1982 have been included in Attachment "A".

Exxon Corporation's long-term debt is rated Triple A by both Moody's and Standard & Poor's. This is the highest rating given by these rating agencies and only 17 industrial companies are currently rated Triple A by both agencies. Exxon Credit Corporation's commercial paper also carries the highest credit rating from both agencies. Prime 1/A1.

Copies of Exxon Corporation's 1982 Annual Report and 10K filing for 1982 will be furnished upon request.

Evidence of Compliance with Exploration Permits: For more than 25 years, Exxon has conducted geologic field work annually in Alaska and has an impeccable record of complying with all exploration permits. Many of these field seasons have included work on the North Slope. We have worked with permits from numerous state and federal agencies.

Permits which have been obtained and complied with by Exxon for geologic field work in Alaska over the past four years include:

Year	Agency	Area	Permit No.
1982	U.S. Department of the Interior, National Park Service.	Noatak National Preserve	9860-2-0004.
1982	do	Denali National Park	9830-2-0002.
1982	U.S. Department of the Interior, Bureau of Land Management.	National Petroleum Reserve in Alaska.	Letter from M. Thomas Dean, 2920 (290).
1981	do	do	Letter from W. L. Clithero, 2361 (290) AK-029-SS1-013.
1981	U.S. Department of the Interior, U.S. Fish and Wildlife Service.	Kodiak National Wildlife Refuge.	KD81-0038.
1981	U.S. Department of the Interior, Bureau of Land Management.	Alaska Peninsula, Afognak Island, Kodiak Island.	Letter AK-016-1067 3045 (016)
1981	U.S. Department of the Interior, U.S. Fish and Wildlife Service.	Arctic National Wildlife Refuge.	81-30
1979	do	do	79-03

Map of Proposed Exploratory Activities

Two maps, which depict the approximate helicopter landing sites and travel routes proposed for this surface geological field work, are included herein. The 8½ × 11 inch version, which is designated Attachment "B", is submitted pursuant to a request by the U.S. Fish and Wildlife Service. A 1:250,000 scale map is also included in this exploration plan in Attachment "C", pursuant to the requirement contained in 50 CFR 37.21(d)(4). While these maps indicate Exxon's preferred landing sites and travel routes, these will be altered if, and when, whether or the presence of wildlife concentrations or cultural resources so dictate. None of the proposed landing sites are located in such proximity to any cultural resources identified on the Cultural Resource Map, Coastal Plain Area, Arctic National Wildlife Refuge distributed by the U.S. Fish and Wildlife Service so as to result in any adverse effects thereon. While enroute to proposed landing sites, the helicopter shall maintain an altitude of at least 1,500 feet above ground whenever practicable. No support facilities or fuel caches shall be located in the ANWR.

Description of Proposed Exploratory Activities.

The proposed geological exploration will commence with the preparation of a geologic surface map of the area. Surface geologic mapping includes the construction of a map showing the location and configuration of the major geologic units and recording the structural attitudes of these units. This mapping is accomplished by flying to and landing at each exposed bedrock outcrop, which can be accurately located from previous work and by aerial reconnaissance. It is anticipated that surface geologic mapping of the area from the Canning River to the Hulahula River can be accomplished during the first week of the field work, and that the area from the Hulahula River to the Achilik River will be mapped during the second week.

Once these two areas are mapped, the best preserved and most geologically informative outcrops will be carefully studied and a detailed description of their depositional environments prepared. This process will include the study of sandstones to interpret their depositional setting, which in turn can

be used to interpret and predict their continuity, three dimensional shape, and general reservoir characteristics.

At key outcrops, hand samples will be taken of potential source rocks to analyze for TOC, organic type and maturity. Hand samples will also be taken of potential reservoir rocks for porosity, permeability, and petrographic analyses. The hand samples will be taken by breaking off a fist-sized piece of rock with a geologic pick, and placing the rock sample into a labeled sample bag. Any oil seeps encountered will also be sampled by breaking off an oil-stained sample of rock and sealing it in a geochemical can of the type used to store canned cutting samples at a wellsite. These samples will be returned to Houston for analysis by Exxon Production Research Company, which operates the largest and best facility of its kind in the world for doing these types of analyses. The geologists and geophysicists who interpret the surface geology of the ANWR coastal plain on a first-hand basis will then take the interpretations and test results performed at Exxon Production Research Company, and incorporate them with the subsurface interpretation to arrive at the best possible analysis of the oil and gas resource potential of the ANWR coastal plain.

During the geological field work, travel to and from the outcrop exposures proposed to be studied will be by a helicopter flying, to the extent practicable, on the proposed travel routes at an elevation of at least 1,500 feet. Upon arrival at each designated study site, the helicopter, equipped with skids, will land on as near a vertical path as practicable unless weather or the presence of wildlife concentrations or cultural resources prohibit this, in which case the helicopter will proceed to the next study site and return to the previous site, if possible, at a later time. Upon landing, it is anticipated that the field crew will remain at all times within 500 feet of the helicopter.

The field geologic crew, helicopter pilot, and helicopter mechanic will be operating from facilities located at the Exxon Alaska State G–2 well on Flaxman Island. The pilot and field crew will leave from and return to the camp at the G–2 wellsite each day. The fuel supply for the helicopter will also be at the G–2 wellsite. Because the helicopter has a range of approximately 300 miles without refueling, on most days it will not be necessary for the helicopter to make a refueling run. Should refueling be required, the helicopter will temporarily leave the geologic field crew at one of the outcrops and fly to the Alaska State G–2 well to refuel.

Additional details regarding the proposed field work will be supplied in Exxon's plan of operation.

Exploratory Methods and Techniques/ Avoiding Unnecessary Duplication

The surface geologic mapping and depositional environment interpretation described above have not previously been conducted by Exxon and thus do not represent an unnecessary duplication of effort by Exxon. The field work proposed herein will be conducted by the same geologists and geophysicists who will be interpreting the seismic and subsurface geology of the Arctic National Wildlife Refuge and Eastern Beaufort Sea, which will allow the most efficient use of personnel and result in the best possible interpretation. The sampling will be to supplement samples previously taken by the applicant.

Schedule for Exploratory Activities.

The following schedule shows the dates for the proposed activities:

Date	Field location	Purpose
7/17/83	Canning River to Hulahula River.	Surface Geologic Mapping.
7/18/83	do	Do.
7/19/83	do	Do.
7/20/83	do	Do.
7/21/83	Carter Creek	Measure, collect, and describe section.
7/22/83	Sadlerochit River	Collect and describe section.
7/23/83	Marsh Creek	Collect and describe depositional sequences.
7/24/83	Hulahula River to Canadian Border.	Surface Geologic Mapping.
7/25/83	do	Do.
7/26/83	do	Do.
7/27/83	do	Describe depositional environments.
7/28/83	Sabbath Creek	Structural Attitudes.
7/29/83	do	Describe depositional environments.
7/30/83	do	Collect hand samples.
7/31/83	Achilik River	Measure, collect and describe section.
8/01/83	Jago River	Collect oil seeps.
8/02/83	Angun River	Do.

Data obtained during this surface geological field work may indicate the desirability of conducting additional summer geological exploration, in which case a request for permission to revise an approved exploration plan will be submitted to the Regional Director pursuant to 50 CFR 37.25, or an exploration plan covering additional field work will be submitted on March 1, 1984, in accordance with the requirements of 50 CFR 37.21.

Communication Techniques

Exxon will be responsible for establishing and maintaining communication facilities for the field crew. The field crew will remain at all times within speaking distance of each other and the helicopter pilot when on the ground. Communication while in the air will be by normal aeronautical enroute to fixed ground station located at the Alaska State G–2 wellsite. In addition, the field crew will have a hand-held Company radio which will enable them to remain in constant contact with either the G–2 wellsite or the Exxon North Slope Operations Center. This radio system operates on 451.175 MHZ via Exxon's Ignek repeater site.

Equipment, Facilities and Personnel

Equipment and personnel will stay at a camp at the Exxon Alaska State G–2 wellsite on Flaxman Island. This is a currently drilling well with full support facilities. Transportation will be by a Bell Jet Ranger 206B helicopter. Field equipment will consist of one (1) geologic pick and one (1) brunton compass per geologist. The entire crew will consist of one (1) helicopter pilot and three (3) Exxon geologists.

Hazardous Substances Control

The only hazardous substance involved in this surface geological field work is fuel for the helicopter. It is very unlikely that a spill of this material would occur, as there will be no refueling of the helicopter on the coastal plain. The field crew will carry absorbent material to clean up any spills encountered and will be instructed in its use. The field crew shall not discharge any petroleum, petroleum products or toxic materials within the Refuge, nor place any fuel storage facilities within the ANWR coastal plain.

As per the requirements of 50 CFR 37.31(e), the field crew will be instructed to report all spills, leakages, fires, fatalities, or any other conditions which threaten the Refuge's resources, environment, or safety to the Regional Director immediately, and to otherwise comply with the requirements therein. Furthermore, conducting this field work in a safe and environmentally-sound manner is enhanced by the fact that Exxon will lease the helicopter from a very experienced and reliable company which has previous experience in operating on the North Slope. A trained mechanic will be stationed at the base camp and will perform regular maintainance on the helicopter.

Environmental Impacts and Mitigating Measures

It is anticipated that the surface geological field work proposed in this exploration plan will have a negligible, if any, impact on wildlife, cultural resources and the natural environment encountered in the ANWR coastal plain. This is largely due to the fact that Exxon's program requires very little surface occupation of the ANWR, in terms of both time and space. To ensure that potential impacts are avoided or minimized, the field crew will be instructed to continue utilizing the standard mitigating measures employed by geological field crews in North Slope operations, in addition to taking the following additional precautions:

(a) The proposed helicopter landing sites and travel routes will be altered or abandoned whenever a wildlife concentration or cultural resource is observed in such close proximity to the helicopter so as to bring into question the possibility of adverse impact thereon. Flight paths will be carefully chosen to avoid areas of waterfowl nesting and any other restricted areas.

(b) While on the ground, the field crew shall use extra precaution not to disturb the natural environment or to harass the wildlife during the course of the operation.

(c) The field crew shall refrain from implementing the proposed field work to the extent it would have an adverse impact on on-going ANWR surface uses.

(d) The helicopter shall be landed only in those areas where the surface is firm enough to support the aircraft.

(e) All solid waste and garbage produced during the field work shall be backhauled out the ANWR.

(f) Conducting operations in streams, rivers and lakes shall be avoided to the extent practicable, and crossings shall be accomplished in a manner that will not

impede the passage of fish or alter the natural water course.

[g] The prohibitions contained in 50 CFR 37.31 and 37.32 shall be adhered to strictly.

Monitoring and Compliance With Permit Requirements

Exxon has a history of safe, environmentally-sound geological exploration on the North Slope, and remains committed to achieving this goal. Detailed instruction of the field crew in the operational requirements imposed by 50 CFR Part 37 and the terms of the special use permit will ensure compliance with these requirements. This instruction will be provided in-house by Exxon personnel and through the Environmental Briefing which is required by 50 CFR 37.33.

Compliance with permit requirements shall be monitored by, and the primary responsibility of, the Field Party Lead Geologist. Exxon shall cooperate with any Field Monitors who are designated by the Regional Director to monitor Exxon's geological exploration activities.

Statement of Intent to Comply

Exxon Company U.S.A. hereby certifies that, if authorized to conduct the exploratory activities proposed herein, Exxon shall comply with the requirements of 50 CFR Part 37, its special use permit, its approved exploration plan, plan of operation and all reasonable stipulations, demands and orders issued by the Regional Director.

Data Quality

Data quality for the surface geological field work will be assured by having Howard Sonneman in direct charge of the field grew. Howard is an exploration geologist with 26 years experience with Exxon, including all aspects of exploration geology. Howard has completed 10 seasons of field work on the North Slope, including 3 previous seasons on various parts of the Arctic National Wildlife Refuge.

Certification Of Consistency With Alaska Coastal Management Program

Its is the opinion of Exxon Company, U.S.A. that the surface geological field work proposed herein will not affect land or water uses in Alaska's costal zone. From contacts with the office of the Governor, Division of Governmental Coordination and with the Office of Coastal Management, Exxon has learned that a decision on the applicability of Section 307 of the Coastal Zone Management Act to Surface geological exploration of the ANWR is not yet final. However, in the event the consistency determination process is found by the State of Alaska to apply to the activities proposed herein, Exxon Company, U.S.A., division of Exxon Corporation, hereby certifies that said activities comply with and will be conducted in a manner consistent with the Alaska Coastal Management Program.

ATTACHMENT "A".—CONSOLIDATED STATEMENT OF INCOME AND EARNINGS REINVESTED, EXXON CORPORATION

Revenue	1980	1981*	1982
Sales and other operating revenue, including excise taxes	$108,412,285,000	$113,220,300,000	$102,058,895,000
Earnings from equity interests and other revenue	1,778,359,000	1,702,261,000	1,499,650,000
	110,190,644,000	114,922,561,000	103,558,545,000
Costs and other deductions			
Crude oil and product purchases	60,916,379,000	64,383,105,000	56,083,520,000
Operating expenses	10,878,805,000	11,693,327,000	10,705,840,000
Selling, general and administrative expenses	5,483,257,000	5,232,793,000	5,253,148,000
Depreciation and depletion	2,350,096,000	2,898,920,000	3,333,455,000
Exploration expenses, including dry holes	1,152,588,000	1,650,214,000	1,773,318,000
Income, excise and other taxes	23,186,834,000	23,342,745,000	21,443,070,000
Interest expense	668,624,000	779,688,000	669,595,000
Income applicable to minority interests	201,991,000	115,554,000	110,667,000
	104,840,574,000	110,096,346,000	99,372,613,000
Net income	5,350,070,000	4,826,215,000	4,185,932,000
Per share	$6.15**	$5.58	$4.82
Earnings reinvested			
Balance at beginning of year	20,396,156,000	23,397,835,000	25,629,781,000
Net income	5,350,070,000	4,826,215,000	4,185,932,000
Dividends ($2.70 per share in 1980** and $3.00 in 1981 and 1982)	(2,348,391,000)	(2,594,269,000)	(2,604,456,000)
Balance at end of year	23,397,835,000	25,629,781,000	27,211,257,000

* Restated.
** Reflects May 1981 two-for-one stock split.

ANALYSIS OF CHANGE IN CUMULATIVE FOREIGN EXCHANGE TRANSLATION ADJUSTMENTS

	1980	1981	1982
Balance at beginning of year	$1,751,875,000	$1,534,582,000	$287,062,000
Adjustments for the year	(217,293,000)	(1,247,520,000)	(818,682,000)
Balance at end of year	1,534,582,000	287,062,000	531,620,000

CONSOLIDATED BALANCE SHEET EXXON CORPORATION

Assets	December 31, 1981*	December 31, 1982
Current assets		
Cash, including time deposits of $1,922,967,000 and $1,474,938,000	$2,479,367,000	$2,216,262,000
Marketable securities	1,404,154,000	1,232,478,000
Notes and accounts receivable, less estimated doubtful amounts of $145,828,000 and $161,222,000	9,664,688,000	8,366,098,000
Inventories		
Crude oil, products and merchandise	5,573,689,000	3,796,532,000
Materials and supplies	1,611,438,000	1,737,689,000
Prepaid taxes and expenses	2,508,712,000	2,441,627,000
Total current assets	23,242,248,000	19,792,686,000
Investments and advances	1,643,229,000	1,714,484,000
Property plant and equipment, at cost, less accumulated depreciation and depletion of $17,519,872,000 and $19,127,676,000 (Note 1, page 25)	35,285,519,000	38,981,529,000
Other assets, including intangibles	1,403,961,000	1,799,551,000
Total assets	61,574,957,000	62,288,550,000

CONSOLIDATED BALANCE SHEET EXXON CORPORATION—Continued

Assets	December 31, 1981*	December 31, 1982
Liabilities		
Current liabilities		
Notes and loans payable	3,032,343,000	2,747,685,000
Accounts payable and accrued liabilities	12,716,934,000	11,692,368,000
Income taxes payable	1,992,578,000	2,024,689,000
Total current liabilities	17,741,855,000	16,464,740,000
Long-term debt	5,153,444,000	4,555,580,000
Annuity reserves and accrued liabilities	2,041,182,000	2,697,771,000
Deferred income tax credits	7,490,551,000	8,676,170,000
Deferred income	178,694,000	268,170,000
Equity of minority shareholders in affiliated companies	1,226,365,000	1,185,928,000
Total liabilities	33,832,091,000	33,848,359,000
Shareholders' equity		
Capital stock (Note 13, page 31)	1,826,023,000	1,760,554,000
Earnings reinvested	25,629,781,000	27,211,257,000
Cumulative foreign exchange translation adjustments	287,062,000	(531,620,000)
Total shareholders' equity	27,742,866,000	28,440,191,000
Total liabilities and shareholders' equity	61,574,957,000	62,288,550,000

* Restated.

Attachment B. Map depicting travel routes and landing sites for surface geological field work, Exxon Company, U.S.A.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

GULF OIL CORPORATION PLAN FOR SURFACE GEOLOGICAL EXPLORATION

Arctic National Wildlife Refuge—Coastal Plain Gulf Oil Corporation Surface Geological Exploration Plan May 20, 1983

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Note.—Items 1 through 15 are references to the elements required to be contained in Exploration Plan by 50 CFR 37.11(d)(1) through (15) part of the final rules governing geological and geophysical exploration of the coastal plain of the Arctic National wildlife Refuge, as published in the **Federal Register**, April 19, 1983.

Item 1—Responsible Official

The proposed surface geological exploration described in the Exploration Plan will be conducted by Gulf Oil Corporation. The responsible official for the conduct of this operation is P. E. C. Reed, Exploration Manager Alaska, Gulf Oil Exploration and Production Company, P.O. Box 1392, Bakersfield, California 93302.

Item 2—Participants

At this time the plan submittal for the surface geological exploration is proposed for the sole participation of Gulf Oil Corporation.

Item 3—Evidence of Technical and Financial Ability

Gulf Oil Corporation is one of the largest oil companies in the world. As evidence of our financial ability, we submit the following Gulf Oil Corporation Consolidated Statement of Financial Position for 1981 and 1982.* (See Exhibit A.)

Gulf maintains a large highly qualified staff of explorationists in the Alaska Frontier Area office headquartered in Bakersfield, California. Four experienced field geologists will be chosen from this staff as the personnel for the geological field crew.

Item 4—Activity Map/Program Scope

The 1:250,000 scale topographic map portions are attached to this surace geological exploration plan. (See Exhibit B.) The map portions exhibit five proposed areas to be visited for the purpose of mapping surface geology and obtaining small samples of rock and hydro-carbon fluids for further analyses. The geological field crew will consist of four advanced degree geologists and a pilot. The geological crew will be helicopter supported and based at the Kavik airstrip. We do not plan to cache fuel within the Wildlife Range.

Item 5—Description of Exploratory Methods and Techniques

Standard techiques for geological field mapping and sampling will be utilized. Descriptive data and observations will be recorded in field notebooks and plotted on maps or air photos. Hand samples of rocks will be obtained and placed in cloth or plastic bags for later laboratory examinations. Hydrocarbon fluids collected from surface seeps will be sealed in small glass bottles for later analyses.

Item 6—Application of Techniques to Avoid Duplication of Exploratory Work

It is anticipated that each local area will be visited only once, and all necessary data will be obtained on that visit.

Item 7—Work Schedule

Gulf forecasts a maximum of five days, during the period July 20 to August 15, 1983, will be sufficient to complete the planned activities as follows:

Day	Map Location	Description
1	A	Riverbank of Jago River.
2	A	Riverbank of Jago River.
3	B	Manning Point near Barter Island.
4	C	Angun Point.
5	D, E	Area south of Camden Bay along Marsh Creek and Katakturuk River.

Item 8—Communication Techniques

The helicopter will be equipped with standard aviation radio communications equipment. The geological field crew personnel will always be within sight or walking distance of each helicopter landing site. No additional communications equipment will be required.

Item 9—Equipment, Facilities and Access

One Bell Jet Ranger 206B type helicopter or equivalent will be utilized to carry the pilot and four-man geological crew.

Item 10—Hazardous Substance Control and Contingency Plan

The only significantly quantity of hazardous substance involved in this

operation will be jet fuel in the helicopter. A Hazardous Substance Control and Contingency Plan is not applicable to this exploration plan, since no refueling will occur within the Wildlife Refuge.

Item 11—Anticipated Environmental Impacts—Mitigating Measures

(a) Wildlife and Habitat—Disturbance of wildlife will be minimal due to the short duration of the activities. When wildlife are sighted, appropriate distances will be maintained to avoid disturbance. The helicopter will adhere to all overflight restrictions.

(b) Environmental and Cultural—The geological crew will be given an environmental awareness briefing. Cultural and archaeological sites will not be disturbed.

(c) Subsistence—Possible impact on subsistence activities will be minimized by coordination with the Village of Kaktovik prior to commencement of operations.

Item 12—Monitoring of Environmental Impacts

The Gulf geological crew chief will be responsible for environmental monitoring of all activities and for compliance with all regulatory and permit requirements.

Item 13—Statement of Intent to Comply

Gulf Oil Corporation hereby certifies that if authorized to conduct exploratory activities on the coastal plain of the Arctic National Wildlife Refuge our activities shall be conducted in compliance with the requirements of 50 CFR Part 37, the Special Use Permit, approved Exploration Plan, Plan of Operation and all reasonable stipulations, demands, and orders issued by the Regional Director of the U.S. Fish and Wildlife Service.

Item 14—Quality Control

The Gulf geologic crew chief will insure that all data is accurately recorded and samples taken in conformance with accepted geological practice.

Item 15—Other Pertinent Information

Maps

Included with this Plan is an 8½ x 11 reduction of the 1:250,000 map. Original maps are available for use at the U.S. Fish and Wildlife Service, Anchorage office.

Coastal Zone Consistency

The Gulf proposed surface geological exploration activity complies with the State of Alaska's approved coastal management program and will be conducted in a manner consistent with that program.

Exhibit B. Map depicting five proposed areas to be visited for the purpose of geologic field work, Gulf Oil Corporation.

This map/figure could not be reporduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907-786-3381 or 3384).

EXHIBIT A.—GULF OIL CORPORATION—CONSOLIDATED STATEMENT OF FINANCIAL POSITION

	Millions of dollars Dec. 31	
	1982	1981
Assets		
Current assets		
Cash and cash equivalents	$534	$615
Marketable securities (at cost which approximates market)	691	769
	1,225	1,384
Receivables (less allowances)		
Customer	1,477	1,895
Other	817	743
Inventories (Note 4)	1,735	2,137
Prepaid expenses	124	131
Total current assets	5,378	6,290
Properties (less accumulated depreciation of $10,113 and $9,189 million) (Note 5)	13,876	13,013
Investments in affiliated and associated companies (Note 7)	560	498
Other assets	622	628
Total assets	20,436	20,429
Liabilities		
Current liabilities		
Accounts payable	1,900	2,438
Short-term and current portion of long-term debt (Notes 10 and 11)	624	685
Accrued United States and foreign income taxes	553	493
Consumer sales and excise taxes payable	179	207
Other current liabilities	1,733	1,956
Total current liabilities	4,989	5,779
Long-term debt (Note 11)	2,214	1,664
Deferred income taxes (Note 13)	2,258	1,742
Other long-term liabilities	316	269
Minority interests	745	791
Total liabilities	10,522	10,445
Shareholders' Equity (Note 12)		
Preferred stock—authorized 100,000,000 shares, without par value; none issued		
Common stock—authorized 300,000,000 shares, without par value; issued 211,910,826 shares stated at	883	883
Paid-in capital	726	726
Foreign currency translation adjustment	(60)	
Retained earnings	9,570	9,177
	11,093	10,786
Less 38,809,317 and 26,631,598 shares in treasury, at cost (Note 15)	1,179	802
Total shareholders' equity	9,914	9,984
Total liabilities and shareholders' equity	$20,436	$20,429

SHELL OIL COMPANY PLAN FOR SURFACE GEOLOGICAL EXPLORATION

Exploration Plan Surface Geological Exploration Coastal Plains of the Arctic National Wildlife Refuge 1983

Shell Oil Company herewith applies to the U.S. Fish and Wildlife Service for a Special Use Permit to conduct surface geological exploration on the Coastal Plain of the Arctic National Wildlife Refuge. To this end, we will address those issues and requirements as set out in the final rule as 50 CFR Part 37 in the April 19, 1983 **Federal Register**, Volume 48, No. 76 and the materials and supplements thereto provided in the April 26, 1983 Preapplication Conference conducted by USFWS.

By attached cover letter, we will request an expedited review and approval of this plan in accordance with 50 CFR 37.21(c). Specifically, our plan will address those items enumerated in 50 CFR 37.21(d) in order to aid the Director in determining our consistency with the regulations, in addition to complying with the balance of 50 CFR Part 37.

(1) *Applicant:* Shell Oil Company, 601 West 5th Avenue, Suite 810, Anchorage, Alaska 99501.

Responsible Official: Mr. R. R. Smith, Pacific Frontier District Manager, c/o above address; Mr. Dennis W. Lohse (Contact Party), Staff Landman, c/o above address.

(2) Shell Oil Company will be the sole participant under the permit.

(3) Shell Oil Company, as a major fully integrated oil and gas company, has the technical and financial ability to conduct surface exploration activities in the environment of the Arctic National Wildlife Refuge. We have been actively involved in all phases of oil and gas exploration in Alaska since the mid-1950s and have been producing oil and gas in Alaska since 1962. Our Pacific Frontier Division which is responsible for exploration in Alaska has some 61 geologists and geophysicists plus support staff and access to company-wide research, development and technology. As a result of our more recent exploration efforts, we are presently drilling a test well at Mikkelsen Bay on the North Slope.

We have conducted geological surface mapping on all manner of land in Alaska and, specifically, we have worked under SUPs issued by USFWS complying with all requirements.

For your reference, several of these permits are listed below:

SUP 78-8, ANWR, July/August 1978
SUP 81-09, ANWR, July/August 1981

For your information, the Financial Highlight excerpted from our 1982 Annual Report follows, emphasizing our strong financial base and commitment to exploratory expenditures. The full annual report, or any part, will be furnished, should you prefer.

Financial Highlights

(From 1982 Annual Report)

Shell Oil Company

	Millions of dollars, except per share amounts		
	1982	1981	1980
Revenues	$20,214	$21,739	$19,959
Net income	1,605	1,701	1,542
Per share	5.19	5.51	4.99
Cash dividends paid	556	556	449
Per share	1.80	1.80	1.45
Shareholders' equity	10,290	9,245	8,100
Per share	33.31	29.92	26.23
Capital and exploratory expenditures	3,622	4,096	3,202
Total assets	21,376	20,118	17,615

(4) Maps at 1:250,000 scale and a map reduced to 8½" x 11" size showing the approximate location of our proposed studies are attached. We will base our activities from Kaktovik. With your concurrence, we anticipate the possible storage of one to two barrels of aviation fuel covering a day's work at the DEW Line stations at Camden Bay and Barrow Lagoon.

(5) Our surficial geology program will entail geologic mapping, taking of hand-sized samples of rock formations and the measurement of stratigraphic sections. From this operational phase will come our geochemical, reservoir and paleontologic analyses. We expect to obtain information towards resolving our questions on the tectonic and depositional framework of the onshore area adjacent to the Beaufort Sea.

Our operations will be conducted from a helicopter carrying two or three geologists and a pilot. A mechanic will be located at the base of operations.

There are no viable alternative methods of collecting this data.

We expect to conduct our operations from the latter half of July through the middle of August or later, as permits and weather allow.

(6) There will be no unnecessary duplication of this type of field operation. The program we propose will logically and systematically yield a constant increase in information towards resolving the geological questions of this area.

(7) We anticipate conducting the operation as set forth in paragraph (5) beginning approximately July 20, 1983 from a base of operations at Kaktovik and completing the studies on or about August 20, 1983. As previously noted, our work will be dependent upon permits, weather and, sometimes, other uncontrollable events which may preclude the completion of scheduled operations. The 1983 season is a very important aspect to our total information requirement for this area and we are committed to an extensive operation.

However, we request that, should our program fall short of our desired goals because of some uncontrollable events, this same exploration plan be updated, perhaps through subsequent filing of another plan of Operation, or other method which you may prescribe, to allow this Exploration Plan to be utilized for the 1984 summer season.

(8) Communication will be through standard aircraft communication to necessary points and available facilities at Kaktovik. From our facilities at Kaktovik, we will be in communication through the Arctic Slope telephone association cooperative's satellite telephone system.

(9) A helicopter will provide the transportation for our field personnel as set forth in paragraph (5).

(10) Aviation fuel in one or two barrel quantities would be the only hazardous substance utilized in the refuge. Fuel will be handled in accordance with the provisions of 50 CFR 37.31(e). We will emphasize proper maintenance and handling procedures to all personnel involved in our program.

(11 & 12) We anticipate there will be no significant impact on any aspect of the refuge as a result of our surface studies. All regulatory and permit requirements will be adhered to. In addition to avoidance of any sites, as required by USFWS, we will report any unmarked sites or other items of cultural or environmental significance discovered in the course of our operations.

(13) Shell Oil Company states that, if authorized to conduct surface studies on the Coastal plain, it will comply with the requirements of 50 CFR Part 37, the Special Use Permits, Exploration Plan as approved, any Plan of Operation and all reasonable stipulations, demands and orders issued by the Regional Director, USF&WS.

(14) In our self-interest, as well as the obligation to comply with all requirements applying to us under our approved permits and plans, we will obtain and categorized the most complete, accurate and meaningful information from our studies and analysis of samples.

Consistency Statement for the Plan:

The proposed activity complies with the State of Alaska's approved Coastal Management Program and will be conducted in a manner consistent with that program.

May 20, 1983
Shell Oil Company

Fig. 1. Map depicting approximate location of proposed surface geological exploration, Shell Oil Company.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907-786-3381 or 3384).

SOHIO ALASKA PETROLEUM COMPANY PLAN FOR SURFACE GEOLOGICAL EXPLORATION

Sohio Alaska Petroleum Company
Exploration Plan

July 1, 1983 to May 31, 1986

Incorporating exploration plan for geological field survey, summer 1983 with request for an expedited review of the plan for summer 1983.

1. Introduction

Sohio Alaska Petroleum Company and its predecessor company, B. P. Alaska, Inc. has been a leader of oil exploration in Arctic Alaska since 1960. From that time, through the present day, Sohio Alaska Petroleum company has participated in many geologic and seismic surveys, State and Federal lease sales, and drilling of exploration wells on leases acquired. The company operated ten geological field surveys in North Alaska between 1960 and 1973, three of which carried our reconnaissance studies in parts of the Arctic National Wildlife Refuge (ANWR). We have a long record of experience working carefully and responsibly, in compliance with all regulations and permit stipulations in the environmentally sensitive Arctic North Slope region of Alaska.

In particular, subsequent to the discovery of the Prudhoe Bay Field in 1969, Sohio participated in the environmental studies for, and the construction of, the Prudhoe Production Facilities and the Trans-Alaska Pipeline. The company is presently participating in the development of the Kuparuk River oil field. We are continuing to make substantial financial investments in northern Alaska, typified most recently by successful bids in excess of $200 million in the Federal OCS #71 Lease Sale. Thus, our technical and financial ability to explore in a safe and efficient manner in Arctic Alaska is proven. (50 CFR Section 37.21[d][3]).

Our Exploration Plan for the Coastal Plain from July 1, 1983 to May 31, 1986 is described in Section 2. We intend to acquire geologic data and participate in seismic programs in the manner described, to obtain an integrated, non-redundant data base which will allow a full assessment of the hydrocarbon potential of the coastal plain with minimized environmental impact, as requested by 50 CFR Section 37.1 and 37.21(c).

Section 3 describes in detail the Exploration Plan for a proposed Joint Sohio/BPAE Geological Survey for summer 1983 on the Coastal Plain of the ANWR. This survey forms part of a larger study of northeast Alaska east of the Sagavanirktok River. An expedited review of section 3 is requested to allow the survey to be conducted this summer.

The survey will study a number of geological problems identified from our existing data base and interpretation of the area. Investigation of the geology of the Coastal Plain within the context of a regional survey will, we feel, provide the geological framework to obtain the best possible data from the Coastal Plain.

Field investigation, interpretation and subsequent analysis will study aspects of the stratigraphy, geochemistry, reservoir potential and structural geology relevant to the assessment of the hydrocarbon potential of the area. These data may allow refinement of the seismic program on the Coastal Plain, which we anticipate will commence in January, 1984.

The information contained in the these Exploration Plains is required by § 37.21 of the Final Exploration Regulations which implement the requirement of section 1002(d) of ANILCA as amended by Sec. 1101 Pub. L. 97-394, 96 Stat 1982.

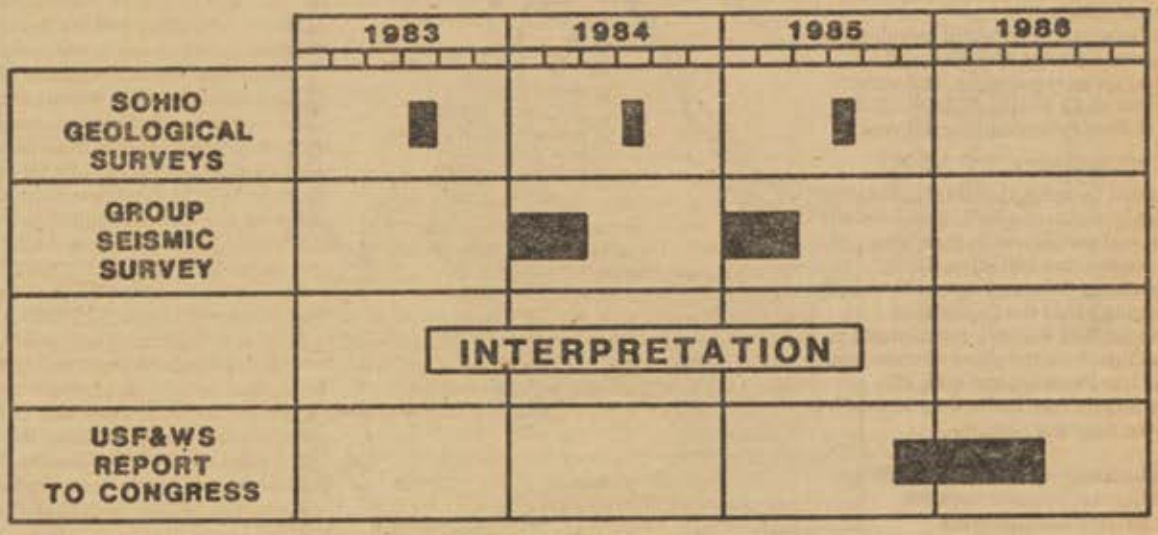
2. Exploration Plan, June 1983 to May 1986

(As requested by 50 CFR S 37.231[b], [c])

Sohio Alaska Petroleum Company's proposed exploration activities on the ANWR Coastal Plain are described below and summarized on Table 1.

TABLE 1

TIMETABLE FOR SOHIO PROPOSED EXPLORATION ACTIVITY, ANWR COASTAL PLAIN



FOR DESCRIPTION OF ACTIVITIES SEE TEXT SECTION 2

Summer 1983: Joint Sohio/BPAE Geological Field Survey

Will be conducted by eleven geologists, transported from Base Camp at Kavik Airstrip to field areas by two Bell Long Ranger helicopters. Areas for geological field investigation are identified on Figure 1 and attachment 1. Field work will consist of observations and interpretations' and collection of rock samples, for later laboratory analysis. This survey is fully described in a detailed exploration plan in Section 3.

This joint Sohio/BPAE survey will obtain geological data essential for the evaluation of the hydrocarbon potential of the Coastal Plain, while preventing duplication of effort by Sohio and BPAE. The survey will have minimal environmental impact on the area.

Winter 1983–84: Seismic Group Shoot

Sohio, in conjunction with BPAE, intend to participate with several other oil companies in a group reconnaissance seismic survey which we hope will commence in January 1984. The details of this survey are the subject of a separate Exploration Plan which has been submitted by the operator of the survey on behalf of the group.

A reconnaissance seismic program of 1000–1500 miles has been designed by the group such that the resulting data will depict the regional subsurface geologic structure and stratigraphy throughout the Coastal Plain. Existing aeromagnetic, gravity and surface geologic data was used to ensure optimum orientation and line spacing (6 miles x 4 miles) of this program.

Winter seismic work will reduce the impact to the environment to an absolute minimum. We know that several seismic contractors have sufficent past experience working on the North Slope to carry out the work in a satisfactory manner. The formation of a single oil company operated group seismic survey in which all interested oil companies may participate will eliminate any unnecessary duplication of effort and minimize the impact to the environment.

The reconnaissance seismic data in conjunction with the results of the 1983 Sohio/BPAE geologic survey and other supporting data, will allow a preliminary regional evaluation of the hydrocarbon prospects of the Coastal Plain.

Summer 1984: Sohio Geological Survey

The objectives of this survey are two-fold:

(i) To obtain data from areas which could not be visited during the 1983 survey (due to bad weather, logistical constraints, permit restrictions or unexpected movements of wildlife).

(ii) To obtain additional data to follow up the 1983 survey, especially any problems or ambiguities identified by the first year's geologic and seismic work.

While it is not possible at this point in time to provide a detailed plan for this survey, it will probably consist of a smaller number of geologists, probably supported by logistics similar to those described for the 1983 survey in section 3. As required by the exploration regulations, we will submit a detailed Plan of Operations for this survey no later than 30 days before commencement. At that time our analysis of 1983 data will have revealed the scope of additional work required.

Winter 1984/85: Proposed Seismic Group Shoot

It is likely that the acquisition of further seismic data will be required in 1984/85, probably to detail structural leads identified from the first year's work. This survey is described in a separate Exploration Plan submitted by the operator on behalf of the seismic group.

It is likely, however, that it will be necessary to change line orientation and data acquisition parameters depending on the results of the interpretation of the reconnaissance data.

Summer 1985: Sohio Geological Survey

Further geological data acquisition will be dependent on results of the previous surveys, and of the seismic interpretation. Full details cannot be projected at this stage, but the survey will probably consist of fewer geologists with similar logistical support to that described in Section 3. An operations plan describing the details of the survey will be submitteed no later than 30 days prior to commencement of the survey.

Summer Seismic

Although we consider it unlikely that summer seismic will be environmentally acceptable, or indeed necessary, we would probably wish to participate in any group survey that was permitted.

Interpretation

Geological, aeromagnetic, gravity and seismic data will be interpreted and integrated as they become available, allowing continual refinement of exploration activities, to avoid undue inefficiency and duplication of effort.

Raw and interpreted data will be submitted to the Regional Director, U.S. Fish and Wildlife Service as required by, and under the conditions of §§ 37.4(b), 37.22(d), 37.53 and 37.54 of the Exploration Regulations.

Statement of Compliance (37.31[d][13])

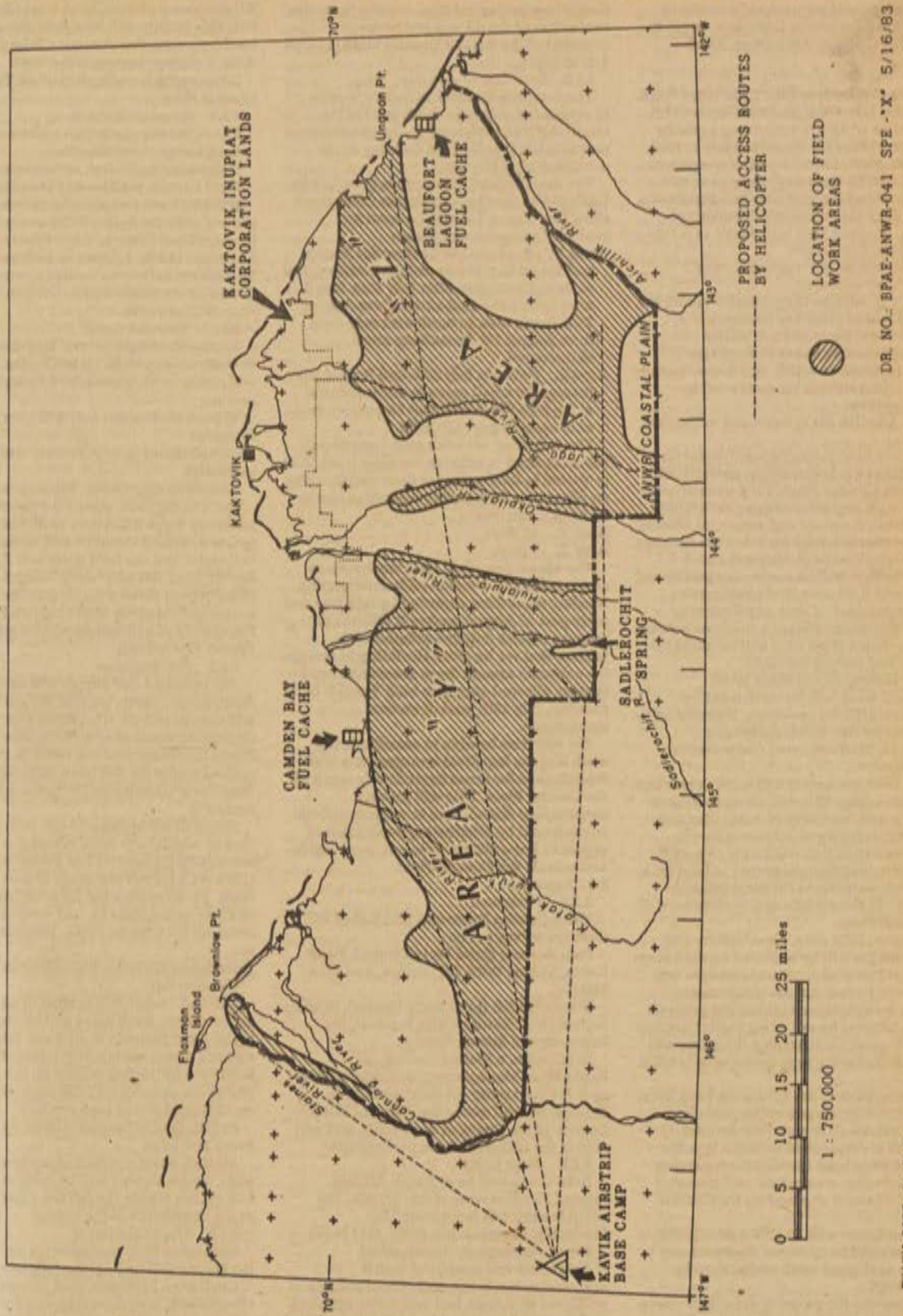
If authorized by aproval of this Exploration Plan and by issuance of a Special Use Permit to conduct, and participate in the above described exploration activities, Sohio Alaska Petroleum Company agrees to comply with the conditions of the Exploration Regulations (50 CFR Part 37), the contents of this Exploration Plan, the plans of operation, the Special Use Permit(s) and with all reasonable stipulations and orders as may be issued by the Regional Director.

3. Detailed Exploration Plan, SOHIO/BPAE Geological Survey, Summer 1983, for Expedited Review and Approval

Participating Companies.

BILLING CODE 4310-55-M

Fig. 1
GENERAL FIELD AREAS, BPAE/SOHIO JOINT GEOLOGICAL FIELD SURVEY, ANWR COASTAL PLAIN, SUMMER 1983


KAKTOVIK INUPIAT CORPORATION LANDS
KAKTOVIK
Barrow
Point Lay
Wainwright
Point Hope
Kotzebue
Nome
Unalakleet
Bethel
Kotlik
Emmonak
Kaltag
Galena
Ruby
Tanana
Fairbanks
Bettles
Kobuk
Selawik
Kiana
Noatak
Kivalina
Point Hope
Wainwright
Barrow
Point Lay
Kaktovik
Arctic Village
Venetie
Fort Yukon
Chalkyitsik
Eagle
Circle
Dawson
Whitehorse
Mayo
Ross River
Watson Lake
Fort Nelson
Fort St. John
Dawson Creek
Prince George
Quesnel
Williams Lake
Kamloops
Vernon
Penticton
Grand Forks
Trail
Nelson
Cranbrook
Fernie
Kimberley
Golden
Revelstoke
Salmon Arm
Kelowna
Penticton
Princeton
Hope
Chilliwack
Abbotsford
Vancouver
Victoria
Nanaimo
Courtenay
Campbell River
Port Hardy
Prince Rupert
Terrace
Kitimat
Smithers
Houston
Burns Lake
Vanderhoof
Fort St. James
Mackenzie
Hudson Hope
Fort St. John
Dawson Creek
Fort Nelson
Liard River
Watson Lake
Ross River
Faro
Carmacks
Whitehorse
Haines Junction
Kluane Lake
Destruction Bay
Burwash Landing
Beaver Creek
Tok
Delta Junction
Fairbanks
North Pole
Eielson AFB
Clear
Healy
McKinley Park
Cantwell
Talkeetna
Willow
Wasilla
Palmer
Anchorage
Kenai
Soldotna
Homer
Seward
Valdez
Cordova
Kodiak
Dutch Harbor
Unalaska
Adak
Shemya
Attu
Nikolski
Unalaska
Dutch Harbor
Kodiak
Cordova
Valdez
Seward
Homer
Soldotna
Kenai
Anchorage
Palmer
Wasilla
Willow
Talkeetna
Cantwell
McKinley Park
Healy
Clear
Eielson AFB
North Pole
Fairbanks
Delta Junction
Tok
Beaver Creek
Burwash Landing
Destruction Bay
Kluane Lake
Haines Junction
Whitehorse
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Ross River
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Fort St. John
Dawson Creek
Hudson Hope
Mackenzie
Fort St. James
Vanderhoof
Burns Lake
Houston
Smithers
Kitimat
Terrace
Prince Rupert
Port Hardy
Campbell River
Courtenay
Nanaimo
Victoria
Vancouver
Abbotsford
Chilliwack
Hope
Princeton
Penticton
Kelowna
Salmon Arm
Revelstoke
Golden
Kimberley
Fernie
Cranbrook
Nelson
Trail
Grand Forks
Vernon
Kamloops
Williams Lake
Quesnel
Prince George
Dawson Creek
Fort St. John

This survey will be conducted jointly by:
Sohio Alaska Petroleum Company, Pouch 6-612, 3111 C Street, Anchorage, Alaska 99502
and
BP Alaska Exploration Inc., 1 Maritime Plaza, Suite 500, San Francisco, California 94111

Sohio and BPAE are submitting separate exploration plans for the period July 1, 1983 to May 31, 1986, describing each company's planned ANWR Coastal Plain exploration activities. However, this detailed exploration plan for the joint Sohio/BPAE geological survey in Summer 1983 is included as a sub-part of these documents.

3.1. *Description of Proposed Survey*

3.1.1. *Survey Areas*

Figure 1 illustrates the general areas on the Coastal Plain of proposed geological investigations. The areas are briefly described below in terms of the major geographic features which they encompass.

Area Y Hula Hula River westward to Canning River

Area Z Okpilak River eastward to Ungoon Point

These are both priority areas crucial for evaluation of the hydrocarbon potential of the ANWR Coastal Plain. They include areas of major rock exposure where stratigraphic, geochemical, reservoir and structural studies will be conducted. Also included are the sites of reported oil seeps. Additional aerial reconnaissance will be made over portions of areas Y and Z where aerial photographs suggest some limited rock exposure may occur. If the reconnaissance confirms outcrop of strata, then a short visit will be made to describe and sample the rocks.

3.1.2 *Description of Field Work*

The field work will be carried out by eleven Sohio/BPAE geologists, transported to field areas by two Bell Long Ranger helicopters. Staff are listed under section 3.2.1. below.

In the field, geologists will work in two and three-man teams. This will allow maximum efficiency and flexibility of data collection and the best chance of achieving survey objectives within the constraints of permit restrictions, weather, personnel, safety, time, and within restrictions for the maximum protection of the wildlife and environment of the Coastal Plain.

Geological field data, observations and interpretations will be recorded on field maps and in field notebooks. Structural data will be measured using compass/clinometers. Samples for subsequent laboratory analysis will be collected by use of geological hammer and cold chisel. Stratigraphic thickness will be determined using tape measure or Jacob's staff.

The objectives of the field work have been determined from review of the published reconnaissance data and data we already have from previous field surveys. Specific problems have been identified, concerning the stratigraphy, source rock and reservoir potential of strata exposed on the Coastal Plain.

In accordance with 50 CFR § 37.21(d)(6), the above objectives do not duplicate any previous geological work undertaken by Sohio/BPAE.

We consider the program described above to be the only practical method of obtaining the surface geological data necessary for the evaluation of the oil and gas resource potential of the ANWR Coastal Plain (50 CFR § 37.21[d][5]).

3.1.3 *Schedule of Activity*

The complete Geological survey is planned to commence mid-June, 1983, west of the Canning River, with work in the mountainous part of ANWR east of the Canning River permitted after July 1st.

The draft Special Areas maps provided by USF&WS at the Pre-Application Conference show that Areas Y-Z will be open for geologic field work as follows:

Areal Y: Area around Sadlerochit Spring and Creek closed completely. Northern and eastern areas open after July 15th. Small area in extreme east closed from August 20th. Small area in northwest only open from August 1st. Remaining areas unrestricted.

Area Z: Between July 15th and August 20th (except for small areas in north and east along Jago River and near Humphrey Point, only open August 1st–20th).

The following are estimated approximate times required to achieve our objectives. This is quoted in total calendar days and includes an allowance for possible downtime due to inclement weather:

Area Y: 10 days
Area Z: 7 days

The above described time requirements and restrictions, coupled with deteriorating weather conditions expected by late July and early part of August, makes it difficult to propose a more detailed schedule. We request that we be given flexibility to arrange the schedule around these constraints, and that we allowed access to both Y and Z by, if possible, July 15th (end of caribou restrictions).

We will then be able to coordinate the work and the logistical arrangements with the schedule for areas immediately south of the Coastal Plain. This will prevent unnecessary distrubance to wildlife and the environment by eliminating duplication of access to immediately adjacent areas inside and outside the Coastal Plain.

3.2 *Logistics*

3.2.1. *Personnel*

The following Sohio and BPAE staff will form the survey party:

Paul Weimer (Joint Party Leader), Keith James, Steven Wild, Ed Duncan, and John Melvin.

Steven Edrich (Joint Party Leader), William Senior, Peter Rattey, Colin Percival, Joe Brannan, and Steven Rogers.

In addition, a limited number of Exploration Management personnel wish to visit the field party for short periods. If desired, we will notify the Fish and Wildlife Service of the timing of such visits, and will supply the names of those participants.

3.2.2. *Base Camp*

Base Camp will be at Kavik Airstrip, located 15 miles west of the ANWR. The camp facility will be provided by:
Production Services, Inc. (PSI), 4113 Ingra Street, Anchorage, Alaska 99503

This camp will consist of tented accomodations, mess, and office facilities. It will have electrical, fuel and water supplied, and waste filtering and incineration facilities. All necessary permits have been obtained by PSI. This facility will be a joint camp to be used by companies operating field parties in ANWR during the summer of 1983.

No camping is proposed within the AMWR Coastal Plain.

3.2.3. *Communications*

The following equipment will be available:
Base Camp: Telephone link.
Helicopter: Radio link to base camp.
Field Parties: Hand-held FM radios.

USF&WS will therefore be able to stay in contact with the Sohio/BPAE party through the telephone patch to KAVIK base camp. Messages can be relayed to field parties through the helicopter's radio system. Full details of the above will be included in the Plan of Operations.

3.2.4. *Transportation*

Transport of field parties from base camp to work areas will be by helicopter. All staff will return to base camp by helicopter each evening.

Type of Helicopter: Bell 206L (Long Ranger).

Identification Nos.: (Contract tenders currently).

Helicopter Contractor: (Being processed.)

Once in the field, survey parties will generally move around on foot. Visits to isolated, small exposures will be made by helicopter and the field party will fly on to further localities after completing the limited objectives at these sites. Approximate access routes to field areas are shown on Figure 1. Full details of helicopters will be given in the Plan of Operations.

3.2.5 *Fuel Supplies*

The principal fuel supply will be at Kavik Airstrip base camp, outside the ANWR, and will consist of bulk steel tanks and dispensing equipment with surrounding berms and absorbent materials in case of spills. Permits for this have been obtained from State agencies by the fuel supply company.

Sohio/BPAE propose to use both of the fuel caches which have been allowed as part of Sohio/BPAE's Special Use Permit from the USF&WLS for ANWR south of the Coastal Plain. These caches are for refueling purposes to allow safe access to, and return from, field areas on the Coastal Plain. They are located at:

Abandoned DEWline Site—Beaufort Lagoon:
Camden Bay.

The fuel caches will consist of up to six 55-gallon drums. Each drum will be stored upright and property sealed and labeled with owner's name, contents and date of filing. Locations for caches will be on the gravel pad of the abandoned DEWlines site, and on an approved site at Camden Bay.

Refueling of helicopter will be by hand pump and hose.

All fuel, barrels, refueling equipment and absorbent materials will be removed from the fuel caches within the ANWR Coastal Plain at the completion of the survey.

3.2.6 *Field Equipment*

Geological field equipment to be used by the survey will include the following:

Geological hammers, cold chisels, compass clinometers, tape measures, Jacob staffs.

Field notebooks, maps, aerial photographs.

3.2.7 *Safety of Personnel*

The field survey will be carried out with full regard for the safety and health of personnel. Both Sohio and BPAE have established standard procedures for staff safety. Statements have been published to staff describing general policy for the protection and safeguarding of health, safety, and the environment. All staff are required, as a matter of course, to be familiar with these procedures and policies.

The operation of the survey will follow the standard procedures as they specifically apply to operations within ANWR. These are briefly described in items (i) and (ii) below:

(i) Helicopter Operations. A technical/safety audit will be conducted prior to award of contract. The contractor chosen must satisfy auditors that they have strict standard safety procedures governing maintenance, operations, refueling and fuel quality control. Their pilot must have proven Arctic and mountain experience and training. A helicopter emergency locator beacon must be provided. Fuel supplies will be stored at a safe distance from all accommodation units. A qulified mechanic will be based at Kavik Camp to carry out all routine maintenance required to keep the helicopter in proper operating condition. Survey staff have attended contractor's helicopter safety briefing.

The helicopter will be equipped with all necessary equipment and maps to allow safe navigation in this remote area. Standard procedures will be put into action in the event of personal injury, weather close-in, or helicopter failure.

(ii) Field Work Operations. Field survey personnel have training in basic survival and First Aid procedures. Personal clothing and equipment will be of standard required for the climate, geography and remoteness of the area. Field teams will each have a 12-gauge pump action shotgun for protection of human life in the unlikely occurrence of attack by wild animals. Staff will have firearms training prior to departure for field area. Proper emergency equipment will be available and each field team will have an emergency survival pack in the field. Helicopter and field team will have detailed maps. Each day, location of field team work areas will be available at base camp for Sohio/BPAE representative. Communications equipment will allow immediate notification of any emergency situations to authorities.

3.3 *Environmental Protection*

The proposed field survey will be conducted in a manner which will minimize impact on wildlife and the environment. All Sohio/BPAE survey members will be familiar with the contents of the Fish and Wildlife Baseline Study, the Final Environmental Impact Study (FEIS) and the Exploration Regulations (50 CFR Part 37) for the ANWR Coastal Plain. Staff will, in particular, be fully briefed on the requirements of §§ 37.31 and 37.32. All the above documents have been read by staff. Copies will be available at base camp, together with this exploration plan, the plan of operations, the Special Use Permit and attached stipulations and guidelines. All personnel will be required to attend the environmental briefing to be given by the Regional Director. Such a briefing will be scheduled prior to commencing of the field work in ANWR. All staff have viewed training films on the Biological and physical environment of Arctic Alaska, the culture of the area and survival.

The FEIS anticipates that a geological survey will have no impact, or only minor impact on the environment and wildlife. Personnel involved will, through the above training, be able to take all necessary measures to safeguard and protect the wildlife and environment and ensure that the anticipated minor impact to the ANWR is minimized. This familiarization will also ensure that survey staff know how to react to chance encounters with wildlife in the field. The following specific measures will be implemented at all times:

3.3.1 *To Prevent Disturance to Wildlife*

Known wildlife restricted areas have been identified to Sohio/BPAE by the USF&WS. The proposed field work will be conducted on such areas outside restricted periods. Section 3.1.3 has identified the restrictions relevant to the survey and the schedule is arranged around these.

Periodic contact will be maintained with the USF&WS field station at Kaktovik to discuss progress of work in relation to the movement of wildlife within the survey area. Our itinerary will be flexible to accommodate wildlife movements, and avoid these, both while working and while in transit by helicopter.

Particular care will be taken to minimize the disturbance to wildlife by helicopter: At all feasible times flights will be made at least 1500' above ground level, following the most direct route that is safe, practical and enviromentally permissible. It is recongnized that it may be impractical to attain this altitude for flights over very short distances, during inclement weather, or for safety purposes. Additionally, limited aerial reconnaissance may be required to identify and minimize landing sites.

While working on foot in the field all party members will take special care to minimize the disturance when any wildlife are encountered.

Under no circumstances will hunting, fishing, trapping or feeding of wildlife take place. Firearms will be carried and will only be used in exceptional circumstances to protect human life.

Finally, if at any time Peregrine Falcon eyries are identified, then no approach will be made within one mile on ground and below 1500' altitude in the helicopter.

3.3.2 *To Prevent Disturbance to the Environment*

Geological field work, sample collection and general conduct of field activities will be carried out in a careful manner. Helicopter landing sites will be carefully chosen to avoid wet areas and vegetation wherever possible. All equipment and litter taken into the area wil be removed from the ANWR.

Cultural resource sites will not be entered. Any sites encountered which are not already on the Cultural Resource Maps provided by FWS will be reported. Geodetic markers will not be disturbed or damaged.

No exploration activity will be conducted within one-half mile of Sadlerochit Spring, or within one-quarter mile either side of the Sadlerochit Spring Creek for a distance of five miles downstream from the spring.

Any other reasonable preventative measures, as notified to us by the USF&WS, will be followed by the field party.

3.3.3 *Hazardous Substance Contingency Plan*

The only hazardous substance to be used in the operation of this field survey within ANWR is aviation fuel. This will be stored at approved fuel caches (section 3.2.5) for refueling of helicopters to allow safe access to and from the more distant field areas.

Offloading, storage, and transfer of fuel will be carried out with all care and attention to prevent spillage, in accordance with the requirements of 50 CFR 37.31(e) (1), (3), and (5). Personnel will conform with fuel handling safety standards, and equipment will be maintained to minimize fuel leakage.

Absorbent materials will be available on site to allow immediate and effective clean-up in the unlikely event of an accidental spill occurring. If used, such materials will be backhauled from ANWR for proper disposal. Any fuel spill will be reported to the Regional Director as required by section 50 CFR 37.31(e).

3.3.4 *Monitoring of Potential Impacts*

All field party personnel will be aware of potential impacts and will take all reasonable steps to minimize these.

Sohio/BPAE will welcome visits by a USF&WS field monitor to observe our survey. We will have accommodation available at the base camp for this person, and will transport him/her to and from field areas in our helicopter.

3.4 *Consistency with Other Existing Regulations*

(1) *The Coastal Zone Management Act (1972) Section 307C(3)(a).*

The proposed activity complies with Alaska's approved coastal management program and will be conducted in a manner consistent with such a program.

(2) *Alaska Water Certifications, Section 401 of Federal Clean Water Act* and *Alaska Department of Fish and Game, Alaska Statues Title 16.*

The proposed activity is consistent with the above regulations.

3.5 *Statement of Compliance*

If authorized by issuance of a Special Use Permit to conduct the above described exploratory activities on the ANWR Coastal Plain, Sohio agrees to comply with the conditions of the Exploration Regulations (50 CFR Part 37), the contents of this Exploration Plan, the Plan of Operations, the Special Use Permit and with all stipulations and orders as may be issued by the Regional Director.

4. Conclusion

This exploration plan describes how Sohio intends to conduct an integrated exploration of the ANWR Coastal Plain. Data relevant to specific geological problems we have identified will be obtained in the joint Sohio/BPAE geological survey which will have only minimal impact on the area. Seismic data will

be acquired by participation in group surveys to minimize the impact on the area.

R. C. Herrera,

Alaska Exploration Operations Manager for Sohio Alaska Petroleum Company.

TEXACO INC. PLAN FOR SURFACE GEOLOGICAL EXPLORATION

Plan of Exploration

Coastal Plain of the Arctic National Wildlife Reguge, Alaska

Operator: Texaco Inc.

Inquiries to be addressed to: Mr. Robert G. Knoll, Regional Manager—Exploration, Texaco Inc., 3350 Wilshire Boulevard, Los Angeles, California 90010, (213) 739–7917.

May 1983

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Introduction

Texaco Inc. proposes an exploration plan for surface geologic work that will provide for the minimum data requirements necessary to aid in complete evaluation of the ANWR. We would like the option to participate in any joint or group operations in which similar data will be obtained. In this case we would not necessarily be the operator. This work will systematically assess the entire study area and provide a good understanding of the stratigraphic sequence, organic surface rock geochemistry, and potential reservior characteristics. Use of previously complied maps (Beikman, 1980) and reports (Maher and Trollman, 1970; Emmel, 1982) coupled with additional surface geologic exploration will provide the additional data necessary for resource evaluation mandated by ANILCA.

This plan is for the period July 20, 1983 through September 30, 1984. It describes Texaco's methods for carrying out an integrated program of exploratory activities that will help to identify those areas within the coastal plain that may have oil and gas production potential.

This information, coupled with seismic data will make possible an estimate of the potential volume of oil and gas in the ANWR study area. Our work will help the USFWS determine to what extent the further exploration for and development of this potential oil and gas will affect the remainder of the refuge's resources.

Texaco intends to submit another exploration plan on March 1, 1984 only if we are unable to complete the work proposed in this plan. Texaco believes that the entire plan must be completed in order to provide the resource evaluation mandated by ANILCA.

I. *Qualifications.* Texaco has previously conducted surface geologic mapping on the Arctic Slope of Alaska without significant environmental impact (see references). It is our belief that additional studies conducted under the ANILCA—mandated resource evaluation and restricted by the proposed regulations will result in no significant environmental disturbance. Texaco Inc.'s position as a leader in the exploration for and production of petroleum products demonstrates our financial ability to conduct this exploratory activity. A copy of our 1982 Annual Report is on file with the USFWS.

II. *Exploration Activities.* Surface geological exploration will be preceded by aerial reconnaissance using small, fixed-wing aircraft. These aircraft will maintain an altitude greater than 1500' and will be based at the Kavik airstrip. Landing strips and/or fuel caches within the study area will not be required for these aircraft.

The aerial survey would be followed by helicopter deployment of one field party comprised of three to four geologists who would perform surface field studies. Their duties will include:

1. Following the assigned traverse.

2. Measuring the exposed stratigraphic section.

3. Compiling a detailed description of all exposed section, including construction of detailed stratigraphic sections.

4. Attempting to identify such section as to its stratigraphic group, formation and unit.

5. Taking all applicable measurements: dip and strike.

6. Identification of faults and taking appropriate measurements where applicable: dip, strike, throw, heave, etc.

7. Collecting samples for paleontologic age control, petrographic study and organic geochemical analyses of all outcrops along the traverse.

8. Photographing the entire length of the traverse in addition to the outcrop sample locations.

III *Integration of Exploration Activities.* Texaco intends to commit to a group seismic plan where we will not be the operator. We believe that our proposed surface geologic exploration will provide a greater understanding of the stratigraphic sequence. This is important in that extrapolation of the surface outcrops northward will allow correlation of these sequences into the subsurface seismic profiles. Collected samples will be subjected to a variety of analyses. These will include, but are not limited to: petrographic study (including determination of porosity and permeability), paleontologic (micro and macro where applicable), palynologic, measurement of vitrinite reflectance, total organic carbon content and the thermal alteration index. These analyses will help ascertain environments of deposition, reservior and source rock characteristics of the exposed stratigraphic section.

The surface and seismic operations are intended to be nonduplicative, but complementary. A daily log recording the progress of each surface traverse will be kept so as to prevent undo repetition.

IV. *Schedule of Proposed Exploratory Activities.* Texaco has anticipated the unavoidable adverse impacts of helicopter use (see VII. below).

It is appreciated that during the summer season the ANWR coastal plain is used intensively by large numbers of fish and wildlife. In addition, most species are engaged in reproductive activity and are at the height of their behavioral sensitivity. The noise associated with helicopter usage has the potential to disturb a large number of species and any associated human subsistence and recreational activities. Texaco will work to substantially mitigate these impacts by restricting operations to areas devoid of significant wildlife concentrations.

The following schedule reflects our desire to minimize such adverse impacts on the ANWR. Temporary closures of areas subject to special conditions as deemed necessary by the Regional Director (as of April 26, 1983) are taken into account. Overlapping time frames for separate traverses were created to allow for poor weather and other delays.

Traverse	Location	Scheduled
A–A'	E. bank Canning River.	6/02/84–6/20/84
B–B'	E. bank Tamayariak River.	6/21/84–7/15/84
C–C' (4 segments).	E. of Tamayariak River.	7/16/84–8/02/84
D–D' (2 segments).	E. bank Katakturuk River.	7/16/84–8/02/84
E–E'	E. bank of Marsh Creek.	7/16/84–8/02/84
F–F'	W. of Marsh Creek	8/03/84–8/30/84
G–G'	Carter Creek	8/03/84–8/30/84
H–H'	W. bank of Itkilyariak Creek.	8/03/84–8/30/84
I–I'	E. bank Sadlerochit River.	8/03/84–8/30/84
J–J' (2 segments).	Carter Creek North	8/03/84–8/30/84
K–K'	E. of Okpirourak Creek.	7/16/83–7/31/83
L–L'	E. of Jago River	7/16/83–7/31/83
M–M'	Jago River North	8/02/83–8/19/83
N–N'	W. bank of Okerokovik River.	8/01/83–8/19/83
O–O'	W. bank of Niguluak River.	8/01/83–8/09/83
P–P'	W. bank of Aichilik River.	8/10/83–8/19/83

V. *Equipment, Support Facilities, Access/Egress, Communications.* Texaco field geologists will bring the essential equipment required to complete their traverses. This is likely to include: rockhammers, camera equipment, notebooks, sample logs and markers, binoculars, compasses and sufficent food and water for the day.

Texaco will utilize the planned industry support facilities at the Kavik airstrip. Access/egress and movement from traverse to traverse within the study area will be accomplished with the use of a chartered Bell 206B or 206L helicopter by the most direct fight path possible.

Specifications	206B	206L
Capacity	4 + pilot	6 + pilot
Max. airspeed	115–120 mph	115–120 mph

Specifications	206B	206L
Range (full load).	250 miles	250 miles
Fuel	26 gal./hr.	28 gal./hr.

Flight paths will be maintained about 1500' except when discharging or picking-up field personnel.

Communications between base camp and transport will be via single sideband and VHS equipment. Communications between transport and the field party will be on a specific time/site rendezvous basis.

It is anticipated that one fuel cache will be required in the center of the study area. This will permit refueling and allow the field party full access to the entire study area. The location of the fuel cache is sited on the accompanying map. Spill control and safety procedures are covered in VI, below.

VI. *Hazardous Substances Control and Contingency Plan.* It is anticipated that the only hazardous substance present will be aviation fuel. Fuel will be stored in single-wall steel containers of less than 55 U.S. gallons. Containers over 55 U.S. gallons in size will be of double-walled steel construction. Non-flammable supports will keep the storage containers off the tundra surface. Drip buckets will be positioned under all valves. All of the above will be placed within in a leakproof, non-flammable containment vessel, proposed to be of a broad and shallow, steel construction.

Fuel-absorbent material for use on any spills will be stored at the cache. Used material will be transported in leak-proof containers to the Kavik airstrip for disposal. Fire extinguishing equipment of the type necessary to combat fuel fires will be available at the cache as well as on the helicopter.

All personnel will be instructed in the use of all refueling equipment and fire-fighting apparatus prior to their entrance to the study area. In addition, personnel will be briefed on the effects of fuel spill/fire on the North Slope ecosystems.

VII. *Anticipated Impacts/Mitigating Measures, Monitoring/Compliance.* Texaco has conducted surface geologic explorations, similar to the one proposed here, in the past without significant environmental impact. We anticipate no adverse effects on the refuge's wildlife, its habitat, the environment, subsistence uses and needs, and cultural resources.

Minor, temporary disturbances of wildlife due to engine noise are expected. This will be alleviated by maintaining flight paths at an altitude greater than 1500'. It is anticipated that temporary disturbances will primarily occur during helicopter take-off and landing procedures. This can be minimized by limiting the ground-time of the helicopter within the study area.

We believe that the field party itself will have no appreciable impact on the study area. Upon completion of a traverse, the personnel will rendezvous with the helicopter and leave the area. Visual inspection and a strict "what comes in, goes out" policy will be adhered to.

All personnel participating in the plan will be required to familiarize themselves with all phases of the exploration and operation plans as well as all regulatory and permit requirements.

We will encourage a field monitor from the USFWS to accompany us during any portion of our operations.

VIII. *Data Quality Control.* Texaco considers data quality to be essential. All traverses and outcrop locations will be identified on USGS topographic maps and photographed extensively. Identical procedures will be followed for all samples collected.

Samples will be of an adequate size and quality so as to ensure sufficient material for testing (proposed tests listed in III above).

IX. *Compliance/Consistency Declaration.* If Texaco Inc. is authorized to conduct exploratory activities within the coastal plain of the Arctic National Wildlife Refuge, we shall comply with all provisions of 50 CFR Part 37 as well as our special use permit, our approved exploration plan, plan of operation, and all reasonable stipulations, demands and orders issued by the Regional Director.

In addition, Texaco has reviewed the State of Alaska regulations 6AAC80 and finds that our proposed activity complies with the Alaska Coastal Zone Management Program and will be conducted in a manner consistent with such program.

X. *References.*

Beikman, H.M., compiler, 1980, Geologic Map of Alaska: U.S. Geological Survey, scale 1:2, 500,000, 2 sheets.

Emmel, K.S., compiler, 1982, Geological literature on the North Slope of Alaska, 1974–80: Anchorage, Alaska, Alaska Department of Natural Resources, Division of Geological and Geophysical Surveys, 127p

Maher, J.C., and Trollman, W.M., 1970, Geological literature on the North Slope of Alaska: Tulsa, Oklahoma, American Association of Petroleum Geologists, 133p

Texaco Inc. 1982 Annual Report

Examples of Previous Permits Issued to Texaco Inc. for Surface Geological Studies on the North Slope:

Arctic Slope Regional Corporation, January 31, 1975

Department of the Navy: Naval Petroleum and Oil Shale Reserves, March 4, 1975, Serial No. 143

United States Department of the Interior: Bureau of Land Management, Special Conditions for Surface Geologic Study, May 6, 1975

Fig. 1. Map depicting proposed traverses and areas of study, Texaco Inc.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone–907–786–3381 or 3384).

UNION OIL COMPANY OF CALIFORNIA PLAN FOR SURFACE GEOLOGICAL EXPLORATION

North Slope Area, State of Alaska, ANWR Coastal Plains, Surficial Geological Exploration (Expedited Review)

Dear Sir: Union Oil Company of California proposes to conduct surficial geological exploration within the boundaries of the Coastal Plain of the Artic National Wildlife Refuge (ANWR) during the authorized times of July and August, 1983. Such activities are outlined in the Exploration Plan described below and are in accordance with the requirements of 50 CFR Part 37, Subpart C, § 37.21, governing geological and geophysical exporation of the Coastal Plain, Arctic National Wildlife Refuge, Alaska, as published in the **Federal Register**, Tuesday, April 19, 1983.

As required by Subpart C, 37.21(c), Union expects to integrate all pertinent results of surficial geological exploration with information acquired through participation in any authorized seismic exploration programs that are conducted on the Coastal Plain. The submission of data and information required under Subpart F, §§ 37.51, 37.52, and 37.53, as applicable to surface geological exploration, will enable the Department of Interior to satisfy the objectives stated in Subpart A, § 37.1.

Exploration Plan

Section 37.21(d)(1) General representative: John A. Packard, Union Oil Company of California, P.O. Box 6247, Anchorage, Alaska 99502, 907/276–7600 (days) 907/344–1091 (nights).

Field representative: Dr. Thomas L. Elliott, Union Science and Technology Division, P.O. Box 76, Brea, California 92621, 714/528–7201 (during field time, contact through Anchorage office).

Section 37.21(d)(2) Data and information to be gathered by Union will be used for its sole and exclusive use at the offices of the general and field representatives.

Section 37.21(d)(3) Union Oil Company has operated surface geological field programs in northern Alaska, including the Arctic National Wildlife Refuge, during the Summer seasons in 1959, 1966 through 1973, 1977, 1979 through 1981. All programs were successfully completed to the satisfaction of the responsible governing agencies. Special use permits for the Wildnerness Area of ANWR were issued for 1979: #79–10, 1980: #80–09, 1981: #81–27, and 1983: #83–G2 (geological activities in the Wilderness Area will be conductrd in conjunction with the proposed Coastal Plain work so as not to cause unnecessary duplication). A special use permit was also issued to Union by the National Park Service for work within a portion of the Gates of the Arctic National Park in 1981: #CX–9100–1–0015. In accordance with Subpart B, § 37.14, Union will furnish the required $100,00 surety bond.

Section 37.21(d)(4) The attached map, at a scale of 1:250,000, indicates the geographic areas of interest for geological examination and the US FWS approved fuel cache locations on gravel pads of abandoned DEW line site at Camden Bay and Beaufort Lagoon. Union's field personnel will be based either at a camp at the Kavik airstrip or at Deadhorse. No support facilities, other than fuel caches, are proposed within ANWR.

Section 37.21(d)(5) Surficial geological activities consist of physical examination of rock outcrops and collection of hand-size rock samples. No mechanical sampling

devices will be used. No blasting of surface rocks will be done.

Examination of the ANWR Coastal Plain outcrops will be conducted in conjunction with similar geological work planned for the Sadlerochit and Shublik Mountains (Wilderness Areas) and planned for days within the approved time frame that weather problems preclude mountain flights.

Section 37.21(d)(6) The Activities indicated in § 37.21(d)(5) will be conducted in such a manner as to limit or preclude subsequent visits to individual outcrops. After laboratory tests have been conducted and results evaluated, locations from which unusable or "no data" results occurred will be revisited in subsequent field seasons as indicated in the exploration plan as required under Subpart C, § 37.21(c).

Section 37.21(d)(7) Union proposes to conduct surficial geological activities during the months of July and August, 1983, or as indicated by the US FWS special use permit.

Further, Union proposes to return to the Coastal Plain of ANWR during the authorized times in July and August, 1984, for the express purpose of collecting data in specific locations that will be determined after the analyses referred to in § 37.21(d)(6) have been completed. Union also proposes to conduct surficial geological exploration activities during the authorized summer season of 1985, based on the requirements that develop as the 1983 and 1984 Coastal Plain data are interpreted and integrated with Union's geological data base. Procedures to be followed in 1984 and 1985 will be the same as outlined in this Exploration Plan, or as modified by the Special use permit. Inasmuch as the field procedures for 1984 and 1985 surficial geological work are indentical to the procedures described for 1983, this Exploration Plan constitutes Union's Exploration Plan for 1984 and 1985. Notification of intent to commerce field operations and submittal of operation plans for years subsequent to 1983 will be in accordance with Subpart B, § 37.12 and Subpart C, § 37.24.

Section 37.21(d)(8) Union field personnel will commute to the ANWR Coastal Plain rock outcrops by helicopter from a camp location outside the ANWR. The only communication system will be the aircraft radio.

Section 37.21(d)(9) Union plans to transport field personnel by helicopter. No surface vehicles will be used. No surface support facilities within ANWR are planned. Only hand held, manual sampling equipment will be used. § 37.21(d)(10)

Helicopter fuel (Jet–B) will be the only hazardous substance used by field personnel. Refueling will be accomplished at the USFWS approved fuel cache locations within ANWR and at Kavik airstrip outside the ANWR. Periodic, unscheduled refueling from internally transported 12 gallon barrels will be conducted only at uplands locations away from all water sources. Fuel absorbent mats be used will at all refueling locations. Soiled mats will be removed from ANWR and disposed of at an existing approved disposal site.

Section 37.21(d)(11) As all personnel transportation to and from the ANWR will be by helicopter, and movement around specific rock exposures will be by foot, the effect of the proposed surficial geological activity on the refuge's wildlife, its habitat, the environment, cultural resources, subsistence uses and needs will be nil. Helicopter operation will conform to the requirements established previously by USFWS, or as modified by the special use permit.

Section 37.21(d)(12) The designated field representative will ensure compliance of all helicopter operation stipulations and will monitor all fueling operations by notation in the daily field records.

Section 37.21(d)(13) Union expects to comply with all portions of the special use permit, the approved exploration and operations plans and other stipulations, demands, and orders as issued by the Regional Director.

Section 37.21(d)(14) The collection of all field samples and the processing of said samples will be conducted in accordance with accepted industry standards for analytical procedures, and will be monitored by Union's Science and Technology Division staff.

Section 37.21(d)(15) Union, upon the request of the Regional Director, agrees to provide other pertinent information as is deemed reasonable, in order that the Regional Director might make a timely determination regarding Union's application to conduct surficial geological exploration activities within the Coastal Plain of the ANWR.

Pursuant to the provisions of 15 CFR 930.37 (a) and (b) Union Oil Company of California, in submitting this application, feels that the proposed activity complies with the State of Alaska approved Coastal Management Program and will be conducted in a manner consistent with such program.

It is felt by Union that this permit application fully addresses the new regulations as we interpret them under 50 CFR Part 37. Implementation of this new permit procedure will undoubtedly lend itself to some unforeseen confusion. Union, however confident in the completeness of its submittal will, at the direction of the Refuge Manager, supplement and amend its application due to unintentional omission in order to comply with the new regulations.

Inasmuch as Union has already secured an ANWR surficial permit (#83–G2) covering portions of the refuge outside the Coastal Plains, for 1983, it is anticipated that a Coastal Plains 1002 C Study Area Permit will be issued to coincide with our existing permit. Both ANWR field party operations conducted simultaneously would logistically be the best minimization of time and activity.

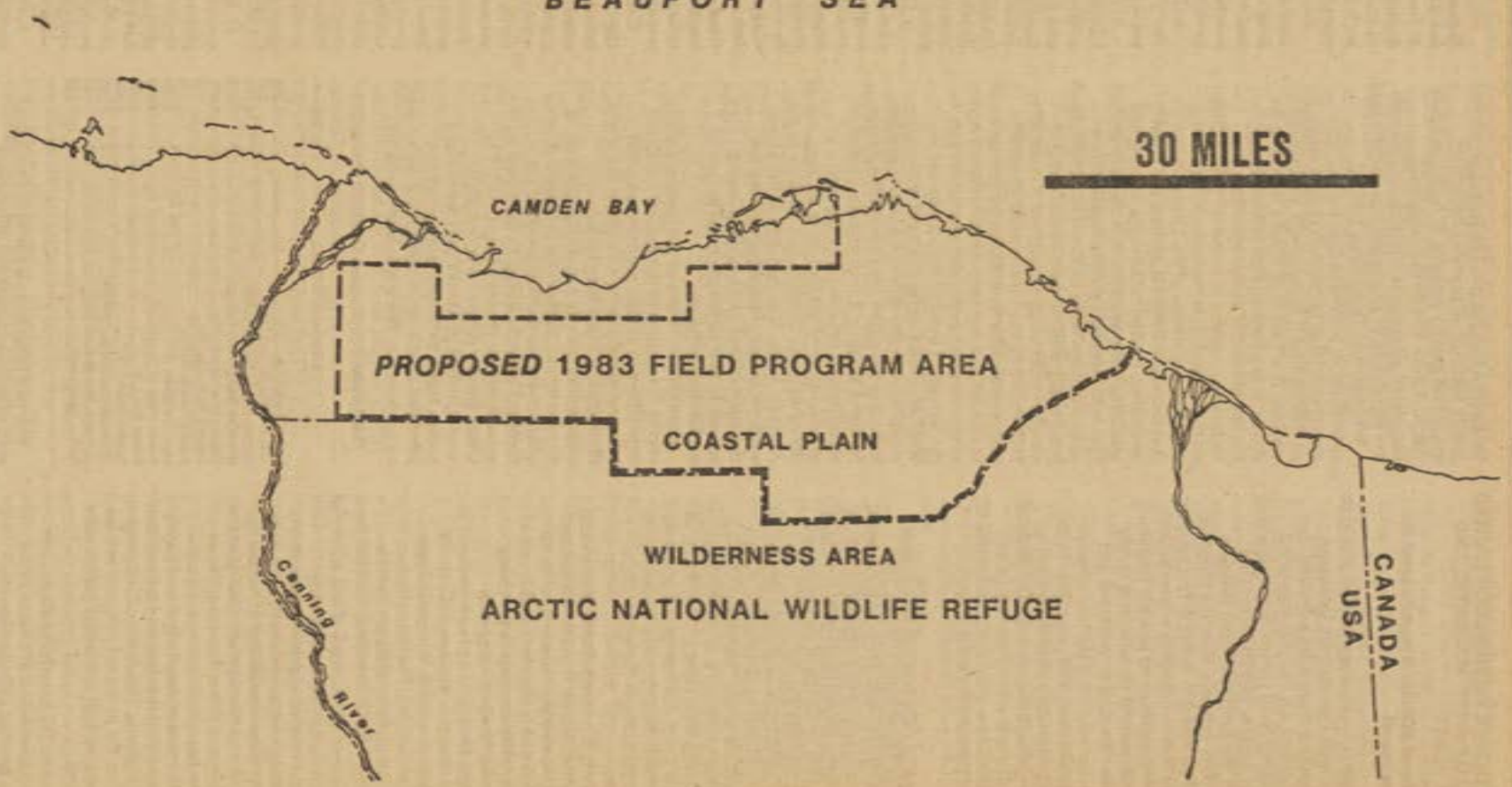
Very truly yours,

Robert T. Anderson,

Attorney-In-Fact.

BILLING CODE 4310-55-M

PROPOSED
1983 FIELD PROGRAM
ARCTIC NATIONAL WILDLIFE REFUGE



BILLING CODE 4310-55-C

INTERNATIONAL TECHNOLOGY LIMITED PLAN FOR GRAVITY, MAGNETIC, AND CONTROL SURVEY

Arctic National Wildlife Range Request for Special Use Permit

International Technology Limited (Itech) in association with Photogravity Company hereby submits a request for a Special Use Permit to conduct a helicopter supported gravity, magnetic and control survey utilizing inertial and doppler satellite surveying methods, in the Arctic National Wildlife Range. As data gathered from the proposed survey will be useful to better define specific target areas for the following winter seismic exploratory programs and provide positional and elevation control therefor, it is highly desirable that the data be collected and monuments be set during the late summer and early fall of 1983. The program is in the nature of a preliminary field investigation, will totally utilize helicopters as the mode of transportation and will entail negligible surface disturbance. An expedited review of this Special Permit Request is therefore desired.

1. *Names and Addresses of Applicants.* International Technology Limited, 3127 Commercial Drive, Anchorage, Alaska 99501 is an Alaskan corporation organized in 1975. Now employing approximately 60 individuals it offers a wide spectrum of surveying and positioning services specializing in high technology techniques especially suitable to remote and difficult environments. Itech's corporate offices are in Anchorage, Alaska. The corporate president and chief executive officer is Clarence A. Herschbach, R.L.S., of 4942 Knights Way, Anchorage, Alaska 99504. Doyon, Limited, the Fairbanks based native regional corporation, is the major Itech shareholder.

Photogravity Company, 10615 Shadowood Drive, Houston, Texas 77043 was organized in 1959. It also employs approximately 60 professionals and technicians and is one of the "pure" gravity companies providing mainly gravity services along with photogeology. Photogravity is under the responsible direction of George W. Hinds, Division Manager, 10138 Whiteside Lane, Houston, Texas 77043. Photogravity is a wholly owned division of Strata Search Incorporated, a Berry Industries Company.

2. *Participants.* At the time of this submittal participation in the proposed gravity, magnetic and control acquisition program is limited entirely to International Technology Limited, 3127 Commercial Drive, Anchorage, Alaska 99501 and Photogravity Incorporated, 10615 Shadowood Drive, Houston, Texas 77043. These two participating companies will share the cost of acquisition and jointly share ownership of the data and information resulting thereform. The data and information resulting from the proposed program will be offered to any and all interested parties on a fair cost basis.

3. *Applicants Technical and Financial Ability.* The association of International Technology Limited and Photogravity Incorporated presents a team technically and financially capable of accomplishing the exploratory program set forth in this Request for Special Use Permit. The team has worked jointly together on previous helicopter supported gravity projects in Arctic and Sub Arctic Alaska and has satisfactorily completed all projects while complying with the stipulation of all exploration permits held.

International Technology Limited specializes in providing high technology surveys on large projects in remote areas. As an Alaska firm it is especially well versed in working in all areas of Alaska including the Arctic. It is a leading firm internationally in the use of inertial and doppler satellite technology which are proposed to be utilized on this project. It is the only civilian owner and user worldwide of the Litton Autosurveyor DASH II system, the latest generation inertial technology, owning and operating three systems. It is the only private firm with doppler satellite translocation reduction capability in-house in Alaska. Itech has heavily utilized inertial and doppler satellite technology throughout Alaska since 1977 including the surveying of elevations and positions for over 20,000 gravity stations in central and northern Alaska, the surveying of positions for over 2,000 section corners for the Bureau of Land Management and the State of Alaska, setting ground control for mapping over 400 miles of Alaska coastline including the entire coastline of the Arctic National Wildlife Range under a combined state/federal program, plus 8 years experience working for nearly all segments of the oil industry onshore and offshore in the Alaskan Arctic. The majority of the above work programs utilized helicopters for transportational and logistical support very similar to that required on the proposed exploratory program.

Photogravity is one of the leading gravity survey companies in the industry with full capabilites to gather, process, map and interpret gravity data throughout the world. Photogravity has a long history of satisfactory gravity acquisition projects in Alaska including previous programs directly offshore and to the Southwest of the Arctic National Wildlife Range as indicated on the accompanying program map (exhibit 1). Other gravity programs successfully accomplished in Alaska are summarized below, many helicopter supported and surveyed by use of an inertial survey system as proposed on this exploratory program.

PHOTOGRAVITY ALASKA GRAVITY PROJECTS

Location and Date	Stations
Yukon Delta (73)	1,200
Yukon Delta (on-ice) (74)	350
Brooks Range Foothills (75)	5,750
Beaufort Sea (on-ice) (75–77)	9,000
Copper River Basin (76)	3,000
Seward Peninsula (75)	500
Alaska Peninsula (76)	350
McKinley Basin (77)	2,000
Yukon Delta (77)	1,200
Bristol Bay (78)	1,600
Susitna Basin (78)	1,350
Chuckchi Sea (on-ice) (79–80)	1,900
Norton Sound (on-ice) (82)	25
Norton Sound (82)	325

The two firms have a combined technical staff of approximately 120 individuals. Included on Itech's staff are 8 individuals registered as land surveyors within the State of Alaska.

Berry Industries Corporation, the parent firm of Photogravity company had assets of $48,607,000 as of the end of its last fiscal year, 31 December, 1982. Itech had assets of $5,668,476 as of the end of its last fiscal year, 31 October, 1982. Together they have sufficient financial strength to successfully complete the proposed program.

Program Map. A Map at the scale of 1:250,000 of the geographic area in which the program is proposed indicating the gravity and magnetic survey lines, control point locations, travel routes and support facility locations is attached hereto as exhibit 1.

5. Description of Exploratory Activities. The proposed program is divided into four parts.

A. *Gravity Survey—One Mile Grid.* Gravity will be acquired on approximately 2,700 stations on a one grid, utilizing Lacoste and Romberg land gravity meters, within the Coastal Plain Province of the Arctic National Wildlife Range. Inertial survey systems shall be utilized to establish precise geodetic positions and elevations on the individual gravity stations, accurate elevations being a neccessity to high quality gravity data.

B. *Regional Gravity/Magnetic Profiles.* Eleven gravity/magnetic profiles are proposed, ten to fifty miles long extending southward from the Beaufort Sea to the Brooks Range foothills. The western most profiles extends into the already drilled Kavik area. Gravity and magnetic signatures of these known structures could be the basis for delineating any similar structures within the A.N.W.R. Approximately 350 stations will be metered at one mile intervals, again utilizing land gravity and magnetic meters and an inertial survey system.

C. *Geographic and Vertical Control Net.* Utilizing doppler satellite and inertial survey techniques a geodetic and vertical control net shall be established concurrently with the gravity survey. This horizontal and vertical control program will ascertain existence and verify positions and elevation of previously set monuments, densify control monumentation on an approximate 6 mile grid to enhance technical accuracy and lessen survey requirement for future programs, assure horizontal and vertical values across the entire Province to be on a common datum, and will physically monument the southerly limits of the Coastal Plain. Control points will be monumented with driven aluminum rod on which an appropriately stamped identifying cap shall be secured.

D. *Photogeologic Evaluation.* About 7,000 square miles of photogeologic coverage is planned to further delineate structural trends. Photo interpretation of stereo aerial photography will be supplemented with Land Sat 1:250,000 satellite imaginary. Detailed photogeologic structure maps with form line interpretations will be produced at an appropriate scale.

Data from the survey would be as follows:

1. Progress maps of the Bouguer data completed within thirty days following completion of the field work. Field progress maps will be maintained throughout the course of the field program.

2. Final gravity maps to include a.) Bouguer Gravity Map, b.) Residual Gravity Map.

3. Complete set of profiles of the magnetic, Bouguer and Residual Gravity Data.

4. Control diagram and data sheets indicating survey control monuments recovered or missing, monumentation established and X, Y, and Z coordinates and description of each station.

5. Final interpretation report with discussion and summary of significant gravity features.

6. *Avoidance of Unnecessary Duplication.* Photogravity Incorporated already owns extensive gravity data covering the entire offshore area directly north of the Arctic Wildlife Reserve and abutting the Arctic Wildlife Reserve onshore to the Southwest. International Technology Limited has the horizontal and vertical values for numerous survey stations along the Arctic National Wildlife Range coastline established by themselves as part of the Coastal Marine Boundary Program during 1981 and 1982. In addition they have on file in-house proprietary data on a considerable number of survey stations established to the west of the Arctic Wildlife Range as part of past survey programs. Utilization of this existing data and stations shall greatly reduce the required field work on the proposed program and supplement the data collected therefrom. In addition, the horizontal positions for all stations to be occupied during the proposed program shall be precomputed and utilizing the considerable capabilties of the inertial survey system, the operational field crews will be guided directly to each specific station. Collected data shall be reduced and plotted on a daily basis to assure geographic coverage is complete while preventing duplication or reruns of stations previously surveyed.

7. *Schedule of Exploratory Activities.* The exploratory schedule will of necessity depend on the issuance date for the Special Use Permit. For the purpose of the schedule outlined below it is presumed a Special Use Permit shall be issued on or about 15 July, 1983.

Schedule of Exploratory Activities

July 15, 1983—Special Use Permit Issued
July 27—Begin Field Operations Setting Survey Control Along Southern Boundary
Aug. 1–Aug. 19—Begin Gravity Acquisition and Control Survey Concentrating in Expected Snow Goose Staging Area to East
Aug. 20–Sept. 9—Shift Field Operations to West of Snow Goose Staging Area
Sept. 10–Sept. 30—Complete Any Residual Uncompleted Areas
Oct. 1–Nov. 30—Complete Final Reports, Summaries And Plats

8. *Purposed Communication Techniques.* Each helicopter utilized as a part of this field program shall be equipped with a functional VHF radio with appropriate frequencies to communicate with FAA facilities at Barter Island, to communicate between helicopters working on the program and to communicate between helicopters and the base camp at Kaktovik. Due to the topographic nature of the coastal plain line of sight communications to Kaktovik are appropriate from all portions of the operational area. The FAA flight service frequency and the Itech/Potogravity FCC assigned discreet frequency shall be monitored at all times by all field operational parties and by an assigned individual at the base camp at Kaktovik.

9. *Equipment, Support Facilities, Access, Personnel.* The purposed program will be accomplished as a helicopter supported, inertial survey supported, land gravity/magnetic program. The proposed equipment to be utilized in the field is as follows:

A. 2 to 3 Light Turbine Helicopters
B. 2 Litton Autosurveyor DASH II Inertial Survey Systems
C. 5 MX 1502 Magnavox Doppler Satellite Receivers
D. 3 LaCoste and Romberg Land Gravity Meters
E. 1 Hewlett Packard 87 Computer with Disk Drive, Plotter and Printer Peripheral
F. Intermittent Use of Fixed Wing Aircraft to Transport Jet Fuel and 55 Gallon Fuel Drums
G. 1 Magnetometer
H. Misc. Small Surveying and Drafting Tools and Support Equipment

A field crew of approximately 10 individuals will be required who will lodge at commercial facilities at Kaktovik. No field camps shall be established. All transportation in the operational area shall be by helicopter or fixed wing aircraft. At least two light turbine helicopters will be required. Each will be equipped with a Litton Autosurveyor inertial system. One will be used solely to collect gravity, magnetic and control data. The other will be used partially for gravity acquisition and partially as a support ship to transport fuel or personnel, for rescue purposes, to support doppler satellite activities, or to scout traverse lines in advance in relation to protecting wildlife habitat or sensitive area requirement. Depending on weather during the operational period a third helicopter may be required to meet the support requirement.

Utilizing pre-computed positions for each individual gravity/magnetic or survey station the inertial survey system shall guide the helicopter pilot directly to each desired point, either directly from base camp or from the previous station. Detours will be made around any known wildlife concentrations or subsistence hunters. If wildlife concentrations are seen their locations shall be noted on progress maps and those areas avoided on subsequent flights.

The proposed work staff to conduct the field operation shall be composed of three helicopter pilots, one helicopter mechanic, one gravity supervisor, one survey supervisor/computer operator, two gravity meter operators and two inertial system/doppler receiver operators. A field computer facility shall be set up at the base camp at Kaktovik so as to allow field data to be processed and checked on a daily basis.

10. *Hazardous Substance Control.* The only hazardous substance anticipated to be used during the purposed exploration program would be jet fuel utilized as fuel for the participating helicopters. This fuel would be stored solely at the airfield at Kaktovik and to a minor extent at the semi-improved airstrips at the abandoned dew line stations at Camden Bay and Beaufort Lagoon. Fuel at these locations will be stored in sealed 55 gallon drums until utilized. No fuel will be stored at any other locations within the Wildlife Reserve. In the event refueling of a helicopter is required at other than these three designated locations the fuel would be carried in approved containers by a support helicopter to the fuel deficient ship, the refueling carefully performed and the empty containers returned immediately in the helicopter to Kaktovik. At any time a helicopter refueling takes place at any location within the reserve a container for waste fuel, drip pans and absorbent material will be maintained at the refueling location and every precaution taken to avoid even minute spillage. In the event of any spill what so ever immediate actions will be implemented to contain the spill and remove any contaminated materials to an approved disposal area. All federal and state reporting requirements will be adhered to. No fueling shall take place adjacent to any body of water. All field personnel shall be briefed on proper storage, handling, and transfer techniques, including spill clean up and reporting requirements prior to start up of field operations.

11. *Anticipated Impact of the Purposed Exploratory Program.* It is anticipated the proposed program will have only minor short term impact on the refuge wildlife, its habitat, environment and subsistence uses and needs. No long term impact is expected. No impact what so ever is expected on cultural resources in the refuge. Short term impact will consist mainly of the sound and disturbance by the helicopter activities. Some slight disturbance will result from semi-permanent survey marker being left at specified locations, however these markers should greatly reduce the requirement for future survey activities. The program is planned so as to minimize environmental impacts. Utilization of the inertial survey system will assure helicopter navigation directly to each desired point without unnecessary circling and wandering. Use of the inertial survey system will also allow any stations or areas to be bypassed in the event wildlife are present, without affecting the validity or accuracy of other data collected on the same mission. The helicopter shall at all times fly at maximum altitudes consistent with the requirement for landings at one mile intervals. Since the time on the ground at each landing will be only approximately three minutes in duration disturbance will be held to a minimum. As some flexibility exists as to the exact location of each individual station and the inertial survey system will immediately determine the true geographic position and elevation at the point the helicopter actually lands, immediate minor deviations can be made from the ideal program to avoid wildlife or subsistence hunters.

The timing of the program in planned to avoid all sensitive areas during periods set forth by the U.S. Fish and Wildlife. Program efforts will be maximized during these least sensitive periods so as to perform the program in the shortest possible and least sensitive time periods. A concentrated early field effort will also permit availability of

resultant data to the industry in sufficient time to allow its utilization to optimize placement of seismic lines during the following winter program.

12. *Procedure For Monitoring the Environmental Impact.* Itech/Photogravity shall designate a representative who shall be responsible for overall project management and whose duties shall include constant monitoring of the environmental impact and interfacing with monitoring personnel. In addition, the gravity supervisor and survey supervisor shall be responsible for ongoing monitoring of the environmental impact of the field operation and to ensure compliance with all regulatory and permit requirements. Before mobilization to the field all participating individuals shall be given a detailed environmental briefing, assuring each individual will be fully familiar with the special permit requirements and all other regulatory requirements. A handbook summarizing these requirements will be given to each participating individual so as to be available at all times as a ready reference guide. Daily logs will be prepared by each field party noting any environmental impacts, wildlife disturbance, subsistence user disturbance and other operational details. These will be made available to any monitoring officer on a daily basis and summerized in the final report at the conclusion of the field program. Provision will be made for any monitoring official to accompany the field parties during their daily operations for spot inspections or on a regular basis if so desired.

13. *Statement of Compliance.* In the event International Technology Limited/ Photogravity Incorporated are authorized to conduct this proposed exploratory activity they shall comply with all rules and regulations pertaining to the geological and geophysical exploration of the Coastal Plain of the Arctic National Wildlife Refuge, Alaska, with all provisions of their Special Use Permit, conform to their approved exploration plan, plan of operation and all reasonable stipulations, demands and orders that may be issued by the Regional Director.

14. *Quality Assurance.* The permittees will assure quality data is collected under the proposed program by utilizing equipment and methods that have proven themseves technically and operationally suitable on similar operations in adjacent areas of the Alaska Arctic and that are widely accepted by the industry as the methods producing the most useful data. Only skilled personnel experienced in their particular areas of expertise shall be assigned to the program. All data shall be field processed and a progress map maintained of all collected data on a daily basis. This data and map shall be monitored daily by gravity and survey experts to assure the quality of the collected data. Only the latest, most accurate, technologically advanced equipment and techniques will be utilized on the project, assuring the end product shall be consistent with the "State of the Art" existing today.

15. *North Slope Borough and State Permit.* Permits from the North Slope Borough and State of Alaska will be applied for and acquired as needed for this project. Permits for field camps and for refueling near navigable streams are not applicable to this application as neither of these activities are anticipated. Due to the nature of the proposed program no effect on land and water uses in Alaska's Coastal Zone are anticipated.

Submitted by: Photogravity Company, International Technology Limited.

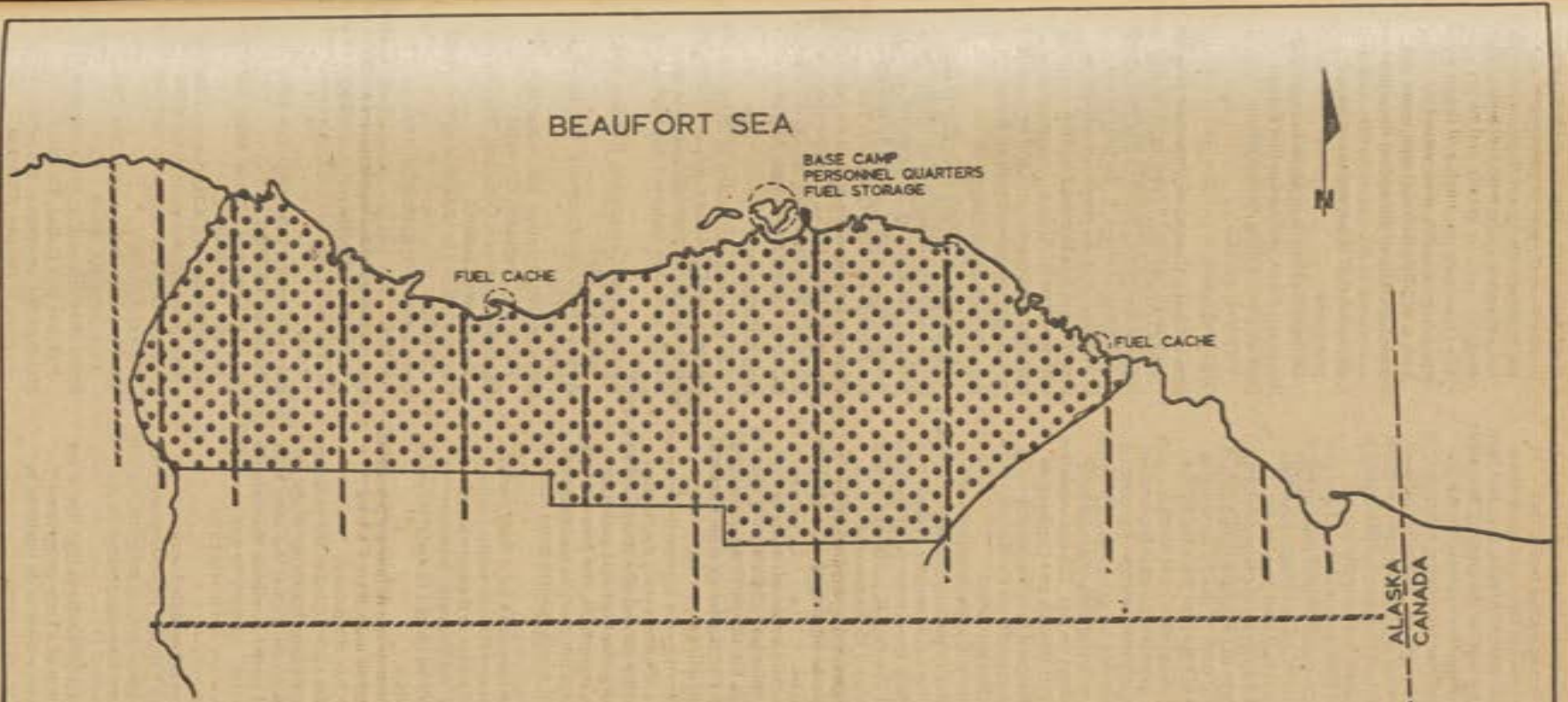
George Hinds,

Division Manager.

C. A. Herschbach,

President.

BILLING CODE 4310-55-M



PROPOSED PROGRAM

1. GRAVITY PROGRAM

   COASTAL PLAIN ONLY
   1 MILE GRID - 2,700 STATIONS

2. GRAVITY/GROUND MAGNETICS PROFILES

   BEAUFORT SEA TO OUTCROP
   350 LINE MILES - 1 MILE STATIONS

3. GEOGRAPHIC & VERTICAL CONTROL NET

   MONUMENTS TO BE SET TO HORIZONTALLY & VERTICALLY CONTROL FUTURE EXPLORATORY PROGRAMS. COASTAL PLAIN ONLY
   6 MILE GRID

4. PHOTOGEOLOGY

   APPROXIMATELY 7,000 SQUARE MILES (NO FIELD ACTIVITY REQUIRED)

ARCTIC NATIONAL WILDLIFE REFUGE	
PROPOSED GRAVITY AND CONTROL SURVEY	
INTERNATIONAL TECHNOLOGY LIMITED IN ASSOCIATION WITH PHOTOGRAVITY COMPANY	
DRAWN BY: HBA DATE: MAY 19, 1983	SCALE: 1:1,000,000

BILLING CODE 4310-55-C

ARCO ALASKA, INC. PLAN FOR GEOPHYSICAL EXPLORATION

Group Exploration Plan for Geophysical Reconnaissance of the Coastal Plain of the Arctic National Wildlife Refuge, Alaska

Submitted by: ARCO Alaska, Inc., as Group Operator.

Submitted to: Regional Director, Region 7, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503.

Date: May 20, 1983.

Arctic National Wildlife Refuge—Coastal Plain ARCO Group Seismic Program

Exploration Plan

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Note.—Items 1 through 15 are references to the items required to be contained in an Exploration Plan by 50 CFR 37.21(d) (1) through (15) of the final rules governing geological and geophysical exploration of the coastal plan of the Arctic National Wildlife Refuge, as published in the **Federal Register**, April 19, 1983. The description of each of these 15 items in this Table of Contents is intended as a summary of the requirement of each of the 15 elements of 50 CFR 37.21(d) (1) through (15), and the text directly addresses those 15 elements in detail. It must be noted that 50 CFR 37.21(d)(15) requires an applicant to submit "(s)uch other pertinent information as the Regional Director may reasonably requie." ARCO Alaska, Inc., as Operator or this proposed Exploration Plan, delivered a letter dated May 9, 1983 to the Regional Director requesting that any additional information required for this Exploration Plan be specified in order to be included herein. The further information requested by the Regional Director in response to that letter is discussed in Item 15 of this Exploration Plan.

May 20, 1983.

Mr. Keith Schreiner,
Regional Director, U.S. Fish & Wildlife Service, 1011 East Tudor Road, Anchorage, AK 99503

Dear Mr. Schreiner: This Exploration Plan is a joint product of the 24 oil companies who have voluntarily endorsed this proposed Exploration Plan and have committed manpower to provide input and guidance to the plan design. ARCO Alaska, Inc., has been designated operator for the group of industry companies making this application. ARCO Alaska, Inc., will be hereinafter referred to in this Exploration Plan as "Operator." The group geophysical winter program presented in this Exploration Plan has been designed to provide a comprehensive multi-year inventory and assessment of the oil and gas resources of the entire coastal plain of the Arctic National Wildlife Refuge (ANWR). This assessment will best provide the comprehensive analysis of the potential oil and gas reserves in the coastal plain that is required by § 1002 of ANILCA. By utilizing the full scope of expertise afforded by the large number of industry companies participating voluntarily in this Exploration Plan, the regulatory objectives of controlled collection measures for data, and elimination of unnecessary duplication of exploratory activities can best be met. The consolidation of industry effort through this Exploration Plan is also designed to minimize any significant adverse effects on the fish, wildlife and other resources.

The Operator will actively solicit additional industry participants to join in this Exploration Plan until issuance of final approval for field operations. After issuance of the Special Use Permit, participation will be allowed subject to the terms of appropriate agreements prepared and executed by those companies endorsing this Exploration Plan.

There are considerable advantages inherent in a voluntary joint industry effort of this magnitude. For the purposes of meeting the legislative and regulatory objectives and goals these advantages are significant:

- A comprehensive area approach minimizes the chances of unnecessary duplication
- Internal quality control of a comprehensive program using identical data gathering parameters, equipment, and presentation methods gives more active management involvement which ensures more adequate data
- The proposal provides for a third party Client Representative to verify quality control of the data and ensure permit compliance. Additionally, a Project Biologist will be on call to assist on an as needed basis
- A single operator can require equipment to be of a common manufacture which maximizes data consistency
- The expertise contributed to the program design ensures broad coverage of the area using an integrated format including both gravity and seismic methods to maximize the high quality, consistency and scope of the data base needed for resource assessment
- Management is simplified with one Operator for both the industry group and regulatory agencies, and potential impacts on ANWR environment/resources are minimized
- Operator accountability is high due to his representation of a large group of oil companies who want to do business in Alaska for years to come
- Confidence in the Operator due to prior successes and experience in Arctic exploration activities will encourage industry participation in this Exploration Plan
- The Operator's prior experience in operations which have involved the U.S. Fish & Wildlife Service lends better understanding of the agency objectives and operations
- Consolidation of paperwork to be processed

On behalf of the 24 companies endorsing this group effort, we submit this Exploration Plan for your review and approval.

Very truly yours,

G. T. Wilkinson.

Item i: Alaska Coastal Management Program

ARCO Alaska, Inc., as Operator for the group of companies listed in this Exploration Plan, hereby certifies, to the best of our knowledge, that the proposed activity, as described in this Exploration Plan, complies with the State of Alaska's approved coastal management program and will be conducted in a manner consistent with such program.

Item 1: Responsible Official

The proposed activity described in the group Exploration Plan will be conducted on behalf of the group by the Operator, ARCO Alaska, Inc., a wholly owned subsidiary of the Atlantic Richfield Company. The Operator's responsible official for conduct of this operation is Mr. G. T. Wilkinson, Executive Vice President, ARCO Alaska, Inc., P.O. Box 100360, Anchorage, AK 99510.

Item 2: Participants

The following companies, in addition to the Operator, ARCO Alaska, Inc., are planning to participate in the proposed exploratory activity and have endorsed this Exploration Plan:

Amerada Hess Corporation, P.O. Box 2040, Tulsa, OK 74102
Amoco Production Company, 1670 Broadway, Denver, CO
BP Alaska Exploration, Inc., 1 Maritime Plaza, San Francisco, CA 94111
Champlin Petroleum Company, Box 1257, Englewood, Co 80150
Chevron U.S.A. Inc., P.O. Box 8100, Concord, CA 94524
Conoco Inc., P.O. Box 218850, Houston, TX 77218
Diamond Shamrock Corporation, 410 17th Street, Suite 600, Denver, CO 80202
Elf Aquitaine, Inc., 800 Gessner, Houston, TX 77024
Exxon Company, U.S.A. P.O. Box 4279, Houston, TX 77001
Getty Oil Company, 6750 W. Loop, Suite 500, Bellaire, Tex 77401
Gulf Oil Exploration & Production Company, P.O. Box 1392, Bakersfield, CA 93302
Hamilton Bros. Oil Company, 1625 Broadway, Denver, CO 80202
Marathon Oil Company, P.O. Box 2380, Anchorage, AK 99510
Mobil Oil Corporation, Alaska Exploration, P.O. Box 900, Dallas, TX 75221
Murphy Oil Corporation, 200 Jefferson Avenue, El Dorado, AR 71730

Petrofina Delaware, Inc., #1 Houston Center, Suite 1200, Houston, TX 77010
Phillips Petroleum Company, 8055 E. Tufts Avenue Parkway, Denver, CO 80237
Shell Oil Company, P.O. Box 527, Houston, TX 77001
Sohio Alaska Petroleum Company, Pouch 6-612, Anchorage, AK 99510
Sun Exploration & Production Company, 4600 N. Fuller Drive, Irving, TX 75062
The Superior Oil Company, P.O. Box 4100, The Woodlands, TX
Tenneco Oil Company, 1100 Milam, Suite 1270, Houston, TX 77002
Union Oil Company of California, P.O. Box 6247, Anchorage, AK 99510

Item 3—Evidence of Technical & Financial Ability

The Operator is both technically and financially able to conduct the proposed activities described in this Exploration Plan. The Operator has in excess of two thousand employees in the State of Alaska and maintains a large and highly qualified staff of petroleum explorationists.

Financial Ability. As evidence of financial ability, the Operator submits the following table reflects the Consolidated Balance Sheets for 1981 and 1982 of its parent corporation, the Atlantic Richfield Company. These tables are excerpted from the Atlantic Richfield Company 1982 Annual Report Copies of this report are available upon request.

TABLE 1—CONSOLIDATED BALANCE SHEET

[Thousands of dollars]

Assets	1982	1981
Current assets:		
Cash	$296,114	$114,297
Short-term investments	478,401	397,958
Accounts receivable	1,312,865	1,995,133
Inventories	1,572,005	1,753,304
Prepaid expenses and other current assets	122,712	188,989
Total	3,782,097	4,449,681
Investments and long-term receivables:		
Affiliated companies accounted for on the equity method	1,109,735	893,591
Other investment and long-term receivables, at cost	581,984	335,231
Total	1,691,719	1,228,822
Fixed assets:		
Property, plant and equipment, including capitalized leases	22,744,894	19,845,013
Less accumulated depreciation, depletion and amortization	6,974,581	6,168,679
Total	15,770,113	13,676,334
Deferred Charges	388,846	367,702
Total	21,632,775	19,732,539
Liabilities and shareholders' equity		
Current liabilities:		
Notes payable	$261,001	$327,265
Accounts payable	2,045,819	2,097,312
Taxes payable, including excise taxes collected from customers	117,107	340,500
Long-term debt and capital leases obligations due within one year	319,697	462,698
Advances and production payments due within one year	25,622	58,071
Accured interest	139,810	119,027
Other	367,046	380,833
Total	3,276,102	3,785,706
Long-term Debt	3,500,792	3,239,309
Capital Lease Obligation	400,494	445,514
Advances and Production Payments	1,170,325	771,654
Deferred Income Taxes	2,704,255	2,301,607
Other Deferred Liabilities and Credits	712,490	523,528
Shareholders' Equity:		
Capital stock	654,514	641,513
Capital in excess of par value of stock	1,219,046	1,080,514
Retained earnings	8,024,538	6,943,194
Foreign currency translation	(29,781)	
Total	9,868,317	8,665,221
Total	21,632,775	19,732,539

Technical Ability. The Operator has been active in Alaska for over twenty-five years and during this time has conducted extensive operations in the North Slope. The Operator has obtained and complied with the conditions of hundreds of permits for North Slope activities, ranging from geophysical exploration to development of the Prudhoe Bay and Kuparuk oil fields. The Operator maintains an Environmental Conservation Department and a Regulatory Compliance Engineering section to ensure that all operations are carried out in compliance with all permit conditions.

As further evidence of the Operator's technical ability to conduct the geophysical survey program outlined in this Exploration Plan and as a reference for verifying the Operator's past compliance with permit stipulations, the following three tables are submitted which list the 21 geophysical surveys which the Operator has operated from 1965 through 1982.

TABLE 2.—ARCO OPERATED GROUP GEOPHYSICAL PROGRAMS

Year	Contractor	General area covered	Mileage acquired	Permit/agency number
1974	Western Geophysical	Beaufort Sea Ice	94	N/A.
1975	GSI	North Slope-Beaufort Sea	200	N/A.
1977	GSI	Beaufort Sea	396	OCS 76-73.
1978	Western Geophysical	do	150	MLUP 78-145.
1979	do	do	385	MLUP 78-144.
1980-81	GSI	North Slope Alaska	1,289	MLUP 80-245.
Total ARCO Operated Group Seismic Survey Miles: 2,514				

MLUP—State of Alaska Permits.
TUP—Bureau of Land Management Permits.
OCS—United States Geological Survey Permits.
N/A—Permit number not available or given.

TABLE 3.—ARCO PROPRIETARY GEOPHYSICAL PROGRAMS

Year	Contractor	General area covered	Miles acquired	Permit/agency number
1965	Ray-Flex	Southern North Slope	178	N/A.
1969	GSI	do	17	N/A.
1970	Digicon	N. Prudhoe Bay	62	N/A.
1971	GSI	Flaxman Island Pt. Thompson Area	61	N/A.
1975	Western Geophysical	E. Prudhoe Bay Detail	72	N/A.
1976	United Geophysical	Gull Is. Detail	10	N/A.
1978	Western	Pt. Thompson Detail	300	MLUP 78-29.
1981	GSI	NPRA Area	176	TUP F-72866.

TABLE 3.—ARCO PROPRIETARY GEOPHYSICAL PROGRAMS—Continued

Year	Contractor	General area covered	Miles acquired	Permit/agency number
1982	Norpac Exploration Co. Inc	do	237	TUP AK 029-SP2-016.
1983	do	do	370	TUP F-81236.

Total Proprietary Seismic Survey Miles: 1,483.

MLUP—State of Alaska Permits.
TUP—Bureau of Land Management Permits.
OCS—United States Geological Survey Permits.
N/A—Permit number not available or given.

TABLE 4.—ARCO JOINT GEOPHYSICAL VENTURES (ARCO OPERATED)

Year	Contractor	General area covered	Miles acquired	Permit/agency number
1970	Seismic Delta	Canning River	13	N/A.
1979	Western	N. Prudhoe Detail	48	N/A.
1981	GSI	Upper Kavik Detail	200	MLUP/NS 80-266, 326.
1981-82	GSI Western	Canning Detail/Uplands Canning North Slope	232	MLUP 80- 266, 304, 330.
1982	Western	Arctic Slope Franklin Bluffs	151	MLUP 81- 178, 219.

Total ARCO Operated Joint Venture Seismic Survey Miles: 644.
GRAND TOTAL of Tables 2, 3, and 4: 4,641 Seismic Survey Miles.

MLUP—State of Alaska Permits.
TUP—Bureau of Land Management Permits.
OCS—United States Geological Survey Permits.
N/A—Permit number not available or given.

Item 4—Activity Map/Program Scope

A 1:250,000 scale and an 8½" x 11" one-page topographic program map, attached to and made a part of this Exploration Plan, illustrate proposed geophysical survey line locations, general travel routes, and Special Areas and sites identified by the Regional Director as potentially being impacted by the proposed activity.

The proposed seismic program consists of approximately 1,974 miles of multifold seismic data of which 1,060 line miles are scheduled for acquisition during 1984. The remaining 914 miles will be acquired during the 1985 season.

The program map depicts solid lines for the first winter season and dashed lines for the second winter season, as the program is now designed. Information gained from this program may indicate that a third season is desirable. The separation between northerly trending profiles (dip lines) to be acquired during the first season is about four miles while easterly trending profiles (strike lines) are separated by approximately six miles. Additional dip lines across the Marsh Creek anticline in the western coastal plain are included in the first winter season. This geological structure is the most significant geological feature now recognized in the area. Early assessment of this structure is important for a through resource evaluation of the ANWR coastal plain.

Profiles to be acquired during the second year are also spaced approximately four by six miles apart, and they are located approximately halfway between the first season profiles to produce a composite program grid of two miles by three miles. Final profile locations will be included in the Plan of Operation following a detailed terrain anslysis and consultation with the selected contractor(s).

During the first year's activities three seismic crews with supporting vehicles will enter the Arctic National Wildlife Refuge (ANWR) coastal plain near the mouth of the Canning River. One crew will commence operations within the western coastal plain while the two other crews move eastward to their respective operational areas on the central and eastern coastal plain. This travel will be restricted as much as possible to shorefast ice and established trails.

Travel routes within the coastal plain cannot yet be precisely defined. Surface travel will be through restricted corridors along and generally parallel to the seismic profiles, thus minimizing crossings of major rivers. Casual travel will be prohibited. Upon termination of each season's activities all equipment will be removed to a location off the ANWR coastal plain. Personnel will be provided pertinent information so as to avoid travel across Special Areas and protected sites.

Although fuel resupply is a critiacl phase of the program it cannot be addressed in detail until the contractor(s) is selected. Fuel storage sites along the coastline are being considered and will be identified following consultation with the Regional Director. These sites will be addressed in the Plan of Operation. Travel from fuel sites to field crews will be restricted as much as possible to those routes traveled by the crews during daily conduct of exploratory activities.

Fig. 1. Map depicting proposed seismic lines, 1984-85, ARCO Alaska, Inc.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS; Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907-786-3381 or 3384).

Item 5—Description of Exploratory Methods & Techniques

Exploratory techniques will utilize vibroseis ® reflection seismic and land-based gravity data acquisition using tracked vehicles. The Vibroseis ® seismic method has been utilized successfully with negligible environmental effect as the standard technique in the Arctic by North Slope operator since the mid-1970's.

The Vibroseis ® reflection seismic technique utilizes a closely spaced group of five vehicle-mounted vibrator units moving along a line of traverse. At established intervals (usually 15 to 25 feet) the units are halted, and connected to the earth's surface by means of retractable plates. Controlled frequency energy impulses are then transmitted into the subsurface. These impulses reflect from the subsurface strata and are recorded by small geophones connected to a seismic cable laid along the line of traverse. The reflected impulses are electronically transmitted to a vehicle-mounted recording unit where they are recorded on magnetic tape for subsequent processing and analysis. Recorded reflection travel times and knowledge of the geophone configuation allow the user to map the subsurface geologic structure beneath the line of traverse.

A total of three crews will be deployed to assigned areas of the coastal plain. Each will consist of approximately 27 vehicles, 15 support trailers, and 46 individuals, and will move almost daily to accompany current field operations.

Operating concurently with each seismic crew will be a gravity data acquisition party consisting of one or two personnel supported by a single vehicle with survival equipment. A portable gravity meter will be deployed at fixed intervals along each seismic traverse and a reading of the earth's local gravity field will be recorded. This information, when processed and interpreted, aids in determining the type of rock units mapped from the seismic data and helps confirm subsurface structural attitudes displayed by processed seismic profiles. Due to system interference the gravity meter will be separated from the vibrator units by several miles, but the gravity party will operate as close to the seismic party as possible.

These two components represent the basic technical configuration of each of the exploration crews. Each crew will progress at a rate of 2.5 to 6 miles per day, depending upon topography, snow cover, weather conditions, and acquisition parameters. Crew

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survey markers will be removed behind each crew.

Alternate geophysical exploration methods are not proposed at this time as the program described in this Exploration Plan is considered sufficient to provide geophysical data and information adequate for the needs of both the Department of Interior and the participants to evaluate the hydrocarbon resource potential of the coastal plain. Because several companies which have endorsed this Exploration Plan intend to submit independent surface geological exploration plans, such geologic studies are not included as part of this Exploration Plan.

Item 6.—Application of Techniques to Avoid Duplication of Exploratory Work

The majority of the group's participants are experienced in petroleum exploration on the North Slope and this Exploration Plan is the result of their collective geological and geophysical knowledge of northern Alaska. The proposed program will continue to draw upon the group for participatory management to ensure implementation of a superior and unified technical approach to obtain the highest quality data and information. This methodology will best assure a program responsive to the needs of the industry and the Department of Interior's mandate of resource assesment.

Utilization of optimum acquisition and processing techniques and rigidly enforced quality control practices will maximize recovery of good data, thereby minimizing the need to resurvey profiles and avoiding duplication of effort. Acquisition of the first winter season's data in a four mile by six mile pattern will provide reconnaissance data sufficient to identify areas of special interest and will allow the group participants to modify the subsequent program if necessary. Following the group's analysis of the first year's data and information, subsequent industry review and Plan of Operation development is the principle mechanism by which unnecessary duplication of exploratory activities wil be accomplished.

Assignment of field crews to independent survey areas, as depicted on the program map, will minimize the probability of interference between crews and ensure recovery of information from all areas of the coastal plain during the first winter season of the program. Integration of gravity data acquisition with the seismic operations reduces the level of human activity introduced to the coastal plain and provides simultaneous recovery of gravity and seismic data. Furthermore, this integrated program services to reduce duplication of field traverses, camp sites, fuel reprovisioning, and overall administration.

Item 7.—Work Schedule

Following submittal of this Exploration Plan the Operator, in cooperation with Regional Director, will identify as accurately as possible the environmental, subsistence, cultural, and land title issues having any significant effect upon the proposed program. Concurrently, technical specifications will be compiled and submitted to prospective contractors with bids due approximately July 1, 1983. Upon issuance of a Special Use Permit the group of participants to this Exploration Plan will be formalized, contractor(s) will be selected, a Plan of Operation will be written, and premobilization procedures will be initiated.

Personnel and equipment will enter the northwest coastal plain in early January 1984, or immediately after the Canning River Delta can be safely traversed. Survey crews will disperse to operational areas, followed by field crews. Field data acquisition will commence in each area on or about January 15, 1984, and will continue until mid-to-late April 1984 or when deteriorating surface conditions require removal of personnel and of equipment to a summer storage site(s). Special areas subject to surface restrictions will be traversed in compliance with Title 50 CFR 37.32.

If equipment is stored east of the Canning River subsequent operations may commence as early as mid-December 1984 and 1985. Alternatively, remobilization from a storage site west of the Canning River will result in approximately the same schedule as proposed for the first season.

Data processing will begin immediately upon data acquisition and will continue until approximately mid-August of each year when all final processed results of the preceding season's program will be available. Interpretation of the data will be the responsibility of each participant to the permittee's permit and will be available to the Regional Director in compliance with Title 50 CFR 37.53.

Item 8.—Communication Network

A communications network will be designed with the aid of the participants' telecommunications groups and in conjunction with the selected contractor(s). Commercially available satellite radio communication facilities, side-band radio channels between field crews and base camp, FM radio capabilities between field camps and vehicles, and VHF radio communication between all ground stations and supporting aircraft will be established and maintained. In addition, the intent is to establish a radio-telephone link through Kaktovik or a repeater station to provide additional direct communication between field crews, Deadhorse, and other locations outside of the program area.

(B) Camp Equipment

7 Sleeper-Office Trailers
1 Kitchen-Diner Trailer
1 Wash Trailer
1 Snow Melter Trailer
1 Incinerator Trailer
3 Fuel Storage Trailers
1 Survival Trailer (with fuel train)
—
15 Total

The major support facility will be located at Deadhorse where a field processing and administrative center will be established. Communication and air support will be controlled from this facility. Medical support will be available at established Prudhoe Bay facilities and a certified medical technician will be present on each crew. Secondary support facilities may also be established at Kaktovik.

Except for the seasonal mobilization and demobilization of crews, access will be primarily by light aircraft to temporary snow airstrips near each camp. Fuel resupply may be the major exception in that fuel may be hauled overland from offloading sites along the coast or from other sites selected in compliance with 50 CFR 37.31(e)(5). This phase of the program will be addressed in the Plan of Operation following selection of a contractor(s).

Item 9.—Equipment, Facilities and Access

Approximately 27 tracked vehicles and 15 sled and/or track-mounted trailers will be assigned to each field crew. Trailers are towed in strings of two to eight units depending on weight and contents and are designed to provide subsistence, maintenance, and communication facilities for the approximately 46 individuals assigned to each crew. Each camp is self sustaining for a period of ten to fourteen days and includes vehicles equipped with survival equipment. The following is a typical list of equipment used by each crew:

(A) Vehicles

5 Tracked Vibrator Units
2 Tracked Recording Units
5 Tracked Cable Vehicles (5-man cab)
3 Tracked Survey Vehicles
1 Tracked Party Manager Vehicle (5-man cab)
1 Tracked Client Representative Vehicle (5-man cab)
1 Tracked Gravity Meter Vehicle
1 Tracked Utility Vehicle (with boom)
5 Tracked Diesel Tractors
1 Tracked Water Tank Vehicle
1 Tracked Shop Maintenance Vehicle
1 Tracked Vibrator Maintenance Vehicle
—
27 Total

Each field crew will consist of approximately 46 individuals and every key field employee will be required to have previous arctic experience and arctic survival training. The following is a list of a typical crew complement:

Field Crew

1 Client Representative
1 Project Biologist (Serves 3 crews)
1 Party Manager
1 Clerk
2 Observers
2 Junior Observers
1 Surveyor
1 Assistant Surveyor
2 Survey Helpers
5 Vibrator Operators
1 Vibrator Mechanic
1 Gravity Meter Operator
1 Assistant Gravity Operator
13 Cable Helpers
2 Cable Repairmen
1 Mechanic
2 Mechanic Helpers
1 Cook
1 Cook's Helper
1 Camp Attendant
5 Tractor Operators
—
46 Total

Item 10.—Hazardous Substance Control and Contingency Plan

Fuel and petroleum-based products constitute the major hazardous substances to be utilized in performance of this Exploration Plan. Offloading, storage, handling, and transfer will be in accordance with the requirements of 50 CFR 37.31(e) (1), (3) and (5). Prevention of fuel spills and leaks will be emphasized to personnel. Vehicles and equipment will be inspected and maintained to minimize the occurence of fuel and hydraulic system leakage.

A Plan of Operation will be written in accordance with all appropriate regulatory requirements governing contingency plan content. A detailed Hazardous Substances Control and Contingency Plan (HSCCP) will be developed and submitted with the Plan of Operation. The following is a general discussion of the contents of the HSCCP, hereinafter referred to as Plan.

The Plan will contain three major sections: (1) a general information section will contain background information on the operation, type and location of activities, time periods covered, and the permittee's environmental compliance policy and commitment to prevent and properly respond to any and all spills, (2) the Plan will contain information concerning required spill response and prevention equipment which is to be located at the various activity sites, design criteria for the camp facilities operating equipment fuel storage sites, proper operating procedures for fuel transfer, and a description of the training to be conducted to assure implementation of the Plan, (3) spill response and notification procedures section will include a response organization list of required persons/agencies to be immediately notified, cleanup and disposal procedures, environmental/cultural considerations, restoration, and required written reports.

Item 11.—Anticipated Environmental Impacts—Mitigating Measures

This Exploration Plan covers activities which will occur only during the winter months and as such, it is anticipated that there will be minimal, if any, impact on the refuge's wildlife. By implementing the requirements of 50 CFR 37.31 as well as by utilizing the standard mitigating measures employed by the industry during many years of operating successfully on Alaska's North Slope it is anticipated that impacts to the environment of the Arctic National Wildlife Refuge (ANWR) will also be minimal.

The Operator plans to use standard measures for which environmentally sound operations have been developed. These measures comply with existing regulations and are described in general terms as follows:

- Use of low surface pressure vehicles, travel over snow covered ground, prohibition of casual vehicle use.
- Use of snow melters for camp water where approved surface sources are not available.
- Use of Alaska Department of Environmental Conservation (ADEC) approved greywater treatment systems and incinerators.
- Provisions for fuel spill prevention, containment and cleanup.
- Establishment of procedures for garbarge and waste control.
- Prohibition of feeding, harassing or taking wildlife.
- Protection of fish overwintering areas.
- Adherence to aircraft overflight restrictions.

The proposed exploratory activities will not occur during the caribou calving season, therefore, 50 CFR 37.32(a) is not applicable during the times covered by this plan. Similarly, the proposed activities will not occur during the snow goose staging season, so 50 CFR 37.32(d) is not applicable during the times covered by this plan.

The Sadlerochit Spring and Creek areas will be avoided in accordance with the requirements of 50 CFR 37.32(g). Exploratory work proposed in this plan will be completed in the identified muskox calving areas prior to the onset of calving season, in accordance with the requirements of 50 CFR 37.22(b).

Major consideration will be given to avoidance of brown bear and polar bear denning sites by rerouting traffic and seismic traverses in accordance with the requirements of 50 CFR 37.31(b)(11) and 37.32(c).

The Regional Director shall be provided with opportunities to conduct environmental and other pertinent briefings of the project personnel. Camp accommodations shall be furnished for designated Field Monitors and other authorized representatives in accordance with the requirements of 50 CFR 37.42.

Winter exploration activities are expected to minimize potential conflicts with subsistence use. Additionally, potential conflicts of exploratory activities with subsistence will be minimized by project scheduling. The Operator will consult the Regional Director and others as necessary regarding winter subsistence activities.

The seismic survey lines, camps and fuel transfer sites will be located to avoid known archaeological sites as depicted on maps supplied by the Regional Director. In addition, known sites that could be impacted will be marked. If other sites are discovered during exploration they also will be marked, reported and avoided. Since the vegetative mat will be frozen and snow cover adequate before vehicles are allowed on the coastal plain, impacts to undetected sites will be mitigated, as is consistent with the requirements of 50 CFR 37.31(d)(1) and 37.31(d)(2).

Item 12.—Monitoring of Environmental Impacts

The Operator is fully committed to conducting the proposed operation in a manner which avoids significant adverse effects on the Refuge wildlife and habitat, and is satisfactory to the Regional Director. A number of steps will be taken to monitor the proposed activity to assure compliance with all regulatory and permit requirements.

The Operator will establish clear lines of authority to manage all aspects of contract work and services.

It will be the duty of every individual associated with the proposed activity to see that his job is performed in an environmentally acceptable manner. It will be clearly understood by all company and contractor personnel that prudent operating and permit requirements must be observed.

The Operator will have overall responsibilities of the proposed project and compliance monitoring. The actions of each individual crew will be directed and evaluated onsite by a Client Representative.

Reporting to each of the Client Representatives will be a Party Manager whose major duties will include daily monitoring and inspections. In addition, a Project Biologist knowledgeable of the area will be retained to review the Plan of Operation and provide assistance to the Operator, Party Managers and Client Representatives.

The following is a description of the duties of the above identified positions in terms of project monitoring and compliance with all regulatory and permit requirements. The individuals to be assigned to these positions will be designated in the Plan of Operation.

Operator. The Operator will have overall authority for directing the proposed project. The Operator will have the responsibility to assure, through monitoring procedures, that the operation's activities are in compliance with all regulatory and permit conditions. The Operator will be the Regional Director's point of contact concerning project monitoring, compliance orders, notifications and service requests. The Operator will:

(1) Assure compliance with regulatory and permit conditions applicable to the project by:

- Ensuring that all individuals are instructed as to the Operator's environmental compliance policy.
- Providing opportunities for the Regional Director to conduct environmental and other pertinent briefings to any and all personnel involved in field operations.
- Providing a copy of 50 CFR Part 37 to each employee involved with the proposed project in accordance with 50 CFR 37.33.
- Furnishing lodging, food and reasonable use of communications and surface/air transportation systems to the Field Monitors and other representatives identified by the Regional Director.
- Preparing and submitting progress reports to the Regional Director as prescribed. A synopsis of actions taken to assure compliance with regulatory and permit conditions will be included in the reports.

(2) Assure protection of biological resources by:

- Planning operations to avoid disturbance of fish overwintering areas, riparian willow stands and other sensitive areas identified by the Regional Director.
- Designing project operations in a manner that will not unduly harass wildlife or impede passage and movements of large mammals.
- Planning and monitoring the project to be consistent with any identified Special Area provisions.
- Submitting plans for rehabilitation of disturbed surface areas for approval to the Regional Director.

(3) Assure protection of cultural resources by:

- Planning operations to avoid archaeological sites identified by the Regional Director.

• Making the necessary arrangements to have cultural sites marked as directed by the Regional Director.

• Reporting to the Regional Director any cultural resources or materials discovered during the course of the project and providing steps to be taken to protect that resource/material pending evaluation by the U.S. Fish & Wildlife Service.

(4) Assure Implementation of the HSCCP and obtain approval from the Regional Director for the location of all fuel storage areas and temporary structures.

Client Representatives. Each Client Representative will be an individual qualified as a senior geophysicist with field experience. They will report directly to the Operator and will be responsible for directing and monitoring the activities of the particular crew to which each is assigned. The Client Representative will be thoroughly knowledgeable of all regulatory requirements contained in 50 CFR Part 37, the Special Use Permit Conditions and other federal, state and local laws, regulations and permit conditions applicable to the project. The Client Representatives will:

(1) Assure compliance with regulations and the Plan of Operation by:

• Addressing and resolving all problems and potential problem areas brought to his attention concerning his crew's operations.

• Presenting, in conjunction with camp safety meetings, information on appropriate topics which will develop and maintain and environmental awareness within camp personnel.

• Taking reasonable precautions to protect geodetic land survey monuments and reporting to the Operator disturbance of any such monuments.

• Submitting to the Operator information required for progress reports, including information regarding compliance monitoring actions.

(2) Assure protection of biological resources by:

• Monitoring vehicle operations to assure that the vegetative mat or soil is not significantly damaged or displaced. Should such damage occur, the Client Representative will document the location and provide assessment information for use by the Operator and Project Biologist to identify possible rehabilitation needs.

• Locating camp sites in acceptable areas.

• Monitoring trail and camp site locations for proper clean up efforts.

• Minimizing wildlife harassment by assuring appropriate distances are maintained by personnel, vehicles and aircraft and prohibiting feeding of wildlife by personnel.

• Executing appropriate stream crossings so as to minimize effects on banks, fish migration, overwintering, spawning areas, etc.

• Assuring that water is obtained by an approved means.

• Monitoring waste disposal to assure environmental safety and to avoid attracting wildlife.

• Complying with provisions for Special Areas.

(3) Assure protection of cultural resources by:

• Locating camps to avoid known cultural resource sites.

• Reporting to the Operator any cultural resources or materials discovered during the course of the project and assuring that steps are taken to protect these resources until they can be evaluated by the U.S. Fish & Wildlife Service.

• Avoiding previously marked cultural sites during crew operations.

(4) Assure implementation of hazardous substance spill plan procedures by:

• Making proper notification of all spills or leaks of hazardous substances, fires, injuries, fatalities, etc.

• Containing, controlling and cleaning up all spills of hazardous substances in accordance with the hazardous substance control and countermeasure plan.

Party Manager. Each crew will have a Party Manager whose major duties will be to routinely inspect camp and field operations. A formal checklist will be developed and submitted in the Plan of Operation identifying potential problem areas associated with the camp, vehicles, fuel caches, etc. This checklist will be completed, signed and submitted to his client Representative daily. The Party Manager will monitor fueling and other fuel transfer operations to assure implementation of proper practices and procedures, and to assure that any spills are contained, cleaned up and reported to his Client Representative.

Project Biologist. The services of a Project Biologist knowledgeable of the area will be available to the Operator and Client Representative of each crew on an as needed basis. When directed, the Project Biologist will coordinate with the Regional Director, his staff and Field Monitors and provide information and guidance to the project. As needed, the Project Biologist will monitor the project operations and bring to the attention of both the Operator and the Client Representatives potential or existing problem areas. In addition, the Project Biologist will perform the following specific services:

(1) Recommend routes through riparian willow stands that cannot be avoided.

(2) Inspect and document disturbed surface areas and recommend rehabilitation methods to the Operator.

(3) Aid crews working in potential bear denning areas to assure that no dens will be disturbed.

Item 13.—Statement of Intent to Comply

ARCO Alaska, Inc., as Operator on behalf of the participants listed in Item 2 above, hereby certifies that, if authorized to conduct exploratory activities on the coastal plain of the Arctic National Wildlife Refuge, the activities shall be conducted in compliance with the requirements of 50 CFR Part 37, the Special Use Permit, the approved Exploration Plan, Plans of Operation, and all reasonable stipulations, demands, and orders issued by the Regional Director of the U.S. Fish & Wildlife Service.

Item 14.—Quality Control Program

As group Operator and permittee, ARCO Alaska, Inc., will be responsible for program direction and compliance with regulatory requirements. Advice on technical, environmental and legal considerations will be developed by committees and subcommittees formed from the group of industry participants.

A Client Representative will be assigned to each field crew to supervise daily activities and to assure adherence to data quality control standards and compliance with environmental regulations and directives issued by the Regional Director. A Project Biologist will be available on an as needed basis to the field program to further ensure environmental control.

The group's technical committee will be responsible for designing and implementing the quality control program for data acquisition and processing.

Quality control standards and practices are well established by industry practice in the Arctic and little variance from the norm is anticipated except that the initial field test of all systems will be even more thorough than usual. The group's intent is to require all major field instrument components to be of identical manufacture with identical characteristics. A complete inventory of spare parts and supplies will be maintained by field crews at the Deadhorse facility.

The geophysical system (vibrators, geophones, and recording units) will be field tested and calibrated to assure response similarity between field crew units. The field-testing will use identical source, receiver, and recording parameters. The field recordings will be analyzed on-site and initial parameters identified. Field test records will then be transferred to a processing center for more detailed analyses and final acquisition parameters will be selected. Acquisition parameters are not expected to vary substantially from those normally used elsewhere on the North Slope.

At the beginning of each season crews will be deployed to areas of responsibility and, upon arrival, will conduct an independent systems check and a noise test to verify that selected parameters are indeed appropriate for the operational area. This is to ensure that system performance remains within tolerances and that selected parameters are appropriate for local geological conditions. Should local geology require modification of selected parameters any parameter change will be documented relative to the initital systems test.

Standardized instrumentation tests will be recorded and retained to monitor instrument performance. Complete and detailed records of system performance on a record-by-record basis will be maintained. Appropriate adjustments of the recording process and system components will be made to overcome the effects of wind, ice, and other deleterious influences.

The Client Representative assigned to each field crew will have primary responsibility to monitor data quality. He may require the crew to temporarily terminate data acquisition and conduct recording and experimental tests to ensure that data quality remains acceptable and that system response remains within tolerances. Any variance exceeding established rigid tolerances at any test point will result in data acquisition shut-down until the problem is corrected.

Digital tapes containing raw data will be transferred regularly by aircraft to the Deadhorse support facility for quality control purposes and then transferred in three to seven day intervals to a processing center for final processing.

Processing geophysicists will critically analyze data quality throughout the processing phase in an attempt to produce the highest quality final product. Through a testing procedure they will determine the processing parameters that respond best to the characteristics of the field-processed data. This will represent a second level of quality control.

Finally the raw and processed data will be transferred to each group participant for individual use. Participants may reprocess all or part of the data set through proprietary processing systems. While these reprocessed data will not be available to other group members they will be available to the U.S. Fish and Wildlife Service under 50 CFR 37.53. This will represent a third level of quality control available to the Service, but not to individual group participants.

The entire testing, acquisition, and processing quality control process will be carefully documented and this record will be available to the Secretary of the Interior pursuant to 50 CFR 37.52.

Item 15.—Other Pertinent Information

This Exploration Plan also includes "other pertinent information" that the Regional Director, in a letter dated May 16, 1983, referenced by the Fish and Wildlife Service as "PSS," asked to be added. This letter, received by the Operator May 19, 1983, requires the following additional items:

(1) A one-page (8½" x 11") map, suitable for publication, that depicts the information in 50 CFR 37.21(d)(f).

*This item is attached in Item 4 of this Exploration Plan.

(2) Submittal of one double-spaced copy of the Exploration Plan in addition to the three single-spaced copies previously required.

*A double-spaced of this Exploration Plan is included with the three single-spaced copies.

(3) A statement of consistency with the State of Alaska's coastal management program.

*This statement is included in this Exploration Plan as Item i.

These three items are the only additional items that the Regional Director has requested prior to submission of the Exploration Plan. The Operator is prepared to provide any "other pertinent information" relating to this Exploration Plan as the Regional Director may reasonably require.

CHEVRON U.S.A. INC. PLAN FOR GEOPHYSICAL EXPLORATION

Arctic National Wildlife Refuge—Coastal Plain, Chevron U.S.A. Inc. Exploration Plan

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Exploration Plan Consistency Certification/Alaska Coastal Management Program.

Introduction

This Exploration Plan submitted by Chevron U.S.A. Inc. ("Chevron") will be the foundation of integrated exploratory activities that will accomplish the objectives of the U.S. Fish and Wildlife Service regulations as set forth in 50 CFR 37.1. These objectives include the ascertainment of the potential for further exploration, development, and production of oil and gas within the coastal plain, and the prevention of significant adverse effects on wildlife and the environment.

This Exploration Plan demonstrates (see discussion under § 37.2(d)(4)) that those activities proposed under this initial Exploration Plan will be integrated with any subsequent plan which may be filed.

Section 37.21(d)(1)

Section 37.21(d)(1) states as follows:

"The name and address of any person who will conduct the proposed exploratory activities, i.e., the applicant/permittee, and, if that person is an agency, firm, corporation, organization, or association, the names and addresses of the responsible officials, or, if a partnership, the names and addresses of all partners";

The proposed exploratory activity will be conducted by CHEVRON U.S.A. INC., (hereinafter CHEVRON) a California corporation. CHEVRON's home office address is as follows: CHEVRON U.S.A. INC., 2120 Diamond Boulevard, Concord, California 94520, Telephone: 415-680-3333.

Our Alaska address is as follows: CHEVRON U.S.A. INC., 3001 C Street, Anchorage, Alaska 99503, Telephone: 907-279-0666.

CHEVRON's officials responsible for the conducting of the proposed exploratory activity are as follows:

Mr. W. E. Crain, Exploration Manager, Western Region;

Mr. R. E. Kropschot, Exploration Manager, Alaska Division;

Mr. J. J. Anders, Land Manager, Alaska Division;

Mr. R. G. Slyker, Division Geophysicist, Alaska Division.

All of the above personnel are located at CHEVRON's Concord, California offices, the address of which is stated above.

Mr. Thomas Cook, Exploration Representative, Alaska Division;

Mr. J .D. Bertino, Senior Land Attorney, Alaska Division.

The above two personnel are located at CHEVRON's Anchorage, Alaska offices, the address of which is listed above.

CHEVRON will designate the names of CHEVRON's contractor and the individuals who will conduct the proposed exploratory activity at the time of development and submission of the Plan of Operation pursuant to 50 CFR 37.12(b) and 50 CFR 37.24.

Section 37.21(d)(2)

Section 37.21(d)(2) states as follows:

"The names and addresses of all persons planning at the time of plan submittal to participate in the proposed exploratory activities or share in the data and information resulting therefrom through a cost-sharing or any other arrangement";

CHEVRON submits the Exploration Plan on its own behalf.

Section 37.21(d)(3)

Section 37.21(d)(3) states as follows:

"Evidence of the applicant's technical and financial ability to conduct integrated and well designed exploratory activities in an arctic or subarctic environment and of the applicant's responsibility in complying with any exploration permits previously held by it";

CHEVRON has both the *technical* and *financial* ability to conduct an integrated and well designed exploratory activities in an arctic or subarctic environment.

CHEVRON's technical capabilities are evidenced as follows: CHEVRON employs a total of 158 in the State of Alaska. CHEVRON employs approximately 1,200 professional exploration personnel worldwide. CHEVRON's technical staff has been long-recognized as a leader in geophysical and geological exploration. CHEVRON successfully completed geologic studies in the Arctic National Wildlife Refuge to the satisfaction of Federal Authorities in 1958, 1959, 1960, 1962, 1963, 1964, 1965, 1968, 1970, 1975, 1977, 1978, and 1979. Additionally, CHEVRON has successfully and to the satisfaction of State and Federal authorities completed the following permitted geophysical programs in the State of Alaska:

CHEVRON RECENT PROPRIETARY GEOPHYSICAL PROGRAMS

Year	Contractor	Permit details	Location
1974/75	Western	ASRC	Central Arctic Foothills.
1974/75	GSI		Do.
1975/76	Western	FO & GEP 76-5... Navy RH/3165.1...	Do.

CHEVRON RECENT PROPRIETARY GEOPHYSICAL PROGRAMS—Continued

Year	Contractor	Permit details	Location
1977/78	do	AK-026-0E8-001	Do.
1979	do	ASRC	Do.
1979	do	OCS-79-30	Beaufort Sea Ice.

CHEVRON RECENT PROPRIETARY GEOPHYSICAL PROGRAMS—Continued

Year	Contractor	Permit details	Location
1979/80	do	ASRC	Central Arctic Foothills.
1980/81	do	ASRC	Do.

CHEVRON RECENT PROPRIETARY GEOPHYSICAL PROGRAMS—Continued

Year	Contractor	Permit details	Location
1981/82	do	MLUP/NS 81-221. F-79718	Kavik Area.
1981/82	do	AK-026-N12-001. F-79718	Umiat Area.
1981/82	do		Ivishak Area.
1982	do	MLUP/NS 82-84	Milne Point.

CHEVRON OPERATED RECENT JOINT VENTURE GEOPHYSICAL PROGRAMS

Year	Contractor	Permit details	Location
1974/75	Western	ASRC	Western Arctic.
1975/76	do	do	Do.
1976	do	do	Do.
1976	United	76-3e	Beaufort Sea Ice.
1979	Western	OCS 79-1	Do.
		MLUP/NS 78-101	
1980	do	MLUP/NS 80-61	Prudhoe Bay Unit Area.
1981	do	MLUP/NF 81-52	Point Thompson Area.
1983	do	MLUP/NS 82-226	Colville Delta.

CHEVRON OPERATED RECENT GROUP GEOPHYSICAL PROGRAMS

Year	Contractor	Permit details	Location
1981	GSI		State Uplands.
1982	Western	MLUP/NS 81-227	Beaufort Sea Ice.
1983	CGG	OCS 83-01	Camden Bay Ice.
		MLUP/NS 82-173	

CHEVRON further maintains an Environmental Affairs Department, a public Affairs Department and employs various legislative and regulatory analysts to ensure consistent compliance with all State and Federal laws, regulations, and permit requirements.

CHEVRON's financial capabilities are evidenced by the following Consolidated Balance Sheet from the 1982 Annual Report of CHEVRON's parent company, Standard Oil Company of California.

Dollars in millions	1982
Assets	
Current Assets:	
Cash	$181
Marketable securities and cash investments	1,692
Accounts and notes receivable (includes amounts due from affiliated companies of $569 in 1982 and $1,040 in 1981)	3,131
Inventories:	
Crude oil and products	1,166
Other merchandise	162
Materials and supplies	142
Prepaid expenses and other current assets	391
Total current assest	7,147
Long-Term Receivables	234
Investments and Advances:	
Affiliated companies accounted for by the equity method:	
Operating in foreign countries	1,806
Operating in the United States	553
Other, at or below cost:	
Properties, Plant and Equipment, at Cost:	
Producing	12,336
Manufacturing	4,764
Marketing	1,725
Marine	1,372
Pipeline	552
Motor transport	119
Other	1,165
	13,552
Less: Accumulated depreciation, depletion and amortization	8,461
Deferred Charges	148
Total assets	$23,490

Dollars in millions	1982
Liabilities, Deferred Credits and Stockholders' Equity	
Current Liabilities:	
Accounts and notes payable (includes amounts due to affiliated companies of $320 in 1982 and $452 in 1981)	$3,339
Current maturities of long-term debt	296
Current maturities of obligations under capital leases	86
Federal and other taxes on income	1,338
Other taxes payable	375
Total current liabilities	5,434
Long-term debt, less current maturities	1,029
Obligations under capital leases, less current maturities	905
Deferred income taxes	1,931
Deferred credits and other noncurrent obligations	853
Reserves—Employees annuity plans	92
Total liabilities and deferred credits	10,244
Stockholders' Equity:	
Common Stock—$3.00 per value	1,026
Authorized—500,000,000 shares. Issued—342,109,258 shares.	
Capital in excess of par value	862
Retained earnings	11,358
Total stockholders' equity	13,246
Total Liabilities, deferred credits and stockholders' equity	$23,490

Section 37.21(d)(4)

Section 37.21(d)(4) states as follows:

"A map at a scale of 1:250,000 of the geographic areas in which exploratory activities are proposed and of the approximate locations of the applicant's proposed geophysical survey lines, travel routes to and within the refuge, fuel caches, and major support facilities;"

The 1:250,000 scale program map, attached to and made part of this Exploration Plan, illustrates the approximate locations of the proposed geophysical lines. As indicated on the program map it is anticipated that an approximate two mile by two mile grid of geophysical lines will be required to adequately evaluate the petroleum resource potential of the Arctic National Wildlife Refuge (ANWR) costal plain.

The exploration plan calls for two seismic crews with ancillary support vehicles to work two to three winter seasons in the refuge collecting Vibroseis ® reflection seismic and gravity data. The program anticipated to be recorded in the first winter season, starting in December of 1983 or January 1984, is shown by the solid lines on the program map. Dashed lines on the program map represent infill and detail program anticipated to be recorded during the second 1984–1985 winter season.

Information gained during the initial winter season may require modification of the infill and detail program to be accomplished in the second season and may indicate that a third season is desirable.

During the first winter season the travel route for both crews to the Refuge will be from Deadhorse to the vicinity of T5N,R23E. The two crews will then enter the Refuge and

commence operations within the southwest sector of the coastal plain. Upon termination of each season's activities all crew personnel and equipment will be removed to a location off the ANWR. Travel routes to the Refuge for the second and possible third season are contingent on the demobilization sites for the crews at the completion of each season.

Travel routes within the Refuge and the location of fuel caches cannot be precisely designated until seismic and gravity crew contractor(s) are selected. It is anticipated, however, that travel routes within the Refuge will be through restricted corridors adjacent and generally parallel to the geophysical program lines. Fuel caches will be identified after consultation with contractor(s) and the Regional Director and will be detailed in the Plan of Operations.

Major support facilities for the proposed program will be located outside of the Refuge at Deadhorse.

Section 37.21(d)(5)

Section 37.21(d)(5) states as follows:

"A general description of the type of exploratory activities planned, including alternate exploratory methods and techniques if proposed, and the manner and sequence in which such activities will be conducted;"

Exploratory activities planned in the refuge involve the acquisition of Vibroseis ® reflection seismic and gravity data utilizing tracked vehicles. A total of two seismic crew trains each consisting of approximately 28 vehicles, 15 support trailers and from 40–50 personnel will be utilized to acquire the proposed geophysical program. Each crew will be assigned to a separate area within the coastal plain and progress at an average rate of from 4 to 6 miles per day contingent on recording parameters, weather, and topography.

The Vibroseis ® seismic reflection techniques involves the use of 5 hydraulic vibrator units mounted on tracked vehicles. The units move in tandem along each geophysical survey line and are halted at established intervals (usually 110 feet to 220 feet) where they generate controlled frequency acoustic energy impulses. The energy impulses are transmitted into the earth's subsurface and then reflected back off the subsurface strata and recorded by geophones.

Electronic circuitry transmits the received reflection impulses through a seismic cable laid along the geophysical lines to a vehicle-mounted recording unit where they are recorded on magnetic tape.

The magnetic tapes are then transmitted to a central processing center for subsequent processing and interpretation. Knowledge of the recorded travel times of the reflections and of the geometrical parameters of the geophone configuration allows the user to map the subsurface geologic structure beneath and adjacent to the line of traverse.

An advantage of the Vibroseis® technique is that the energy impulse from it is spread out over many seconds and will have a much lower amplitude level at the source then an impulse in which all the energy (i.e., dynamite) is injected into the earth within a few milliseconds. This technique has been utilized successfully along the streets of large metropolitan areas in the United States and has been the standard of North Slope contractors since the mid 1970's.

Operating concurrently with each seismic crew (usually several miles behind it) will be a small 2 man gravity party supported by a single vehicle with survival equipment. A Lacoste-Romberg Arctic Gravity meter will be deployed at one sixth of a mile intervals along each seismic traverse and a reading of anomalies in the earth's local gravity field will be recorded. The gravity data together with the seismic data, when processed and interpreted, will assist the user in mapping the subsurface geologic structure and type of rock units beneath and adjacent to the line of traverse.

Alternate exploratory methods are not proposed at this time.

In conjunction with geologic field studies which will be implemented independently, the program proposed in this Exploration Plan is considered sufficient to provide the needed information to evaluate the hydrocarbon resource potential of the Coastal Plain.

Section 37.21(d)(6)

Section 37.21(d)(6) states as follows:

"A description of how various exploratory methods and techniques will be utilized in an integrated fashion to avoid unnecessary duplication of applicants own work;"

This Exploration Plan consists of an integrated approach involving field geologic, reflection seismic and gravimetric techniques to minimize duplication of work. A reconnaissance four by six mile grid of seismic and gravity data will be acquired over most of the Cosatal Plain during the first winter's recording season. Acquisition of this regional grid will allow early identification of areas where no further work is required and thus avoid unnecessary operation.

Contractor(s) selected to acquire geophysical data will (1) utilize industry accepted field instrumentation, (2) have demonstrated arctic experience and technical ability to complete the proposed program and (3) a history of responsibility in complying with previously held North Slope exploration permits. This, in conjunction with optimum acquisition parameters and rigidly enforced quality control procedures, will minimize acquisition of poor data and the need to duplicate or resurvey geophysical lines.

Section 37.21(d)(7)

Section 37.21(d)(7) states as follows:

"A schedule for the exploratory activities proposed, including the approximate dates on which the various types of exploratory activities are proposed to be commenced and completed;"

Personnel and equipment for the two seismic and gravity crews planned for the first winter season will be mobilized in Deadhorse in early December 1983. the crews will enter the Coastal Plain in the vicinity of T5N, R23E, in late December 1983 or early January 1984 contingent on adequate protective cover. The two crews will disperse to assigned areas of operation and commence work after completion of final instrument checks and noise analysis tests.

Geophysical lines during the first winter season will be recorded in the following order of priority by the two crews:

Crew No. 1	Crew No. 2
3 (start on SE end).	48 (start on SW end).
11.	163.
19.	171.
27.	179.
35.	187.
12.	195.
43.	88.
51.	111.
24.	
36.	119.
59.	127.
60.	135.
72.	147.
67.	155.
75.	139.
79 (6 miles).	131.
83.	143.
91.	
99.	56 (37 miles).
107.	40 (7 miles).
115.	

Recording during the first season would continue until mid-to-late April until deteriorating protective cover requires removal of the crew from the refuge.

Commencement dates for subsequent winter's geophysical operations will be contingent on demobilization sites for the crews and development of adequate protective cover.

Processing of data acquired in the proposed exploratory activities will begin almost immediately after start-up of crew operations. It is anticipated that final processed data from the proceeding seasons program will be available by early July of each year.

Interpretations of the processed data will be made available to the Regional Director in compliance with 50 CFR 37.53.

Section 37.21(d)(8)

Section 37.21(d)(8) states as follows:

"A description of the applicant's proposed communication techniques;"

A variety of communication techniques will be utilized in the course of this activity.

A communication net will be designed with the cooperation of the selected contractors and Chevron's telecommunication personnel.

Included in the communication techniques will be the following systems:

(1) FM radio communication between field camps and operating field vehicles;

(2) Single side-band radio communication between field crews and major support facilities;

(3) commercially available satellite radio communication;

(4) air-to-ground radios between all ground stations and support aircraft; and

(5) provided permits can be obtained, radio phones will be operated via Kaktovik from the field crews to provide back-up and direct telephone communication.

Section 37.21(d)(9)

Section 37.21(d)(9) states as follows:

"A description of the equipment, support facilities, methods of access and personnel that will be used in carrying out exploratory activities;"

Each seismic and gravity crew carrying out exploratory activities in the coastal plain will consist of approximately 28 tracked vehicles, fifteen sled and/or track-mounted trailers and a complement of 50 crew members. The crew trains are entirely self-contained and capable of being moved every day. Each crew is also capable of survival unsupported for up to two weeks in the event of isolation by weather. Every key employee will be required to have previous Arctic experience and Arctic survival training.

A list of equipment and personnel comprising a typical field crew is given below:

Personnel List for Arctic Geophysical Crew

1 Party Manager
1 Administrator
1 Observer
1 Junior Observer
5 Vibrator Operators
4 Cable Truck Drivers
7 Recording helpers
1 Vibrator Mechanic
1 Chief Mechanic
2 Machinic's helpers
2 Surveyors
3 Survey Helpers
1 Camp Attendant
1 Gravity meter operator
1 Head Linesman
1 Cook
1 Cook's helper
6 Tractor Operators
2 Gravity Crew Personnel

Equipment List for Arctic Geophysical Crew

5 Track mounted vibrator units
1 Tracked Recording vehicle
1 Vibrator tender
1 Gravity Personnel vehicle
4 Cable and Geophone carriers
3 Survey vehicles
1 Party Manager's vehicle
1 Vehicle Repair Shop
1 Client Representative vehicle
1 Incinerator mounted on sled
1 Camp utility vehicle with crane
6 D-7 Caterpillars

1 120 trace digital recording system, complete with ancillary equipment such as radios, recording units, input panels, electrostatic camera, tape transports, monitoring equipment, spare parts and all other equipment necessary for CDP recording.

1 Field computer

250 groups of 24 geophones each and necessary cables to serve all geophone groups at a group interval of 110, 165, or 220 feet. A geophone is to be mounted on each vibrator base plate.

1 50-man camp on sled, fully equipped for North Slope operations and full storage
1 Survival trailer for fuel haul unit

All required survey equipment such as syledis, theodolites, chains, rods, electronic distance measuring equipment, and marking devices.

Two-way radios, fire extinguishers, survival equipment, and first aid kits for all vehicles.

1 Lacoste-Romberg Arctic Gravity meter and accessories

Support facilities for each crew will be located at Deadhorse where an administrative center will be established. The Deadhorse facility will provide full service support and expediting capabilities as well as controlling all communication and air support. Medical support will be available at established Prudhoe Bay facilities as well as with each crew.

Excluding initial mobilization and end of the season demobilization, access to the crew will be by aircraft at temporary airstrips adjacent to the crew work site and by helicopter directly to the crew. Fuel supply may be a major exception in that fuel may be hauled over land from offloading sites along the coast or from other sites selected in compliance with 50 CFR 31.31(e).

Section 37.21(d)(10)

Section 37.21(d)(10) states as follows:

"A hazardous substances control and contingency plan describing actions to be taken to use, store, control, clean up, and dispose of these materials in the event of a spill or accident;"

CHEVRON will develop and implement a hazardous substance control and contingency plan (hereinafter HSCCP) pursuant to 50 CFR 37.21(d)(10). The HSCCP will be included in the Plan of Operations (50 CFR 37.24). The following is a general discussion of what the HSCCP will contain:

The HSCCP will set forth a general description of the type and location of each significant activity. The HSCCP will further identify Chevron's environmental compliance policy as it relates to spill prevention and response, and the responsibility of every person involved with the operation to abide to the requirements of the HSCCP.

The HSCCP will set forth and describe the required spill prevention and cleanup equipment that would be located at various activity sites. The HSCCP will further identify the design criteria for fuel storage sites, and will state the operating procedures for fuel transfer operations. Further, the HSCCP will contain description of the training each applicable operating person will receive to ensure implementation and compliance with the HSCCP.

Finally, the HSCCP will contain cleanup procedures, restoration procedures, requirements for written reports, and a list of Company personnel and State/Federal agencies to be notified.

Section 37.21(d)(11)

Section 37.21(d)(11) states as follows:

"A general description of the anticipated impacts that the proposed exploratory activities may have on the refuge's wildlife, its habitat, the environment, subsistence uses and needs, and cultural resources, and a description of mitigating measures which will be implemented to minimize or avoid such impacts;"

The activities proposed in this Exploration Plan are anticipated to have negligible impact on the Refuge wildlife, its habitat, the environment, subsistence uses or needs, and/or cultural resources. Due to the nature, timing, and monitoring program of the proposed operation, the requirements 50 CFR 37.31, the requirements of prudent operating practices, and the requirements of other applicable Federal and State laws/regulations, no appreciable environmental impact can be identified.

Section 37.21(d)(12)

Section 37.21(d)(12) states as follows:

"A description of the proposed procedures for monitoring the environmental impacts of its operation and its compliance with all regulatory and permit requirements;"

Chevron is committed to implementing and performing the proposed Exploration Plan in a manner which will result in negligible adverse impact on the Refuge wildlife and habitat. The proposed operation will be conducted in a manner satisfactory to the Regional Director. Monitoring of the proposed activity by both Chevron and the Service will assure compliance with all applicable Federal/State laws, regulations and permit conditions.

It will be the duty of every individual associated with the proposed activity to see that his job is perfomed in an environmentally acceptable manner. It will be clearly understood by all company and contractor personnel that wanton or reckless disregard of regulatory, permit and/or operating requirements will not be tolerated.

Chevron will establish and maintain clear lines of authority and responsibility for management of all aspects of contract work and services. Monitoring and environmental compliance responsibilities will be key, accountable job elements of the job description of the employees assigned to the proposed project.

Chevron will maintain overall responsibilities of the proposed project and compliance monitoring. A general representative or Project Manager will be designated and will be the person primarily accountable for managing the proposed project (§ 37.12(b)). The actions of each individual crew will be directed and evaluated onsite by a Client Representative who will report directly to the Project Manager.

Reporting to each of the Client Representatives will be a Party Manager whose major duties will include daily monitoring and inspections. In addition, a Project Biologist knowledgeable of the area will be retained to review the operations plan and provide assistance to the Project Manager and the Client Representatives.

Described below are the duties of the Project Manager, the Client Representatives, the Party Managers, and the Project Biologist in terms of project monitoring and compliance with all regulatory and permit requirements. The individuals to be assigned to these positions will be designated in the Plan of Operations.

Project Manager

The Project Manager will have overall authority for directing the proposed project. This person will have the responsibility to assure, through monitoring procedures, that the operation's activities are in compliance with all regulatory and permit conditions. The Project Manager will be the Regional Director's point of contact concerning project

monitoring, compliance orders, notifications and service requests.

The Project Manager will:

1. Assure all individuals are instructed as to Chevron's environmental compliance policy, and the regulatory and permit conditions applicable to the project.

2. Provide opportunities for the Regional Director to conduct environmental and other pertinent briefings to any and all personnel involved in the field operations.

3. Provide a copy of 50 CFR Part 37 to each employee involved with the proposed project.

4. Furnish lodging, food and reasonable use of communications and surface/air transportation systems to the Service Field Monitors and other representatives identified by the Regional Director.

5. Plan operations so as to avoid movement of equipment through riparian willow stands.

6. With input from the Project Biologist submit for approval to the Regional Director plans for rehabilitation of disturbed surface areas.

7. Assure that the project operations are being conducted so as not to harass wildlife.

8. Through consultation with the Project Biologist assure that project operations are not undully impeding passage and movements of large mammals or fish, or disrupting fish spawning, overwintering or nursey areas.

9. Plan operations to avoid restricted or prohibited archeological sites that have been identified by the Regional Director.

10. Report to the Regional Director any cultural resources or materials discovered during the course of the project and assure that steps are taken to protect that resource/material pending evaluation by the Service.

11. Make the necessary arrangements to have standing or substantial above-ground remains marked as directly by the Regional Director.

12. Assure that all oil or hazardous substance spills are contained, cleaned up and reported as prescribed by the approved hazardous substances control and contingency plan.

13. Obtain approval from the Regional Director for the location of all fuel storage areas and temporary structures (i.e. ice airstrips).

14. Plan and monitor the project to be consistent with Special Areas provisions.

15. Assure project activities are not planned or conducted within the prescribed distances of the Sadlerochit Spring and Creek area.

16. Prepare and submit every other week to the Regional Director progress reports as prescribed. A synopsis of monitoring actions taken to assure compliance with regulatory and permit conditions will be included in the reports.

17. Be thoroughly knowledgeable of all regulatory requirements contained in 50 CFR Part 37, the Special Use Permit conditions and other Federal, State and local laws, regulations and permit conditions applicable to the project (Chevron will prepare a reference document containing this information for use by the Project Manager, the Client Representatives, and the Party Managers.

Client Representatives

Each Client Representative will be a Chevron employee qualified as a senior geophysicist with field experience. They will report directly to the Project Manager and will be responsible for directing and monitoring the activities of the particular crew to which each is assigned. The Client Representative will be thoroughly knowledgeable of all regulatory requirements contained in 50 CFR Part 37, the Special Use Permit Conditions and other Federal, State and local laws, regulations and permit conditions applicable to the Project.

The Client Representative will:

1. Address and attempt to resolve all problems and potential problem areas brought to his attention concerning his crew's operations.

2. In conjunction with camp safety meetings, present appropriate topics and information so as to develop and maintain an environmental awareness within the field personnel.

3. Monitor vehicle operations to assure that the vegetative mat or soil is not significantly damaged or displaced. Should damage occur, document location and assessment information for use by the Project Manager, the Project Biologist and the Service to identify possible rehabilitation needs.

4. Locate camp sites in an acceptable area.

5. Monitor trail and camp site locations for proper housekeeping and clean up efforts.

6. Monitor gray water discharges to assure proper treatment.

7. Minimize wildlife harassment by assuring appropriate distances are maintained by personnel, vehicles and aircraft.

8. Properly manage garbage so as not to attract wildlife, and prohibit the feeding of wildlife by personnel.

9. Execute stream crossings so as to minimize effects on banks, fish migration, overwintering, spawning areas, etc.

10. Assure that water is being obtained by approved means.

11. Maintain vehicle and camp prohibitions through known cultural resource sites.

12. Report to the Project Manager any cultural resources or materials discovered during the course of the project and assure that steps are taken to protect that resource/material until it can be evaluated by the Service.

13. Assure that previously marked standing or substantial above-ground remains are avoided by crew operations.

14. Make proper notification of all spills or leaks of hazarous substances, fires, injuries, fatalities, etc.

15. Properly dispose of all solid waste.

16. Contain, control and clean up all spills of hazardous substances in accordance with approved hazardous substance control and countermeasure plan.

17. Properly locate fuel storage areas.

18. Take reasonable precautions to protect geodetic land survey monuments and report to the Project Manager any monuments disturbed.

19. Maintain the prescribed distance from the Sadlerochit Spring and Creek area.

20. Submit to the Project Manager every other week information required for the Progress Report including information regarding compliance monitoring actions.

21. Be thoroughly knowledgeable of all regulatory requirements contained in 50 CFR Part 37, the Special Use Permit Conditions and other Federal, State and local laws, regulations and permit conditons applicable to the Project. (Chevron will prepare a reference document containing this information for use by the Client Representatives.)

Party Manager

Each crew will have a Party Manager whose major duty will be to routinely inspect camp and field operations. A formal checklist will be developed, and submitted in the Plan of Operations, identifying potential problem areas associated with the camp, vehicles, fuel caches, etc. This checklist will be completed, signed and submitted to the Client Representative daily. The Party Manager will monitor fueling oand other fuel transfer operations to assure implementation of proper practices and procedures, and to assure and that any spills are contained, cleaned up and reported to the Client Representative.

Project Biologist

The services of a Project Biologist knowledgeable of the area will be available to the Project Manager and Client Representatives whenever needed. When directed, the Project Biologist will coordinate with the Regional Director, his staff and Field Monitors and will provide information and guidance to the project. As needed, the Project Biologist will monitor the project operations and bring to the attention of both the Project Manager and the Client Representative potential or existing problem areas.

In addition, the Project Biologist will perform the following specific services:

(1) Recommend routes through riparian willow stands that cannot be avoided.

(2) Inspect and document disturbed surface areas and recommend rehabilitation methods to the Project Manager.

(3) Aid crews working in potential bear denning areas to assure that dens will not be disturbed.

Section 37.21(d)(13)

Section 37.21(d)(13) states as follows:

"A statement that, if authorized to conduct exploratory activities, the applicant shall comply with this part, its special use permit, its approved exploration plan, plan of operation, and all reasonable stipulations, demands and orders issued by the Regional Director."

Chevron hereby states that Chevron, if authorized to conduct exploratory activities, shall comply with all of the regulations under 50 CFR Part 37, the special use permit, the approved exploration plan, the plan of operation, and all reasonable stipulations, demands and orders issued by the Regional Director.

Section 37.21(d)(14)

Section 37.21(d)(14) states as follows:

"A description of the applicant's proposed data quality assurance and control program;"

A data quality assurance and control program will be ongoing throughout the exploratory activities proposed in this Exploration Plan. Rigid quality control standards and tolerances for Vibroseis® seismic reflection and gravity data acquisition (which are well established by industry practice in the Arctic) will be incorporated in any agreement with contractor(s) selected to acquire the proposed geophysical program.

Prior to the initiation of any field geophysical data acquisition the geophysical system (vibrators, geophones and recording units will be field tested and calibrated to assure proper compatibility between field crew units). A Chevron quality control engineer will also conduct an independent system analysis to insure that the data acquisition equipment meets all industry standards.

A Client Representative will be assigned to each seismic crew to assure adherence to quality control standards. On the basis of these standards the client representative may require the crew to temporarily terminate data acquisition, repair equipment and/or take other steps as necessary to insure that acquisition parameters remain acceptable and that system reponse remains within tolerances.

Selection of field recording parameters will be made following analysis of initial field recordings and noise analysis tests. Recording parameters are not expected to vary significantly from those used in recent years elsewhere on the North Slope; however, independent systems checks and noise tests will be conducted periodically through the season to verify that selected recording parameters are appropriate for each area of operation. This in conjunction with data processing analyses which will be completed in a central data processing center will determine if local geologic conditions warrant modification of selected recording parameters during the season.

Standardized instrument tests will be recorded on a daily, weekly and monthly basis and retained to assist in monitoring instrument performance and assist in insuring that system performance remains within required tolerances.

Additional quality control will be accomplished by processing geophysicists when digital tapes containing raw data are transferred to a central processing center for final processing. A final phase of quality control will be accomplished by the interpretors who will utilize the data to perpare a subsurface geologic interpretation.

The entire testing, acquisition, and processing quality control process is documented and this record will be available to the Secretary pursuant to 50 CFR 37.52

Section 37.21(d)(15)

Section 37.21(d)(15) states as follows:

"Such other pertinent information as the Regional Director may reasonably require."

Chevron will submit any further information reasonably required by the Regional Director.

Exhibit 2. Map depicting proposed seismic lines, 1983–85, Chevron U.S.A. Inc.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

CGG AMERICAN SERVICES, INC. PLAN FOR GEOPHYSICAL EXPLORATION

I. Purpose of Exploration Plan

CGG American Services, Inc. applies for a special use permit to conduct an industry group supported geophysical reconnaissance of the Arctic National Wildlife Refuge (ANWR). As an experienced, full service geophysical contractor, CGG proposes to efficiently achieve the goal of obtaining the high quality data necessary to estimate the potential hydrocarbon reserves in the coastal plain of the ANWR. Because the overriding concern within the ANWR must be for the wildlife and its habitat, the geophysical survey must be carefully planned and executed, reducing to a minimum all possible adverse effects on the special environment the Refuge was created to preserve.

II. Exploration Plan Application Requirements

(According to § 37.21 of 50 CFR Part 37)

A. CGG has met with members of the staff of the Fish and Wildlife Service (FWS) to inquire as to the requirements of the Regional Director in providing for a sound and responsive exploration plan and to discuss our plan.

B. This exploration plan is for the time period from December 15, 1983 through September 30, 1984. CGG expects to submit another exploration plan on March 1, 1984 extending the time to May 31, 1986.

C. *General Plan.* CGG has proposed to the exploration industry an integrated geophysical reconnaissance program designed to acquire a wide range of high quality diagnostic data for use in evaluating the hydrocarbon potential of the coastal plain of the ANWR.

Enclosed is a map showing approximately 1058 line miles along which seismic reflection and other geophysical data would be acquired. A surface gravity survey (to supplement existing airborne and other limited surface surveys), a surface electrical conductivity survey, geochemical analyses, permafrost velocity determinations, and other studies (such as archeological or surface biology which the Regional Director may choose to require) can be integrated into the project as needed.

The integrated geophysical program is designed to:

1. Acquire the *best geophysical data quality* possible within the given environmental constraints.

2. Provide data allowing an evaluation of the *hydrocarbon potential* of the coastal plain of the ANWR *without having significant adverse impact* on the wildlife and its habitat or the environment.

3. *Avoid unnecessary duplication* of exploration activities by encouraging *group participation* and *incorporating alternate* exploratory methods within the seismic acquisition operations.

4. Assure *timely* and *cost-effective* acquisition and processing of geophysical data.

The geophysical survey program for this reconnaissance phase will consist of a grid of about 1058 miles of data acquisition to be obtained mainly during the 1984 winter seismic season. The seismic reflection operation will utilize two Vibroseis* crews (one with track-mounted vibrators and one with buggy-mounted vibrators) with cat train support for the 1984 winter season. The wheel vibrators can be used in the flat terrain and in areas where sparse snow cover make tracks less desirable, while the track vibrators are more suitable for steeper and heavily covered areas. The flexibility of having both types allows for the optimization of acquisition with respect to surface impact. This would be followed, if needed, by a single portable crew for summer-fall operation, using either subsurface or above surface explosive seismic energy sources and supported by helicopter or hovercraft rather than surface vehicles. This alternative provides the option of an environmentally sound summer acquisition in areas that winter operations may be precluded by surface access limitations or other environmental constraints. It will also allow acquisition with alternate seismic energy sources, if needed, to obtain the best data quality. Furthermore, preliminary detail work to aid in planning an optimized 1985 winter program would be permitted.

The most efficient seismic program location for 1985 and 1986 is dependent on the initial interpretation of the 1984 winter data. Consequently, the more dense, detailed grid cannot be submitted at this time. However, on March 1, 1984, such a grid will be presented. It is anticipated that two Vibroseis crews will be necessary for each of the 1985 and 1986 winter seasons.

Obtaining high quality, high resolution seismic reflection data while minimizing the impact on the environment requires advanced recording systems with more than the standard 96 channels. This plan proposes a 144 channel recorder (the Sercel SN 348 telemetric), which allows more closely spaced (higher resolution) data acquisition without increasing the energy density input on the surface. Each unit of seismic energy is reflected to 50% more receiving stations. Hence the energy input through the ground surface results in 50% more information, thereby reducing the impact on the surface needed to obtain high quality data.

For winter operations, using vibrators as energy sources, the integrated recording system includes a CS 2502 real time, full 32 bit precision field correlator/stacker. The vibrators will be buggy-mounted or track-mounted Mertz Universal Model 18 or Mertz Model 22 vibrators. The summer crew will utilize a 144 channel 348 telemetry system with portable equipment and tent camp operation. Either helicopter or hovercraft support will be utilized in the summer to minimize the effect on the tundra. Either of two explosive source techniques will be used: a subsurface source placed with heliportable drills or an air shooting procedure placing charges on stakes above the surface. Both of these techniques were used with minimal

*Service and Trademark of Conoco Inc.

environmental impact in the summer of 1981 in the NPRA by CGG in a successful acquisition program. Please see Appendices A–E for a description of crew, equipment, acquisition and processing parameters.

The gravity data, if requested, can be acquired along the seismic lines during either summer or winter operations, eliminating the need for a separate field party. One-quarter mile station intervals would provide information to support the seismic data interpretation and assist in tying and interpreting existing gravity surveys, possibly reducing the number of seismic lines. This allows the most efficient and sophisticated use of the gravity information because it will be obtained in the same locations where the seismic reflection data will be available. See Appendix G for specifications of the gravity survey.

If requested, CGG will provide for a geochemical survey to evaluate the known oil seeps to determine the age and types of hydrocarbons to be expected. The geochemical survey would be done in the summer of 1985 and could be coordinated with the summer seismic program, if implemented.

CGG will provide, upon request, a high power transient electromagnetic (TEM) survey. The TEM survey offers the ability to provide greater resolution of the permafrost thickness. It is our recommendation that the TEM survey be acquired coincident only with the winter seismic operations to enhance the data quality. During the summer months, near surface permafrost melt will have higher conductivity, causing noisy measurements, thus degrading the interpretive value.

The Geonics EM–37 system (as described in attached Appendix H) consists of a transmitter, transmitter loop, receiver, receiving coil and a power supply. The central induction technique will be employed for effective EM sounding to be obtained. In this method, the receiving loop is centrally located (at a shot point) within a large square ungrounded transmitter loop (1,320 feet on a side). The necessary measurements of the vertical component of the time-varying secondary magnetic field are completed at 30, 3 and/or .3 Hz as necessary to define the interface between the higher resistive permafrost layer and the underlying conductive formations. Measurements of the time delay will be completed within approximately 80 microseconds to 800 milliseconds, as necessary to accurately define the apparent resistivity response of the geologic section.

At the conclusion of the TEM survey, CGG will present plots of the apparent resistivity versus time and a final interpretation report which will include copies of the inverse solutions, forward model solutions, a depth to the base of the permafrost map and a logistics report on the survey.

The information from the TEM survey results on apparent permafrost thickness will be integrated to estimate a permafrost correction static which will be applied to the seismic data and distributed to participants of the TEM survey portion of the program. This refined static correction will make possible more accurate structural and stratigraphic interpretation of the seismic data.

The gravity and TEM surveys will be carried out coincident with the seismic survey, efficiently utilizing in-place logistics, reducing the effect on the refuge by combining two or three functions into one geophysical survey. Final seismic sections will be annotated to cross-reference the various reports and maps with the seismic data.

To avoid all unneccessary duplication of exploration activity, group participation has been and will continue to be solicited from any interested member of the industry. Duplication must be minimized to comply with paragraph 37.1. Acquisition, even with different parameters, along or near lines where high quality data has been previously obtained needlessly exposes the wildlife and its environment ot additonal impact.

CGG's North Slope base is in Deadhorse. The staging area for ANWR operations will be at Kaktovik, where, during the past two winters, CGG has become acquainted with the community and its leaders. Its advantages include an all-weather airstrip, support facilities, telephone communications and fuel storage facilities that will be augmented. Furthermore, use of these existing facilities at Kaktovik minimizes the environmental impact on the refuge. CGG would prefer to hire any necessary guides from this community.

Secondary temporary support facilities will be located at four additional sites on the refuge, at Brownlow Point, near Konganevik, Camden Bay, and Angnun Lagoon.

Field operations for the 1984 winter season are expected to commence approximately January 2, and continue until there is no longer adequate snow cover. The optional summer portable field operation will take place from approximately July 4 to September 30, where unrestricted. Acquisition planned for 1985 and 1986 would also follow the winter schedule described above. The timing and location of all field operations will rigorously follow and accommodate the special area (paragraph 37.32) restrictions.

D. Following is the information requested in paragraph 37.21(D):

1. The CGG American Services Inc. officers responsible for these exploratory acitivities are:

Pierre Benichou, Vice-President, 1475 Lawrence Street, Denver, Colorado 80202
Norbert Blot, Area Mgr Pacific Coast and Alaska, 699 Hampshire Drive, Westlake, California 91360
Howard Dickerson, ANWR Coordinator 5630 Silverado Way, Anchorage, Alaska 99502

The following people will be responsible for this permittees authorized activities:

Ronald Williamson—Field Supervisor, c/o Crazy Horse Hotel, Prudhoe Bay, AK Phone (907) 659–2230, Radio Frequency 5164 KHZ, Call sign WAN65
Patrick Leibowitch, Norm DeHart, CGG Mobile Field Camp, Radio Frequency 5164 KHZ, Call sign WAN 70

2. It is anticipated that at least ten to twenty companies would participate with CGG in these proposed exploratory activities. However, most companies see no advantage, and perhaps some disadvantage, in committing to any particular exploration plan prior to disposition of the permit application. The reasons for this include: 1) several companies remain uncomfortable with the regulations regarding confidentiality; 2) the regulations allow companies to join any group as original participant, without penalty, subsequent to the permitting process, thus removing any direct financial incentive to commit early; 3) it is not yet known which applicant, or applicants, will be awarded a special use permit; nor whether grid duplication will occur. While many companies feel that more than one geophysical contractor should be permitted to conduct non-duplicative ANWR exploration (encouraging healthy competition, rather than permitting an ANWR monopoly), no company desires to risk becoming financially obligated for two or more surveys in the same geographical area.

As of May 17, 1983, the following companies have indicated their desire to be original participant in CGG's ANWR Group Seismic Survey if CGG is awarded the appropriate special use permit, and if its proposed grid, or some specified subset of that grid, is not duplicated by another permittee:

Amerada Hess Corporation, Houston, Texas 77002
Champlin Petroleum Company, Englewood, Colorado 80150
Getty Oil Company, Bellaire, Texas 77401
Gulf Oil Company, Bakersfield, California 93302
Marathon Oil Company, Anchorage, Alaska 99501
Murphy Oil Corporaton, El Dorado, Arkansas 71730
Shell Oil Company, Houston, Texas 77001
Superior Oil Company, Houston, Texas 77001
Sohio Petroleum Company, San Francisco, California 94111
Elf-Aquitaine Inc, Houston, Texas 77002
Union Texas Petroleum, Houston, Texas 77252

In autumn, 1982, when some still hoped the ANWR reconnaissance would begin during the 1982–1983 winter, CGG requested evidence of industry interest for its exploration proposal. In addition to the support indicated above, Conoco, Exxon and Union provided CGG with a "Letter of Support".

3. CGG has recently demonstrated its technical ability in the Arctic during the last few years by successfully completing three shorefast ice acquistion programs from Flaxman Island to the Canadian border. In 1982, approximately 72 miles of acquisition was obtained near Camden Bay for a group of eight companies. The data quality and location encouraged four additional companies to purchase the data set. In 1983, approximately 217 miles were acquired from Camden Bay to Demarcation Bay for a group of twelve companies. In addition, an infill program in 1983 provided 81 miles for a nine company group. Other groups operated recently in the Arctic were in the NPRA (where a successful summer portable operation was completed) and in Peard Bay and Icy Cape where 180 miles were obtained in a shorefast ice and onahore program. The companies served by these North Slope

Groups were Amoco, Arco, BP Alaska, Chevron, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sohio, Superior, Texaco, Union of California and Union Texas. Other experience in recent years included considerable exclusive programs in and near Prudhoe Bay and Flaxman Island as well as near Fort Yukon. In previous years, CGG has conducted winter operations on the Kenai Peninsula and in the Susitna Basin. These operations have provided excellent data quality at a competitive price with state-of-the-art equipment and techniques.

CGG's Alaskan operations, based in Anchorage, are part of a worldwide effort that was founded in 1931 by the Schlumberger brothers. From the start, CGG has been a complete service geophysical contractor utilizing a wide range of exploration techniques and manufacturing a complete line of geophysical acquisition and recording equipment which is used by most of our competitors. It has been a leader in the processing of seismic data with processing centers worldwide. CGG has the financial ability to conduct well designed, integrated exploratory activities in the Arctic. The most recent balance sheet for Georex, Inc. (of which CGG American Services, Inc. is a wholly owned subsidiary) can be found in Appendix I.

There is ample evidence of CGG's operational responsibility and compliance throughout its history in the Arctic. This includes permits and completion reports in all the areas named above and filed with appropriate state, local and federal agencies, including but not limited to DMEM—State of Alaska, North Slope Borough, BLM and USGS.

4. The 1:250,000 map showing the approximate location of the geophysical survey lines, example travel routes to and within the refuge, fuel caches (support airstrips) and major support facilities is attached.

As described, the on staging area will be Kaktovik. To further minimize environmental impact and facilitate smooth field operations, CGG is planning four support airstrips. These will be at Brownlow Point, near Konganevik Point, in Camdem Bay and in Angnun Lagoon. Winter airstrips near the shore will be maintained on a temporary basis for fuel deliveries to the mobile cat train, which will in turn deliver to the two crews. The cat trains will deliver fuel from one of these five bases by trails that will be located along non-fish bearing rivers, streams and depressions, where ice or heavier snow cover will minimize surface impact. Moving along these depressions in a general north-south direction will minimize river crossings and damage to the river banks.

Further, trails may be changed as surface conditions dictate. The cat trains will follow the north-south routes to the maximum extent possible in accessing the crew location. Each crew camp will move on a daily basis, and be refueled once each week.

In addition to the fuel support facilities, there will be weekly deliveries of food and spare parts directly to the crew by light fixed wing aircraft landing on ice or heavy snow cover to minimize surface impact.

5. The types of exploratory activities planned including the alternate methods and optional summer acquisition are discussed in (C) above, as is the sequence of such activities.

6. The integration of the seismic reconnaissance acquisition with the non-seismic exploration methods helps avoid unnecessary duplication of the permittee's own data as described in (C) above.

7. Schedule of Activities:

1984:

+ Approximately January 2—Mobilization and start of operations for two winter crews on the refuge.

+ Approximately May 15—Demobilization of winter crews when there is no no longer adequate snow cover.

+ Early July—Mobilization of optional summer crew.

+ Late September—Demobilization of summer crew.

The special area provisions of § 37.32 will be strictly adhered to. In particular, paragraphs (a), (b), (c) and (g) insofar as the winter operations are concerned in those designated areas during the designated time frames and for paragraphs (a), (g), and the waterfowl nesting special areas, for summer operations. In addition paragraphs (c) and (f) which may provide for other areas and other times will be respected. There will be no exploratory activity in the Sadlerochit Spring restricted area.

8. Prime communications between each crew and our permanent Anchorage office will be via satellite with a fixed station in Anchorage and mobile dishes with the crews. Both voice and data may be communicated on this link. In addition to providing for the operational communications, it will be available to provide daily and weekly reports to FWS concerning any information that may be helpful for environmental monitoring, for program status, and for oprational information that would be helpful to the Refuge Manager in discharging his duties. SSB radio and multi-channel 100 watt radio would provide back-up for the satellite link as well as communication between the crew and cat train.

9. See Appendix "A" for list of equipment, description of support facility and personnel roster. Access to the area of exploration will be surface travel for all equipment and support facilities including the initial crew complement. Access for re-supply and personnel rotation will be accomplished by fixed wing aircraft.

10. Hazardous substances will be stored in properly designed mobil tanks on the fuel sleighs. Bladders of a synthetic composition will be used to augment fuel storage at Kaktovik. In addition, a liner under the bladder and over a snow berm (or one constructed of wood) with a 110% containment factor will control any accidential spillage. Should any spillage occur in the field during refueling the contaminated snow and/or ice is scraped from the surface and placed in a metal drum for later incineration. Of course, the importance of careful and proper handling is continually being stressed to appropriate crew members.

11. Prior to mobilization all crew members will attend an environmental briefing. The restriction against the taking of game or wildlife by hunting or trapping will be covered, as well as known areas of sensitivity in the work area, at the beginning of the program. Update meetings will be held as the crew changes geographical areas of work.

12. CGG would welcome and in fact ecourage someone accredited by the FWS to monitor the field operation, providing information and advice to ensure impact on the study area is eliminated or minimized. Further mitigating measures include the integrated exploration approach (section (c) above), the use of wheeled vehicles, when possible, and the use of a 144 channel recorder (section (c) above).

13. CGG agrees that if authorized to conduct exploratory activities in the ANWR, it will comply with this part, its special use permit and the approved exploration plan*, plan of operation and all reasonable stipulations, demands and orders issued by the Regional Director. The proposed activity complies with the state of Alaska's approved coastal management program and will be conducted in a manner consistent with that program.

14. The data quality control procedures employed by CGG include regular and exhaustive equipment maintenance and testing before operations begin, and routine daily and weekly checks. At the start, and during the acquisition, various field parameters are tested to determine the optimum parameters. Data quality checks are also performed as the data is analyzed at the processing center in California by representatives of CGG's research staff. In addition, an independent field quality control engineer is employed to monitor data quality and compliance by CGG with its contractual obligations.

15. CGG is prepared, orally and in writing, to respond to other requests as the Regional Director may require to discharge his responsibilities.

Appendix "A": Arctic Crew Composition

Equipment and Personnel

I. Personnel

1.1 *Supervisory Personnel*

(A) *In Anchorage—*

1 Alaskan Coordinator
1 Geophysical Supervisor
1 Field Service Engineer

(B) *In Dead Horse*—1 Expeditor.

1.2 *Basic Seismograph Party*

1 Party Chief (Geophysicist)
1 Party Manager
2 Chief Surveyors
2 Surveyors
1 Observer
1 Junior Observer
4 Survey Helpers
1 Headlinesman
2 Chief Mechanics

* Field conditions and/or environmental constraints may require a modification of the approved exploration plan. Should this occur, approval will be requested and received prior to implementation of any changes.

12 Helpers (Recording Crew)
4 Line Drivers
4–5 Vibrator Operators
1 Service Manager
1 Camp Attendant
1 Cook
1 Cook's Helper
1 Cable Repairman
Dozer Crew

A minimum total of 40–41 men in the field at all times, plus dozer crew. At least one of CGG's key crew personnel is a trained paramedic.

II. Equipment

1 Sercel 348 Telemetry Recording System with 6250 BPT Transport, 144 channels, 2 ms sample rate
1 Sercel Stacker-Correlator, CS 2502, real-time
1 Roll-Along Switch, RLS 240, any spread - configuration
250 Field Units
250 Cables
4500 Geophones, GSC 20D (with winter base), 18 per trace, 9 geophones per string, 8 Hz digital grade
1 Camera, SIE, 64 channels
4 Mertz Vibrators, "Universal", Model 18, buggy-mounted OR
5 Mertz Vibrators, Model 22, track-mounted
6 Sweep Frequency Electronics, TI VSC III
1 54-Man Camp on Sleigh, fully equipped for North Slope operations and fuel storage
1 Satellite Communication System (from Anchorage to crew headquarters)
1 Satellite Positioning System (Doppler)
2 Survey Instruments, Distomat or equivalent
1 Cable Repair Kit: cable tester, shaking table, geophone tester, etc.
1 Drill (ice check)
1 Party Manager crew cab, track-mounted, Nodwell (diesel) or equivalent
3 Line vehicles, track-mounted, Nodwell 110 (diesel) or equivalent
2 Survey vehicles, track-mounted, Nodwell 110 (diesel) or equivalent
1 Headlineman crew cab, buggy-mounted/ Rolligon or equivalent
2 Spare vehicles, buggy-mounted/Rolligon or equivalent
1 Recorder carrier crew cab, track-mounted, Nodwell 110 (diesel) or equivalent
1 Vibrator tender, track-mounted, Nodwell 110 (diesel) or equivalent
1 Vibrator repair shop, on sleigh (total controlled environment)
2 ARDCO buggy/Rolligon or equivalent line vehicles (cables, geophones)
1 Incinerator mounted on sleigh
6 Beacons
5 SSB Radios

Subcontracted:

6 Dozers, D–7
Cat Train with fuel storage capacity and survival unit
Air Support (fixed wing and/or helicopter or hovercraft support)

All vehicles are equipped with radios (6 frequency channels) for intercrew communication.

Appendix "B": Arctic Crew Composition: Portable

Equipment and Personnel

I. Personnel

1 Party Manager
1 Clerk
2 Senior Surveyors
1 Junior Surveyor
4 Survey Helpers
1 Observer
1 Junior Observer
1 Shooter
2 Shooter Helpers
4 Helpers (Primacord Crew)
1 Headlinesman
8 Recording Helpers
1 Power Man
1 Spotter
1 Line Clean-up

—

30 Total

II. Equipment

1 Sercel 348 Telemetry Recording System with 6250 BPI Transport, 144 channels, 2 ms sample rate
225 Data Processing Units with 144 channel operation
1 Drywrite Camera, ERC–10
200 Cables
2 Input/Output remote firing systems (using radio and cable)
1 Oscilloscope
1 Geophone Tester
2 Cable Testers
1 Spare Parts Kit
1 Heliportable Recording Cab
3600 Marsh Geophones, GSC 20D, 8 Hz, strung 9 per string
2 Distomats surveying equipment with supplies and spare parts
1 40-Man Tent Camp with facilities meeting federal regulations

Appendix "C": Data Collection Parameters: Vibroseis;

Energy Source

Vibroseis

4 Mertz Model 18 Universal Vibrators, with at least 3 operating at a time, or 5 Mertz Model 22 Vibrators, with at least 4 operating at a time

Cables and Geophones

Number of groups: 144
Group interval: 110 feet
Number of geophone locations per group: 18
Group to be spread over a maximum of: 110 feet
Number of strings per location: 2
Geophone type: GSC 20D, 8 Hz digital grade

Recording Parameters

Sweeps: • 12 sweeps/VP per Vibrator (total of 48 sweeps/pattern) with 3600% CDP coverage, OR • 6 sweeps/VP per Vibrator (total of 24 sweeps/pattern) with 7200% CDP coverage
Sweep length: 12 seconds
Fold of CDP coverage: 36 or 72
High cut recording filter: 125 Hz
Listening time: 6 seconds
Recording sample rate: 2 ms
Low cut recording filter: 8 Hz at 12 dB per octave

Surveying

Satellite Navigation system
Distomat EDM
Markers at beginning, end, intersections of lines will be place for finding next season location. They will be removable steel-reinforcing rods with tags.

Appendix "D": Data Collection Parameters; Portable

Energy Source

Air Shooting: A maximum of 75 lbs. dynamite on stakes

Shothole:

A maximum of 50 lbs. dynamite in single hole of 40 foot depth

Cables and Geophones

Number of groups: 144
Group interval: 110 feet
Number of geophone locations per group: 18
Group to be spread over a maximum of: 110 feet
Number of geophone elements per location: 2
Geophone type: GSC 20D, 8 HZ, digital grade

Recording Parameters

Air Shooting:

Distance between shotpoints 660 feet
Fold of CDP coverage 12
Recording sample rate 2 ms
Low cut recording filter 8 Hz at 12 dB per octave
High cut recording filter 125 Hz

Shothole:

Distance between shotpoints 880 feet
Fold of CDP coverage 9
Recording sample rate 2ms
Low cut recording filter 8 Hz at 12 dB per octave
High cut recording filter 125 Hz

Appendix "E"; Data Processing: Vibroseis"

I. Basic Processing

1.1. *Basic Processing Sequence*

(Field Sampling: 2 ms—Processing: 4 ms)

A. *Preprocessing—*

1. Demultiplexing, Editing
2. Surface Statics
3. CDP Gather
4. Brute stack—Display on reproducible Gould paper, to be delivered to clients within two weeks from receipt of the last field tape and support data on the line

B. *Analysis Sequence—*

1. Velocity Analysis (Constant Velocity scan)
2. Normal Moveout Application

C. *Final Processing—*

1. Deconvolution before stack
2. Stack
3. Time Variant Filter
4. Film Display

D. *Post Stack Processing—*

1. Coherency Filter, film display
2. Wave Equation Migration, film display or FK migration as decided by group

1.2 *Items To be Furnished to Each Participant by CGG*

A. One copy non-reproducible paper print brute stack section at scale to be determined by Participants.

B. One copy reproducible sepia or mylar and one copy non-reproducible paper print final stack section with automatic statics, at scales to be determined by Participants.

C. One copy reproducible sepia or mylar and one copy non-reproducible paper print final stack section with amplitude coherency, at scales to be determined by Participants.

D. One copy reproducible sepia or mylar and one copy non-reproducible paper migrated stack section, at scales to be determined by Participants.

E. One copy non-reproducible paper print line location map.

F. One photocopy listing of individual station locations in latitude and longitude and/or UTM coordinates and elevations in feet.

G. One copy of navigation tape(s).

Reproduction charges will be at cost to each Participant.

Appendix "F": *Data Processing: Portable*

I. Basic Processing

1.1 *Basic Processing Sequence*

(Field Sampling: 2 ms—Processing: 4ms)

A. Preprocessing—

1. Demultiplexing, Editing
2. Surface Statics
3. CDP Gather
4. Brute stack—Display on reproducible Gould paper, to be delivered to clients within two weeks from receipt of the last field tape and support data on the line

B. Analysis Sequence—

1. Velocity Analysis (Constant velocity scan)
2. Normal Moveout Application
3. Automatic Residual Statics
4. Second Pass of Velocity Analysis (if necessary)
5. Second Pass of Auto-Statics (if necessary)

C. *Final Processing*—

1. Deconvolution before Stack
2. Stack
3. Time Variant Filter
4. Film Display

D. *Post Stack Processing*—

1. Coherency Filter, film display
2. Wave Equation Migration, film display of FK migration as decided by group

1.2 *Items To Be Furnished to Each Participant by CGG*

A. One copy non-reproducible paper print brute stack section at scale to be determined by Participants.

B. One copy reproducible sepia or mylar and one copy non-reproducible paper print final stack section with automatic statics, at scales to be determined by Participants.

C. One copy reproducible sepia or mylar and one copy non-reproducible paper print final stack section with amplitude coherency, at scales to be determined by Participants.

D. One copy reproducible sepia or mylar and one copy non-reproducible paper print migrated stack section, at scales to be determined by Participants.

E. One copy non-reproducible paper print line location map at scale of one inch equals 2,000 feet.

F. One photocopy listing of individual station locations in latitude and longitude and/or UTM coordinates and elevations in feet.

G. One copy of navigation tape(s).

Reproduction charges will be at cost to each Participant.

Appendix "G": Arctic Gravity survey

I. Equipment and Personnel

Each crew will have:

2 La Costa Romberg Model G Gravimeters complete with accessories

All auxillary equipment and supplies as required in the field to perform the survey in an efficient and professional manner.

II. Data Acquisition Specifications and Final Documents

Gravity station spacing 1,320 feet

Minimum number of repeats of gravity stations 5% of total number of gravity stations

Maximum standard deviation of gravity repeats in original readings 0.1 mgal

III. Data Processing Specifications

A. *Prelimiary Data Processing in the Field*

1. Compute a final elevation and location for each gravity station.

2. Reduce all grdavity data to simple Bouguer gravity (i.e., not corrected for topography).

3. Plot all simple Bouguer gravity values on field maps at a scale of 1 inch=4,000 feet, or available map.

4. Process repeats of gravity data.

5. Create histograms of repeatability for gravity data.

B. *Final Data Processing in the Office*—

1. Digitize elevations in the survey area to create a terrain model.

2. Compute terrain corrections out to 18,000 meters from each gravity station using the terrain model as a base.

3. All the terrain corrections to the uncorrected Bouguer gravity values to arrive at final Bouguer gravity values.

4. Prepare a 9 track, 1600 BPI magnetic tape containing all the principal survey facts.

5. Prepare a Bouguer gravity contour map (contour interval of one (1) milligal) at one of the three densities used for calculation. The map scale will be at 1 inch = 4,000 feet.

6. Prepare a computer Bouguer gravity contour map at a reduced scale, at 1:250,000, contoured at a five (5) milligal interval.

7. Prepare profiles of the gravity field along each seismic line surveyed, at the same horizonal scale.

8. Prepare a complete formal report describing data acquisition and reduction, including an analysis of data quality presenting repeatability histograms

Appendix "H": Arctic TEM Survey

I. Personnel

Basic Survey Crew

1 Field Geophysicist
1 Equipment Operator
2 Field Assistants

II. Equipment

1 Geonics EM-37 System, includes receiver, receiving coil, transmitte power supply, necessary cables
3 Motorola FM radios
Wire and reels for three transmitter loops, including spares
1 Digital acquisition system for in-field recording, processing and plotting
2 Line vehicles, track-mounted, Nodwell 110 (diesel) or equivalent
1 Record cab, track-mounted, Nodwell 110 (diesel) or equivalent
Sufficient tools, spares and ancillary equipment to maintain the survey in a professional and efficient manner.

III. Field Parameters

Station Interval: 1,320 feet
Transmitter Loop: 1,320 feet on a side square
Measurement of the vertical component of the time-varying secondary magnetic field: 30, 3, and/or 0.3 Hz
Time Delay: 80 microseconds to 800 milliseconds as necessary to accurately define the apparent resistivity response of the section

IV. Data Processing

Half-spaces response programs plus an inverse EM sounding solution program, a multi-layer EM response program, and a forward modelling EM solution program will be employed as necessary to provide a final interpretation of EM sounding data. Field interpretation will be done using the empirical curve matching technique which yields an accuracy of ±10%.

V. Products Delivered to the Participants

1. Plots of apparent resistivity versus time.

2. Profiles of the interpreted base of the permafrost layer.

3. Map showing depth to the interpreted base of the permafrost layer.

4. Copies of the inverse solutions and forward model solutions.

5. Logistics report on the survey.

6. One copy reproducible sepia or mylar and one copy non-reproducible paper print final stack section, amplitude coherency section and migrated section with additional static to compensate for permafrost thickness and velocity distortions.

APPENDIX I: GEOTEX, INC. AND SUBSIDIARIES CONSOLIDATED BALANCE SHEET, DECEMBER 31, 1983

[A wholly owned subsidiary of Compagnie Generale de Geophysique]

ASSETS	
Current assets:	
Cash	291,734
Short-term deposits	50,068
Accounts receivable:	
Trade, net of allowance of $161,649	20,039,110
Affiliate (note 1)	1,602,146
Other	22,993,891
Total	22,635,147
Current installments—sales contracts and notes receivable, net of allowance of $251,615 (note 3)	2,132,334
Inventory:	
Raw materials and consumable materials	1,805,357
Work in progress	2,671,496
Finished goods	6,810,814

APPENDIX I: GEOREX, INC. AND SUBSIDIARIES CONSOLIDATED BALANCE SHEET, DECEMBER 31, 1983—Continued

[A wholly owned subsidiary of Compagnie Generale de Geophysique]

Total	11,287,667
Prepaid expenses and other current assets	146,431
Current income taxes receivable	1,906,535
Total current assets	38,492,036
Sales contracts and notes receivable (note 3)	1,239,773
Deferred income tax benefit	4,167,752
Property, plant and equipment, at cost:	
Land	1,639,599
Buildings	10,106,111
Machinery and equipment	27,242,904
Vehicles	8,774,201
Leasehold improvements	1,749,131
Furniture, fixtures and office equipment	4,481,925
Construction in progress	590,227
Total	54,584,098
Less accumulated depreciation	(23,924,390)
Net property, plant and equipment	30,659,708
Deferred seismic costs	24,533,475
Less accumulated amortization (note 2)	(20,405,279)
Net deferred seismic costs	4,128,196
Other assets:	
Deposits	198,957
Organization costs, net of accumulated amortization of $14,686	16,703
Patents and other intangible assets, net of accumulated amortization of $14,312	40,889
Total	78,936,014
Accompanying notes to consolidated financial statements can be provided.	
LIABILITIES AND STOCKHOLDER'S EQUITY	
Current liabilities:	
Cash overdraft	936,544
Advances from affiliates	700,000
Current installments—notes payable and capitalized lease obligations:	
Affiliate	4,707,327
other	47,719
Total	4,755,046
Accounts payable:	
Trade	2,083,427
Affiliate	6,791,366
Other	3,212,286
Total	12,087,079
Accrued liabilities	3,718,085
Deferred income taxes payable	2,178,972
Other current liabilities	32,801
Total current liabilities	24,408,627
Notes payable and capitalized lease obligations	3,698,266
Affiliate	76,664
Other	3,774,950
Deferred income	1,188,548
Total liabilities	29,372,125
Stockholder's equity:	
Common stock, $10 per value, authorized 2,500,000 shares; issued and outstanding 2,455,459 shares	24,554,593
Additional paid-in capital	11,706,384
Retained earnings	13,302,912
Total stockholder's equity	49,563,889
Commitments and contingencies	78,936,014

Fig. 1. Map depicting proposed seismic lines, 1984, CGG American Services, Inc.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

GEOPHYSICAL SERVICE, INC., PLAN FOR GEOPHYSICAL EXPLORATION

Exploration Plan for the Exploration of the Arctic National Wildlife Refuge by Geophysical Service Inc., as Provided for by Title X of the Alaska National Interest Lands Conservation Act, May 20, 1983

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Summary

Geophysical Service Inc. (GSI) proposes a three year exploration plan for evaluating the petroleum resource potential of the Arctic National Wildlife Refuge (ANWR). This plan calls for up to six seismic crews to work each winter, beginning in the winter of 1983–1984 and ending in the winter of 1985–1986. The exploration will involve both reconnaissance and detail reflection seismic work that will be augmented by gravity surveys. This combination of techniques will ensure that potential hydrocarbon reserves are identified and located.

GSI is a wholly-owned subsidiary of Texas Instruments Incorporated (TI). GSI was the first independent geophysical contractor in the world and is the largest in Alaska. TI is the largest manufacturer of precision seismic recording instruments in the world. Total sales for TI in 1982 were in excess of US $4,000,000,000. Corporate headquarters for GSI and TI are in Dallas, Texas.

A twelve member group of oil companies is presently committed to the exploration plan submitted here and includes nearly every major operator presently on the North Slope of Alaska. The group members comprise an interdisciplinary team that will apply state-of-the-art knowledge and techniques in several disciplines to the search for oil and gas in the ANWR. In addition to those that have committed to this exploration plan, GSI maintains communications with more than twenty companies that have expressed an interest in the results of the exploration. These companies may at any time join GSI's group.

GSI's technical ability to complete the proposed exploration is unexcelled. This ability was demonstrated by GSI in collecting 13,116 miles of seismic data on the National Petroleum Reserve-Alaska (NPR–A) from 1972–1981. GSI's arctic experience is by no means limited to the NPR–A but includes onshore experience in the Prudhoe Bay and Kuparuk fields in Alaska as well as in Canada's High Arctic Island Archipelago. GSI has also worked offshore in the Beaufort Sea in both Alaska and Canada using conventional land seismic techniques. Photographs in Appendix XVII illustrate the type of equipment that GSI uses on the North Slope of Alaska and give a sense of the complete professionalism that GSI has in its approach to work there.

GSI's professionalism includes a genuine sensitivity to the environmental issues involved in exploration in artic environments and the Arctic National Wildlife Refuge in particular. GSI's environmental record on the NPR–A testifies to this as does the faithful completion of 106 other Federal and State exploration permits in Alaska since 1974.

This exploration plan is designed to meet and exceed the requirements mandated by Congress in the Alaska National Interest Lands Conservation Act (ANILCA). Its execution will yield data for an information rich report to Congress from the Secretary of the Interior by August 1986.

Chapter 1. Permittee, Designees and Participants

This first chapter will cover the name and address of the applicant/permittee, his legal structure, the designation of persons primarily responsible for the execution and implementation of the exploration plan with methods to contact them, and the names of the persons planning at the time of plan submittal to participate in the proposed exploratory activities. Geophysical Service Inc. (GSI) will conduct the exploration called for in this exploration plan. Its headquarters address is: Geophysical Service Inc., Box 225621, M/S 3970, Dallas, Texas 75265.

Its Alaska address is: Geophysical Service Inc., 5801 Silverado Way, Anchorage, Alaska 99502.

Geophysical Service Inc. is a wholly-owned subsidiary of Texas Instruments Incorporated and is a registered Delaware corporation. The only shareholder with more than 5% of the common stock of Texas Instruments Incorporated is the Republic of Texas Corporation.

The Chairman of the Board of Directors of GSI is Grant Dove and the President is Dolan McDaniel. Both of these men may be contacted at the Dallas address above.

The following people have been designated by GSI to be primarily responsible for its activities on the ANWR. Their positions and contact phone numbers are listed below:

1. Project Manager—George Buzan—Off. 907/563-3070; Home 907/349-9110; Alternate—Ed Donald—Off. 907/563-3070; Home 907/345-0585
2. Field Supervisor—Mike Byciuk—Off. 907/563-3070; Home 907/338-1136; Alternate—Bill Hayes—Off. 907/563-3070; Home 907/243-2772.

Companies involved with GSI in submitting this exploration plan which represents a consensus of the groups may be found in Figure 1-1.

GSI ANWR Group

Figure 1-1.

American Petrofina Co. of Texas, One Houston Center, Suite 1200, Houston, Texas 77010
ARCO Alaska, Inc., Box 360, Anchorage, Alaska 99510
Chevron USA, Inc., P.O. Box 8100, Concord, California 94524
Conoco, Inc., Box 218850, Houston, Texas 77218
Exxon Company, USA Gulf Atlantic Division, Box 4279, Houston, Texas 77001
Marathon Oil Company, Box 2380, Anchorage, Alaska 99510
Murphy Oil Corporation, 200 Jefferson Avenue, Eldorado, Arkansas 71730
Sohio Alaska Petroleum Co., Pouch 6-612, Anchorage, Alaska 99502
Superior Oil Company, Box 4100, The Woodlands, Texas 77380
Texaco USA, 3350 Wilshire Blvd., Los Angeles, California 90010
Union Oil Company of California, Box 6247, Anchorage, Alaska 99502
Union Texas Petroleum Corp., Box 2120, Houston, Texas 77001

Chapter 2. Technical and Financial Ability of GSI

The purpose of this chapter is to present evidence of the applicant's technical and financial ability to conduct an integrated and well designed exploratory activity in an arctic or subarctic environment, and the applicant's responsibility in complying with any exploration permits previously held. Geophysical Service Inc. (GSI) is the petroleum exploration subsidiary of Texas Instruments Incorporated and is the world's leading geophysical contractor, with offices and field operations in more than 20 countries. Although some dozen companies make up the total organization, the name GSI applies to all those companies which search for oil and other minerals throughout the world's sedimentary basins. GSI's clients include major U.S. oil companies, large and small independents, and many oil companies and government agencies within and outside the United States. Since its founding in 1930 as the first independent contracting firm specializing in the reflection seismic method of geophysical exploration, GSI has been an innovator in providing new and more effective exploration services to the petroleum industry. GSI offers a complete line of data collection, data processing and data interpretation services for reflection seismic, refraction seismic and gravity-magnetic surveys. GSI's parent company, Texas Instruments Incorporated (TI), continues to be the world's largest manufacturer of electronic instruments for geophysical exploration.

In the early 1960's GSI revolutionized the seismic exploration business by becoming the first company to apply statistical communication theory to the analysis and processing of seismic data. Today, a network of digital seismic data processing centers serves all areas of petroleum exploration activity worldwide. Each center utilizes GSI's extensive library of signal enhancement software programs for seismic information extraction. Brochures illustrating some of these techniques are included in Appendix I. In 1975, GSI introduced three dimensional (3D) seismic data collection and processing, an important new approach to the delineation of petroleum-bearing formations. In most cases, 3D provides significantly more information about subsurface structures than do conventional techniques. GSI research and engineering, supported by the total technical capabilities of TI, are continually developing more advanced technology to aid in finding new petroleum and mineral reserves. Brochures with examples and illustrations of 3D techniques are included in Appendix II.

As the major arctic contractor, GSI has more total Alaska field operations experience than any other contractor, both onshore and offshore. GSI has been operating seismic crews in Alaska continuously since 1962, and from the very beginning has been involved in operations on the North Slope. This experience is indicated by the maps in Appendix III. These maps show all the non-exclusive data collected by GSI on the North Slope that is currently available to the general public for purchase. The maps do not include the extensive coverage of exclusive data collected for industry clients.

Onshore, GSI was exclusive seismic contractor for exploration of the NPR-A from 1972 through 1981. The seismic production on the NPR-A project totalled 13,116 miles of multi-fold, high technology seismic coverage. Work began in 1972 for the U.S. Navy. GSI had one crew working part of a season on what was then NPR-4 collecting data that might extend the gas field around Barrow. That field fuels Barrow and what was then the Naval Arctic Research Laboratory. Subsequently, the exploration of the reserve was assigned to the United States Geological Survey and the name was changed to National Petroleum Reserve-Alaska (NPR-A). GSI then contracted with Husky Oil NPR-A Operations, Inc., the operator chosen by the government for comprehensive management of the total exploration project. As many as five crews in one winter season were fielded with Husky. Finally in 1981, GSI operated on crew for the government after Congress had already decided to make the reserve available to the industry for exploration and development.

Meanwhile, GSI was also working offshore of the North Slope. In 1976, when dynamite beneath the ice was no longer permitted as an energy source, GSI pioneered the development and implementation of data collection through the ice with airguns. From 1976 through 1979, GSI collected 1410 miles of data with this source. Late in 1979, GSI pioneered the use of vibrators on the ice. During the winter of 1982, GSI operated eight crews on the ice of the Beaufort Sea collecting over 3000 miles of data. In addition to the offshore crews, GSI had two crews working onshore to bring the total GSI winter crew count to ten. All crews were vibrator crew and worked an average of 15.1 recording hours per day, including travel and move time.

In the 1983 season GSI had 6 crews working including 2 that were doing 3D work. Five of the crews worked on the ice in the Beaufort Sea while the sixth crew did 3D work in the Prudhoe Bay field. These six crews collected a total of 3300 miles of data and worked approximately 16.4 hours/day for every day they were in the field. GSI ended the 1983 season with 9 seismic crews on capacity on the North Slope.

Additionally, GSI's Canadian division has arctic experience working over-ice in the Beaufort Sea, on the MacKenzie River Delta, in the High Arctic Island Archipelago and in Greenland. As a leader in the industry GSI stands on its record of projects completed in Alaska's harsh arctic environment and its record of compliance with permits issued. Please find in Figure 2-1 lists of permits by year, crew and location. These lists are restricted to work since 1974 and do not include permits for work done previously.

GSI/TI's financial record and ability speak for themselves as shown in the Form 10K, the proxy statement and TI's 1982 Annual Report to Stockholders attached in Appendix IV.

FIGURE 2-1.—GSI Recent Permit History in Alaska by Crew

Year	Crew	Energy source	Location	Winter/summer	Permit details
1974	1173	Drill/dynamite	Kotzebue	W	State 74-25.
		Drl/hele/dyn	Brooks Range	S	State 74-25; BLM 3045(200).
	1184	Drill/dynamite	NPRA	W	Fed. Cont NOd-10057.
	1186	Drill/dynamite	NRPA	W	Fed. Cont NOd-10057.
	1195	Drill/dynamite	NPRA	W	Fed. Cont NOd-10057.
	1190	Drl/hele/dyn	Alaska Pen	S	BLM EAR-1-81.
	1193	Drl/hele/dyn	Alaska Pen	S	State SC-74-3.
1975	1173	Drill/dynamite	Brooks Range	W	State 75-4.
	1182	Drill/dynamite	NPRA	W	Fed. Cont NOd-10063.
	1183	Drill/dynamite	Beaufort Sea	W	State 74-101; OCS 75-5.
		Drill/dynamite	Beaufort Sea	W	State 74-120; 74-121; OCS 75-5.
	1184	Drill/dynamite	NPRA	W	Fed. Cont NOd-10063.
	1186	Drill/dynamite	NPRA	W	Fed. Cont NOd-10063.
	1195	Drill/dynamite	NPRA	W	Fed. Cont NOd-10063.
1976	1182	Drill/dynamite	NPRA	W	Under contract USGS 14-08-0001-16474; Fed. Cont GC-75-1.
	1186	Drill/dynamite	NPRA	W	Fed. Cont GC-75-1.
	1183	Air gun	Beaufort	W	State 75-160.
1977	1173	Drill/dynamite	NPRA	W	Fed. Cont GC-77-7.
	1182	Drill/dynamite	NPRA	W	Fed. Cont GC-77-7.
	1184	Drill/dynamite	NPRA	W	Fed. Cont GC-77-7.
	1186	Drill/dynamite	NPRA	W	Fed. Cont GC-77-7.
	1195	Drill/dynamite	NPRA	W	Fed. Cont GC-77-7.
	1183	Air gun	Beaufort Sea	W	OCS 76-73; State 76-74.
1978	1173	Drill/dynamite	NPRA	W	Fed. Cont GC-78-2.
	1182	Drill/dynamite	NPRA	W	Fed. Cont GC-78-2.
	1184	Drill/dynamite	NPRA	W	Fed. Cont GC-78-2.
	1186	Drill/dynamite	NPRA	W	Fed. Cont GC-78-2.
	1183	Air Gun	Beaufort Sea	W	State 77-153; 78-34; OCS 77-33.
1979	1182	Drill/dynamite	NPRA	W	Fed. Cont GC-79-1.
	1186	Drill/dynamite	NPRA	W	Fed. Cont GC-79-1.
	1184	Vib TK	NPRA	W	Fed. Cont GC-79-1.
	1183	Air gun	Beaufort Sea	W	OCS 79-3; State 78-123.
	1173	Vib WH	Prudhoe	W	OCS 79-2; State 78-114.
1980	1173	Vib WH	Prudhoe	W	State 79-169; 80-71.
	1182	Drill	NPRA	W	Fed. Cont GC-80-1.
	1186	Drill	NPRA	W	Fed. Cont GC-80-1.
	1183	Vib WH	Beaufort Sea	W	OCS 80-3; State 79-151.
	1184	Vib TK	Prudhoe Upland	W	BLM AK-026-N8-80-001; State 79-147.
1195	Vib TK	Susitna Valley	W	State 79-139; 79-143, 80-25, 80-27, 80-55.	
1981	1173	Vib WH	Prudhoe/Beaufort	W	BLM F-72688; OCS 81-03; State 80-251.
	1182	Vib WH	Prudhoe/Beaufort	W	BLM F-72688; OCS 81-03; State 80-251.
	1183	Vib WH	Prudhoe/NPRA	W	BLM F-72686; OCS 81-02; State 80-222, 80-309.
	1184	Vib TK	Prudhoe Uplands	W	BLM AK-026-NI1-001; State 80-245, 80-327, 81-67.
	1186	Drill	NPRA	W	Fed. Contract 14-08-0001-20204.
	1195	Vib TK	Nimana	W	State 80-199, 80-243, 80-249.
			NPRA	W	State 81-51, 81-58; BLM F-72935.
	1196	Vib TK	Prudhoe Uplands	W	State 80-331.
	1197	Vib TK	Prudhoe Uplands	W	State 80-268.
	1198	Vib WH	Prudhoe	W	State 80-329.
		Vib WH	Beaufort/NPRA	W	BLM F-72687; OCS 81-02.
1982	1173	Vib WH	Beaufort/NPRA	W	BLM AK-029-SP2-010; OCS 82-06; State 81-228.
	1182	Vib WH	Beaufort/Prudhoe	W	OCS 82-06; State 81-228.
	1184	Vib WH	Beaufort/NPRA	W	BLM AK-029-SP2-014; OCS 82-09; State 81-230.
	1186	Vib WH	Beaufort/NPRA	W	BLM AK-029-SP2-005; OCS 82-03; State 81-215.
	1195	Vib WH	Beaufort Sea	W	BLM AK-029-SP2-009; OCS 82-05; State 81-222.
	1196	Vib TK	Kuparuk Uplands	W	State 81-216, 81-250.
	1197	Vib TKWH	Kuparuk Uplands	W	State 81-229; BLM AK-026-NI2-002.
	1198	Vib WH	Beaufort/NPRA	W	BLM AK-029-SP2-008; OCS 81-04; State 81-223.
	1183	Vib WH	Beaufort/NPRA	W	BLM AK-029-SP2-006; OCS 81-04; State 81-223.
	1199	Vib WH	Beaufort/Prudhoe	W	BLM AK-029-SP2-019; OCS 82-13; State 82-05.
1983	1173	Vib WH	Duck Island	W	OCS 83-06; State 82-204.
	1182	Vib WH	North Slope	W	BLM F-81284; OCS 83-07, 83-17; State 82-207, 82-212, 82-213, 82-214, 82-224, 82-225.
	1183	Vib WH	Admiralty Bay	W	BLM F-81242; OCS 83-03; State 82-198.
	1184	Vib TK	Prudhoe Bay	W	State 82-199.
	1186	Vib TK	Beaufort	W	State 82-215.
	1195	Vib WH	Camden Bay	W	OCS 83-05; State 82-205; USFWS 83-01.
	1197	Vib TK	North Slope	W	BLM F-81243; State 83-57.

Chapter 3. Areas, Activities and Sequences

The purpose of this chapter is to indicate the area of proposed exploratory activities and the method of access and travel routes. Also there is to be a description of the types of exploratory activities planned and the manner and sequence in which such activities will be conducted.

GSI proposes to explore the entire study area of the ANWR as defined in Title X of ANILCA and shown on the map in Appendix V. The program covers the entire 2200 square miles and is meant to be complete in its method and execution. Its multi-year, multi-crew approach is designed to systematically narrow the search for hydrocarbon prospects, using reconnaissance techniques the first year, followed by higher resolution grid in-fill techniques in following years.

The plan calls for up to six (6) seismic crews to work three (3) winter seasons collecting reflection seismic and gravity data. The energy source for the exploration will be tracked-vehicle mounted vibrators. No explosives will be used.

The exact number of crews that GSI will put on the ANWR will depend on the number that its group chooses. In the group meeting, March 29, 1983, the group indicated they desired two crews to collect reconnaissance data in the 1983-1984 winter season. A greater number of crews may be desired in subsequent years as higher resolution techniques are found to be necessary. Short essays explaining in greater detail what is involved in both reflection seismic and gravity surveys are included in Appendices VI and VII, respectively. These two geophysical surveys will be done concurrently, with the gravity survey on each crew generally following the seismic data collection.

Suggested data collection parameters for the exploration plan may be found in Appendix VIII. The selection of these

parameters has been based upon GSI's previous experience on the North Slope of Alaska and by the desires of its client group. An example of GSI's 1982 Kuparuk Uplands Group data is attached in Appendix IX. GSI anticipates that the data on the ANWR will be of similar quality. To ensure that the suggested parameters are suitable for the area, the testing sequence described in Appendix X will be conducted at the onset of operations.

The reconnaissance program for the exploration plan is shown in Appendix XI. There are approximately 2400 line miles in a 2 mile grid in this program. Also on the map are the line locations of GSI's 1977 Search Prudhoe II and 1983 Camden Bay Hardwater surveys. It may be seen that the 1983 Camden Bay Hardwater survey was designed to extend the lines on ANWR offshore to tie into the Search Prudhoe II data. These surveys are essential to tie the ANWR data to data that will be used in developing bids for Federal lease sale OCS 87 and State lease sale 50.

The program can be seen to extend across lands whose surface is controlled by the Kaktovik Inupiat Corporation. As specified by the United States Fish and Wildlife Serivce (USFWS), GSI will make a separate application to collect data on these lands. Immediately upon starting operations in 1984 GSI plans to use helicopter borne Syledis [1] systems to establish a network of survey controls to facilitate the use of more conventional survey systems such as the Wild T-2 theodolite and the Keuffel & Esser Autoranger II electronic distance measuring device. This establishment of survey control will take approximately two weeks.

The control will consist of markets that may be utilized in later years to re-establish exact positions of the survey. These usually take the form of a four foot high metal pipe. The final form for these markers will be decided upon in consultation with the USFWS and will remain on the ground in the ANWR through the period of this exploration plan.

GSI will mobilize its seismic crews in Deadhorse in late December, 1983. They will cross the Canning River approximately 1 January 1984 to begin operations on the Refuge. The goal for the 1983-1984 winter season will be to collect approximately 1600 miles of the reconnaissance program. The part of the program not collected in the 1983-1984 winter season will be collected by the crews in the 1984-1985 winter season.

Following the work in the 1983-1984 winter season the data collected will be reviewed and higher resolution detail program will be decided upon for those areas that indicate the highest possibility of structural or stratigraphic sequences which might be hydrocarbon bearing. The winter seasons of 1984-1985 and 1985-1986 will then be used to collect this higher resolution detail program. The exploration proposed will be finished within the three year time frame allowed for by this exploration plan. Each of the exploration years will follow a similar sequence of activities. A mobilization crew will enter each seismic camp at the beginning of a season to warm it up. When the camp is warmed the remainder of each crew will arrive and operations will begin. From approximately 1 January to mid-May each year the crews will collect seismic and gravity data. Termination of operations in May will depend on Caribou calving, loss of ground protection on the tundra, and other environmental considerations and will occur per USFWS regulations.

Prior to the shutdown of operations in May a list of items requiring repair during the summer will be compiled by the people operating the crew. This list will be left with GSI's equipment manager who will delegate a crew to do the required work. Summer repair is planned for 15 July to 31 August and is meant to be a self-sufficient operation and will not impose on the local economy.

GSI anticipates the summer staging area for the crews will be in the vicinity of the DEW line site at Barter Island. For these crews the following people will be required during summer maintenance:

1 Party Manager-Supervisor
1 Cook
1 Cook's Helper
3 Instrument Engineers
3 Vibrator Mechanics
3 Camp Mechanics
6 Mechanic's Helpers
1 Tractor Operator
3 Subcontractor Mechanics
1 Camp Attendant

During field operations data will be shipped every three or four days to the expediting center in Deadhorse. In Deadhorse the shipment will be checked and transhipped to GSI's data processing center in Denver.

The data processing phase of the project will start each year with receipt of the first shipment of data from Alaska. Processing parameters will be selected and the data will be processed in accordance with the desires of the group, and consistent with the information needs of the Secretary of the Interior. Thus the data will be enhanced to the maximum extent possible. The anticipated processing sequence for the data is shown in Appendix XII. Shipments of processed sections to group participants and to the Regional Director will be made as processing is completed on each seismic line and will continue after the termination of collection operations for about 8 weeks. A list of the sections that will be provided to group participants may be found in Figure 3-1.

As sections are delivered, group participants will begin their interpretation of the data and come to their conclusions. It is anticipated that the interpretations will detail possible favorable hydrocarbon bearing structural and stratigraphic traps and hypothesize volumes of recoverable reserves in the ground and the economies involved in attempting to exploit them. With the data that is collected and processed by GSI and the interpretations made by its group participants it is anticipated that the Secretary will have the best possible information to make his report to Congress by August, 1986.

Figure 3-2 is a graphical representation of the schedule and sequence of activities discussed in this chapter.

Group Participant Data

Figure 3-1.

1 Non-reproducible paper print of each brute stack
1 Reproducible paper sepia final stack section, displayed at 16 traces per inch, 5 inches per second
1 Non-reproducible paper print of all velocity analyses
1 Reproducible paper sepia line location map at a scale of 1 inch equals 8,000 feet
1 Reproducible paper sepia migrated stack section, displayed at 16 traces per inch, 5 inches per second.

BILLING CODE 4310-55-M

[1] Trademark of Sercel, Inc.

ANWR EXPLORATION SCHEDULE

Figure 3.2.

	1983						1984												1985												1986					
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J
CREW MOBILIZATION					X												X												X							
RECON DATA COLLECTION							XXXXXXXXX												XXXXXXXXX																	
DETAIL DATA COLLECTION																			XXXXXXXXX												XXXXXXXXX					
DATA PROCESSING							XXXXXXXXXXXX												XXXXXXXXXXXX												XXXXXXXXXXXX					
SUMMER MAINTENANCE											XX												XX													
PROGRESS MEETING	X																																			
PLANNING MEETING			X								X			X									X			X										
TEST RESULTS MEETING							X												X												X					
PROGRESS/PROCESSING MEETING								X												X												X				
SUMMARY MEETING										X												X													X	

BILLING CODE 4310-55-C

Chapter 4. Communication Techniques

The purpose of this chapter is to describe in detail the techniques that will be used to communicate with operations people on the ground in the Arctic National Wildlife Refuge, various levels of GSI's management, group representatives and USFWS representatives.

There will be daily communication using single side-band (SSB) radios between the field camps and the major GSI staging area in Deadhorse. This communication will generaly consist of passing the daily production report for the crew. An example of such a production report may be found in Appendix XIII. It contains information relating what data is being collected, where the camp is located and what the prevailing weather conditions are. The SSB radio also provides the crew the ability to order special spare parts, identify personnel ready for rotation or request emergency medical evacuation. In emergencies the crews can also communicate directly with Anchorage via the SSB.

The daily production for the crews is then passed from Deadhorse to Anchorage via the Texas Instruments Information Management System (IMS). This is an electronic mail system that utilizes a TI 765 portable terminal with modem attached to telephone in Deadhorse and to a TI 990 computer system in Anchorage. From Anchorage the daily report is then passed via the 990 and the TI IMS to Calgary, Denver and Dallas.

In the event that the computers are not functioning, production and other information will be communicated from Deadhorse by telephone. GSI's Deadhorse telephone number is 907/659-2507.

Communication between the field camp and the operating units on the seismic line is by FM radio. The FM radios are also used for communication between vehicles working on the line. Air-to-ground radios provide communication between camps and support aircraft. In Appendix XIV may be found a listing of the radio frequencies GSI has permission to use in the conduct of its operations.

Communications between GSI and its group will be by meetings, weekly reports and fianal reports. As will be shown later GSI has already had several meetings with interested parties regarding exploration on ANWR. GSI will hold another meeting in July, 1983 to update people on the progress of approval of the exploration plan. Once the exploration plan is approved GSI will hold a meeting in October, 1983 to finalize the operations plan for the coming winter season.

During the winter season of 1983-1984 GSI anticipates holding two meetings of its group. The first meeting will be in January to discuss the results of the testing that is done at the start of the project. The second meeting will be in mid-February and will cover data collection progress and results of the data processing parameter tests. If there are no unforeseen developments, the next meeting will be in June, 1984. At that meeting GSI will summarize the data collection work completed during the season and the current status of the data processing.

There will be two more meetings of the group in 1984. These meetings will be in July and October and will serve to establish exploration goals and standards for the following year. This sequence of information meetings during the data collection season and planning meetings during the off-season will be repeated each year that work is done in the ANWR.

During the season all group participants and higher management in GSI receive weekly update telexes keeping them apprised of the status of the crews. Examples of the weekly telexes that were sent to participants in GSI's 1983 Admiralty Bay/Barrow Hardwater Group may be found in Appendix XV. At the beginning of the year telexes contain information regarding the data collection operations. As the season progresses, data processing begins, and the telexes include both data collection and data processing information. When data collection terminates, the telexes continue until the data processing for the season ends. GSI anticipates that it will send the USFWS copies of these telexes each week, in addition to the bi-weekly reports that are required by regulation.

At the end of each season GSI will furnish each group participant with a final report of operations that will cover the data collection operations for the group for that year. In Appendix XVI is found a copy of the Final Report for the GSI 1982 Beaufort Sea Hardwater Group-I, which will serve as an example. It is a summary of what occurred during the year. Much of the information used in GSI's final report to group participants will be used again in preparing the semi-annual report of operations that will be submitted to the USFWS.

Chapter 5. Equipment and Personnel

The purpose of this chapter is to provide a detailed description of the major equipment and personnel that will be assigned in the execution of this exploration plan.

Figures 5-1 and 5-2 following, describe the personnel and equipment typical of each crew proposed by the exploration plan. Pictures of the equipment and the facilities that GSI uses on the North Slope are included in Appendix XVII.

Personnel List for Each Crew

Figure 5-1

1 Party Manager
1 Administrator
1 Instrument Engineer
1 Assistant Instrument Engineer
4 Vibrator Operators
4 Cable Truck Drivers
8 Recording Helpers
2 Surveyors
2 Survey Helpers
1 Vibrator Mechanic
1 Camp Mechanic
2 Mechanic's Helpers
1 Camp Attendant
1 Gravity Meter Operator
1 Cook
1 Cook's Helper
6 Tractor Operators
39 total

Equipment List for Each Crew

Figure 5-2

4 Texas Instruments vibrator units equipped with Texas Instruments high frequency electronics to allow for operation up to at least 125 Hz. Amplitude ramping of sweeps is available so that high frequencies may be accentuated.

1 Foremost Chieftain Tracked Recording vehicle.

1 Vibrator tender.

4 Cable and Geophone carriers.

3 Survey vehicles.

1 Party Manager's snowmobile.

1 Group Representative snowmobile.

1 Gravity Operator's snowmobile.

1 Camp utility vehicle with crane.

6 Tractors (Caterpillar D-7 or equivalent)

1 120 trace Texas Instruments DFS V digital recording system complete with 3 millisecond anti-alias filters and ancillary equipment such as radios, shooting units, input panels, electrostatic camera, tape transport, monitoring equipment, spare parts and all other equipment necessary for CDP recording.

1 Texas Instruments FT-1 Field TIMAP computer with a Gould record section plotter.

240 groups of 24 geophones each (Geospace 10 Hz., 20D digital grade) and necessary cables to serve all geophone groups at a group interval of 110, 165, or 220 feet. Geophones are to be mounted on arctic base plates.

1 Ski-mounted camp for 50 persons complete with shop, kitchendiner, washcar, snowmelter, bedding, utensils, tools, communications equipment, and fuel storage for 18,000 gallons.

1 Survival unit for remote deployment.

All required survey equipment such as Syledis [1] receiver, theodolites, chains, rods, electronic distance measuring equipment, and marking devices.

Two-way radios, fire extinguishers, survival equipment, and first aid kits for all vehicles.

1 Lacoste-Romberg Model D Arctic Gravity meter and accessories.

The camp complies with all State and Federal health and safety regulations. It is capable of being separated into a base camp and a survival unit and will include the following:

50 person capacity with all bedding, cooking utensils, and dining facilities.

Shop facilities, welders, tools, and spare parts inventory.

Power generating equipment with 150% anticipated load capacity.

Weather information equipment.

TI proprietary non-directional homing beacon.

Airstrip marker devices.

Snow melter.

Electric incinerating toilets.

Adequate fuel storage with provisions for spill prevention.

Comprehensive communications equipment.

The camp is designed to provide for the comfort and convenience necessary in camp life without sacrificing mobility. It is entirely self-contained and capable of being moved every day and also capable of survival unsupported for up to two weeks in the event of isolation by weather.

[1] Trademark of Sercel, Inc.

Filtration and purification systems are provided for water intake into the kitchen facilities and wash car as well as for gray water before discharge to the surface. The wash car contains electric incinerating toilets, shower facilities, sinks, and a washer and dryer. The electric incinerating toilets reduce sewage to an ash that is easily and safely transported to approved dump sites. These electric incinerating toilets were pioneered by GSI in the Alaskan arctic.

The camp snow melter is necessary for providing the camp water supply. The camp is also provided with a desalinization unit for over-ice operations. The camp utility vehicle is fitted with a heated 500 gallon tank that can be used to carry water from lakes. The camp's office serves as the crew communications center providing radio contact with all crew vehicles, support aircraft, other crews, and support bases around Alaska. Good communication is critical for safety, efficiency of operations, receiving of instructions, ordering of parts and supplies, and delivery of progress reports.

The camp crew has the responsibility to support all the other units of the crew. The two mechanics assisted by their helpers are responsible for all preventive and breakdown maintenance of camp equipment and the crew's vehicles.

Two standard requirements on all GSI crews are a clean camp and quality food attractively prepared. They make each person's job a little easier and the time spent on the crew seem less tedious. The morale, and thus in large measure, the performance of all crew members, is in the hands of the camp attendant and cooking crew. The survival unit in the equipment list is commonly referred to as the "cat camp". This unit consists of a set of trailers occupied by the tractor subcontractors employed by GSI. The trailers may operate independently of the main seismic camp. They are equipped with kitchen, sleeping rooms, washrooms, mechanical shop and their own power supply. The "cat camps" are used to stand by airstrips when the main camp cannot be close due to operational considerations.

Figure 5–1 lists all workers that GSI will assign to the crew. There may well be more people in camp than those listed. There are frequent visitors to a seismic field camp. These vistors may be government inspectors for the United States Fish and Wildlife Service, the Occupational Safety and Health Administration, the Department of Occupational Safety and Health, the Department of Environmental Conservation, visitors from any of the companies participating in the group, as well as GSI vistors from other areas who come to inspect the operation.

Because the operations will be on a seven day per week basis from the start of operations early in the year to the shutdown of operations late in May, people normally will be rotated on break and back to work on a thirty (30) days on, ten (10) days off basis. At any one time there may be extra people on the crew who are there for rotational purposes.

Commonly the tractor operators and cooks will be subcontractor personnel. While subcontractor personnel are on the crews they are subject to the authority of the GSI Party Manager of each crew and required to adhere to all rules and regulations governing GSI operations.

Chapter 6. Facilities and Logistics

The purpose of this chapter is to provide a detailed description of the facilities that GSI plans to use to support the crews working in the ANWR on this exploration plan. GSI maintains full service support and expediting centers at Anchorage and Deadhorse. A brief description of each follows.

Anchorage

- Primary Alaska support center; back-up for Deadhorse
- Warehouse (80' x 60'), for back-up and long lead time spares
- Four (4) bay maintenance and fabrication shop
- 6,000 sq. ft. office space
- Two (2) acre fenced storage yard with covered pallet racking and bulk freight areas
- TI 990 computer system
- Easy access to Anchorage International Airport
- SSB radio for communication with field crews and Deadhorse
- VHF radio communication

Deadhorse

- Main expediting center on the North Slope
- Warehouse (50' x 75') for parts and expendable supplies
- Maintenance shop (50' x 50')
- Base camp, which provides subsistence and lodging for 33 permanent and transient personnel
- Food storage
- Camp parking area
- TIMAP-2 computer center
- Weather reporting service
- Access to year around State-owned and maintained air strip
- Aircraft handling facilities for GSI chartered aircraft
- SSB radio for communication with field crew and Deadhorse.
- VHF and CB radio communication
- Satellite telephone link with Anchorage
- Instrument Field Service shop and personnel
- Cable and geophone string repair and test shop

The Deadhorse facility was new in 1983 and reflects GSI's continuing commitment to maintain support facilities as close to the area of operations as is possible. In 1983 six of GSI's crews were parked on that pad. With the TIMAP computer in Deadhorse, GSI is able to provide faster turnaround in tape handling. In addition, with the Field Service support staff based in Deadhorse, crews are guaranteed the minimum of downtime due to instrument problems.

Chapter 7. Hazardous Substances Control and Contingency Plan

The purpose of this chapter is to detail a hazardous substances control and contingency plan to be taken, to control, clean up, and dispose of these materials in the event of a spill or accident.

Each seismic crew will have a total capacity of 18,000 gallons of fuel and will use 1800 gallons per day in the course of normal operations. In the event of isolation by weather the crew's fuel consumption can be reduced considerably. The crew will maintain a minimum 4 days supply of fuel at all times. The 18,000 gallons of fuel will be stored in a variety of 600 and 1000 gallon tanks. All tanks will be ski-mounted. If one set of tanks turned over the potential spill would be 3000 gallons. If a single tank should rupture or a valve malfunction, the maximum spill would be 1000 gallons.

Each crew will carry the following oil spill cleanup equipment:

1. 6 Heavy duty steel coal shovels
2. 4 No. 1 sharpshooter type dirt shovels
3. 4 Rolls absorbent material
4. 4 Pitchforks—hay type
5. 1 Portable floodlight system
6. 1 25 gpm land operated bilge pump with 25 ft. suction hose and 50 ft. discharge hose all to low temperature specifications

All the above equipment with the exception of items 3 and 5 will be carried in a sturdy container painted with exterior high visibility paint and legibly labelled as an SPCC (Spill Prevention Containment and Control) kit.

In the event of a spill, any action deemed necessary for the preservation of human life will take precedence over any other operation at the site. Then, ice/snow berms will be constructed to contain any possible flow of fuel, and absorbent will be spread to help contain the spill. Any contaminated snow, absorbent or loose material will be picked up and burned in an incinerator or an approved area.

In the event of a ruptured tank, all remaining fuel will be pumped into other fuel storage tanks and the contaminated area will be cleaned up. If an entire sleigh or tank should overturn, ice/snow dikes will be immediately constructed around the area for containment, and cleanup procedures will be initiated.

A visual inspection of each tank will be conducted daily, and the results will be logged. The daily fuel storage inspection record will be kept by the Party Manager on the crew.

For the purpose of this plan, an oil spill is defined as any accidental discharge of petroleum products. This is a simplified definition and does not supersede any regulations. Any and all oil spills are reported by any and all personnel having knowledge thereof to their immediate supervisor.

The Party Manager or Supervisor will follow the Spill Action Prcedure Charge in Figure 7–1. He will verbally notify GSI management, give a rough estimate of the extent of the spill, and describe the containment and cleanup efforts that are underway. A written report (following the outline in Figure 7–2) will be forwarded as soon as feasible.

Oil Spill Action Procedures Chart

Figure 7–1

Person and Action

Crew Member—Detects oil spill; Insures personnel and equipment safety; Notifies group leader

Group Leader—Notifies GSI Party Manager

Party Manager—Initiates containment and cleanup effort; Mobilizes additional personnel and equipment required of cleanup and restoration; Notifies GSI Deadhorse office

Deadhorse Office—Notifies State of Alaska, Department of Environmental Conservation; Notifies GSI Anchorage office; Prepares written Oil Spill Report

Anchorage Office—Submits written oil spill report to State of Alaska, Department of Environmental Conservation. Provides Additional information requested by Governmental agencies regarding cleanup and restoration

Geophysical Service Oil Spill Report Form

Figure 7–2

Instructions: This Form is designed to provide all initial report information. More information may be required at a later time should initial report conditions change. The Foreman and/or Supervisor should keep note (including times and dates) or subsequent occurrences, orders received and given and actions taken by the various individuals and organizations involved in an Oil Spill.

Fill in this Form completely. Should any information banks "not apply", mark them N/A.

1. Time of Day and Date Spill Occurred or First Observed: _____

2. Date of this Report: _____

3. Location of Spill (Describe Location, give map coordinates, name of site, etc.): _____

4. Present Location of Spill (Describe movement, if any, of Spill; cause of movement): _____

5. Estimate of Spill Volume: _____

6. Type of Material Spilled: _____

7. Environmental Conditions summary (Give ground conditions, water conditions, including currents or tide, temperature, wind direction and speed, visibility, ice and/or snow conditions and depth): _____

8. Barge and/or Vessel Data (Give name of crafts), registry, owner of lessee, deadweight tonnage or draft, total storage capacity of spilled material, etc.: _____

9. Area likely to be further affected by this Oil Spill (Describe terrain such as beaches, ponds, wildlife areas, streams, etc.): _____

10. Cause of Spill: _____

11. Action(s) Taken to Combat Spill: _____

12. Notified following individuals/agencies of Oil Spill Occurrence: Day/Time

1. _____
2. _____
3. _____
4. _____
5. _____

This Report Prepared by:

Signature: _____

Print Name: _____

Chapter 8. Environmental Impacts and Mitigating Measures

The purpose of this chapter is to provide a general description of the anticipated impacts that the proposed exploratory activities may have on the Refuge's wildlife, its habitat, the environment, subsistence uses and needs and cultural resources. It is also to provide a description of avoidance, minimizing and mitigating measures which will be implemented.

GSI has considerable experience conducting geologic and geophysical exploratory activity in the arctic with insignificant adverse impacts on the environment. While surveying the NPR–A valuable lessons were learned and operational procedures and equipment devised to assure minimal environmental effects. By using the exploratory scenario described in this exploration plan all adverse effects will be insignificant.

The main impacts to the environment on the ANWR will be surface disturbance, water withdrawal, atmospheric emissions, liquid waste disposal, solid waste disposal, oil spills, human presence and noise, and cultural and socio-economic impacts. In addition to these general impacts, the impacts of the seismic exploration on the special use areas also will be considered. The impacts to be discussed result from GSI and ANWR operating procedures, the winter field season and use of the vibrator energy source. To facilitate reading and note making the rest of this chapter will be in outline form.

I. Surface Disturbance Impacts

A. Seismic Lines

All surface travel will take place between 1 January and mid-May so it will be on snow covered trails and frozen ground. Deep snow will be removed to a depth of six inches so that geophones may be placed near the ground surface.

1. Tundra Compaction

Only minor compaction will occur because the operations will be on frozen ground covered by snow. The minor compaction will improve the physical environment for plants and result in green trails. Thus wilderness qualities will temporarily be degraded for an observer with an aerial view. The green trails are not normally discernible at the surface level except by an aware and trained observer.

2. Topography and Drainage

Damage to stream and lake banks will be avoided per ANWR stipulations by crossing at a low angle of approach. There will be no bulldozing of stream or lake banks.

3. Erosion and Sedimentation

Avoidance of terrain damage at stream and lake bank crossings and on slopes will preclude erosion and eliminate the possibility of siltation of streams or lakes.

4. Vegetation

Low woody shrubs may be damaged slightly due to the weight of moving vehicles or by snow plows clipping erect branches. This damage will not kill the plants but will leave scars which by normal growth will quickly recover. Brown trails on the tundra may result from snow plowing or travel on thin snow cover.

5. Wildlife Habitat

There will be no loss of wildlife habitat. Minor losses of vegetation will have no significant effect on wildlife food supplies or protective cover. All grizzly bear and polar bear denning sites will be avoided. Caribou and muskoxen herds may be temporarily displaced by operations.

6. Scenic and Wilderness

Brown or green trail impacts previously mentioned will degrade the visual wilderness quality of the landscape. Such impacts will last for a few years but will ultimately disappear by the natural process of the growth of damaged plants.

7. Archeological and Historical

Archeological and historical sites will be identified per USFWS regulations. These sites will be avoided by the crew during geophysical operations and at all other times as well.

B. Camp Sites for Geophysical Crews

Tundra compaction and thus the creation of green areas may occur. These effects will be temporary.

II. Water Withdrawal Impacts

A. Water Resources

Camp water supplies will come primarily from melted surface snow. Lake water will only be taken from lakes designated as deviod of fish. No water will be withdrawn from streams or rivers.

B. Aquatic Biology

There will be no impacts on aquatic organisms because no water will be taken from streams, rivers or lakes that are designated as fish bearing.

C. Threatened or Endangered Species

There are no known threatened or endangered species in the rivers, streams, or lakes in ANWR during the winter season.

D. Cultural and Socio-Economic

Water withdrawal and use by seismic crews will not compete with the village of Kaktovik or residents of Barter Island.

III. Atmospheric Emissions

Emissions include the products of combustion from vehicles, power generation equipment and from the approved buring of solid wastes. Gaseous and particulate emissions are low, transient, and will have little impact on air quality. There will be no impact on the biological components of the ecosystem. Wilderness quality will be impacted only at the time of occurence.

IV. Liquid Waste Disposal

A. Disposal

Screened, filtered and treated gray water and kitchen waste water will be discharged

to the land surface except when the camps are on sea ice, and then to the ice surface.

B. Permafrost and Soils

The winter discharge of warm waste water may temporarily thaw the top 3 to 4 inches of the snow layer. Depending on ambient temperture this condition could last a few hours but would not affect the permafrost. No adverse effect on the soil is anticipated by this action.

C. Terrestrial Biology

Local soil enrichment resulting from discharge of kitchen or gray water may result in more vigorous plant growth in grass and sedge communities. Increased forage would result for herbivores in localized and small areas.

D. Aquatic Biology

There will be no effect on organisms of streams or ponds as nothing will be directly discharged to them. Effluent discharged to land that inadvertently reaches a water course through a natural drainage pattern will be undetectable due to minute concentration levels. The quantities of treated and filtered effluent discharged to the ice surface of the salt water lagoons will be low enough to be of no significant impact.

V. Solid Waste Disposal

A. Disposal

All combustible solid waste will be incinerated in accordance with a State of Alaska Department of Environmental Conservation permit. Ash residue and noncombustibles will be backhauled for disposal at an approved site.

B. Permafrost and Soils

Waste products will incinerated in approved receptacles such as burn baskets. Minor heat transfer to the ground will occur and thaw will result but will be confined to the snow. The permafrost will not be affected.

C. Air Quality

Emissions from open burning of approved combustibles will be small in volume and of transient effect. There will be no measurable impact on air quality.

D. Water Resources and Aquatic Biology

There will be no impacts on water resources or aquatic biology because all solid waste will be disposed of at approved sites only.

E. Terrestrial Biology

Campsites are normally occupied no longer than two or three days. Garbage and food may attract certain animals, such as foxes, wolves and possibly wolverines. GSI crews and subcontractor personnel will not feed any wildlife. Garbage will be kept covered until properly disposed of. Once a camp site is left and the potential for food is removed, the wildlife can be expected to return to their normal activity.

F. Cultural—Socio-Economic and Land Use

All wastes from seismic operations will be disposed of at an approved site. There will be no impacts on the resident natives or any present or planned land use.

VI. Oil Spills

A. Disposal

Any accidental discharge of petroleum products will be cleaned up immediately taking precedence over all other considerations except human health and safety. Clean up will be in accordance with the procedures stated in Chapter 7.

B. Permafrost and Soils

Some minor contamination of soil could result from incomplete recovery of oil spills. Should burning be necessary, minor thaw of the active layer could result but would not significantly impact the permafrost because of the low ambient temperatures.

C. Water Resources and Quality

Oil spills on lakes used as ice airstrips are easily cleaned up at low temperatures by removing and disposing of the contaminated ice with a dozer blade. Toxic fractions which may be left evaporate readily and there is little prospect that the water resource of any lake will be degraded.

D. Aquatic Biology

Rapid dilution of oil and the loss of toxicity during the warm season of any minor quantity of fuel that will remain after cleanup holds no threat to aquatic organisms in lakes or ponds.

VII. Human Presence and Noise in Relation to Wildlife

Noise sources which will cause some disturbance to birds and mammals include vehicle engines, equipment movements and resupply aircraft, and general crew activity. There are few winter-resident birds, but there can be some minimal disturbance to such species as willow ptarmigan, snowy owls and perhaps rough-legged hawks and gyrfalcon. Foxes, wolves and wolverines will be alerted by noise, and move away from the area of noise temporarily. Such animals are also often attracted by noise if no threat of danger or harm follows. The brown (grizzly) bear dens and polar bear dens will be avoided completely. Some caribou and perhaps muskoxen will be present during the operating season. Vehicle noises will simply cause caribou to move slowly away for short distances, and often they will not interrupt their feeding or resting activities. Muskoxen, because of their herd social behavior, and diet preference, can be anticipated to be encountered at some time or another during the field operations. Seismic operations will avoid sighted herds as much as possible, and the program will be conducted in a prompt and efficient manner when the crew is operating in an area of muskoxen activity, so as to limit the time of infringement upon the muskoxen home range. Following the completion of the program and departure of the geophysical party, all bird and mammal behavior patterns can be expected to return to normal.

VIII. Special Areas

A. Caribou Calving and Muskoxen Calving Areas

Seismic operations will be from 1 January to mid-May. Termination of operations will occur prior to caribou calving in May.

B. Snow Goose Staging Special Areas

GSI will not have any field operations between August 20 and September 10 and therefore no impact will occur to the snow goose.

C. Sadlerochit Spring

The exploration program has been designed to maintain a two mile radius away from the Sadlerochit Spring area. GSI plans to neither collect data nor camp within 2 miles of this area or within one-quarter mile of either side of Sadlerochit Spring Creek for a distance of 5 miles downstream from its source.

IX. Cultural and Socio-Economic Impacts

A. Subsistence

Temporary displacement of subsistance hunting or fishing may occur. Effects would be localized and transient. Because there will be no impact on the wildlife stock there will be no effect on future subsistance activities.

B. Land Use

There will be no impact on current or proposed land use due to GSI's geophysical exploration program.

C. Wilderness

Minor impacts that will degrade the wilderness qualities of the Refuge will occur only in winter and so will be minimized. These impacts will be termporary and will last until natural recovery takes place.

Chapter 9. Environmental Quality Control and Asssurance

The purpose of ths chapter is to provide a procedure for monitoring the environmental impacts of GSI operations and to assure compliance with regulatory and permit requirements.

The first level of monitoring for environmental impacts will occur on the crew. Crew members will attend environmental briefings given by the USFWS and also by GSI. All crew members will have nearby access to the ANWR regulations, this section of the exploration plan, Table 9–1 and the Quality Control Action List shown in Figure 9–1. Primary responsibility for monitoring environmental impacts on the crew will remain with the Party Manager although they will be shared by the group representative present also.

As an additional environmental quality assurance measure, GSI has organized a team of arctic science specialists who will monitor environmental impacts of exploration activities and advise on avoidance and mitigation measures. The GSI manager responsible for directing the environmental quality assurance program is Larry Bowles. The senior consultant assisting Mr. Bowles will be Phillip Smith who has had several years of experience managing a program of this type on the National Petroleum

Reserve—Alaska. Their resumes may be found at the end of this chapter. Mr. Bowles and Mr. Smith will work closely with Mr. Buzan, Project Manager, in preparing the plan of operation for the 1983–1984 seismic season and will be prepared to meet with the Regional Director and answer any environmental questions he may have prior to start of operations.

Mr. Smith will report directly to Mr. Bowles. Prior to mobilization Mr. Smith will inspect each seismic crew for compliance with GSI's operating guidelines and ANWR environmental regulations. During this time period, Mr. Smith will meet with each GSI Party Manager and review the regulations governing the ANWR operations.

Mr. Smith will make periodic audits of operations in the ANWR. Each audit visit will consist of three days in the field monitoring ongoing operations. He will discuss any deficiencies in the operations with the Party Manager in the field and then with Mr. Bowles and Mr. Buzan. Special care will be taken to note compliance with environmental quality control measures, and to alert Mr. Buzan of special conditions that warrant the help or assistance of one of the expert consultants. Mr. Smith also will be available to help prepare documents requested of GSI by the Fish and Wildlife Service.

Mr. Smith and Mr. Bowles will make a helicopter reconnaissance of the ANWR during the summer of 1984 to check the areas of operations for complete clean up and evaluate the need for revegetation or rehabilitation measures. If clean up or revegetation is required, Mr. Smith will help prepare the GSI rehabilitation plan, with the assistance of the expert consultants, for submittal to the Regional Director.

Assisting Mr. Bowles and Mr. Smith in this environmental quality assurance program will be a team of specialists recognized as experts in their areas of arctic biology. These scientists have expessed a willingness to work with GSI to develop and implement strategies for avoiding, monitoring and mitigating adverse impacts. Implementation will include periodic field trips to the ANWR during the conduct of exploration activities. These experts have experience with implementing mitigation measures (e.g., revegetation) and their expertise will be applied there as well.

The environmental quality assurance team of experts is listed below, along with their areas of responsibility and a brief statement of their affiliation and experience. Their resumes will be supplied if requested.

Soils, Flora and Revegetation

Dr. William Mitchell, Univ. of Alaska, Revegetation and Flora on NPR–A and Trans-Alaska Pipeline

Dr. Kaye Everett, Ohio State Univ., 25 years experience in the Arctic

Dr. Pat Webber, Univ. of Colorado, Director of Tundra Environment Research

Birds and Large Mammals

Dr. Stephen R. Johnson, LGL Ltd., Fairbanks; 13 years experience with waterfowl in U.S. and Canadian Arctic

David Roseneau, LGL Ltd., Fairbanks; 16 years experience with birds of prey and large mammals in the U.S. Arctic (member of U.S. FWS Arctic Peregrine Falcon Recovery Team since 1977)

Cultural Resources

Dr. Ed Hall (Edmund Hall & Assoc.), University of New York at Brookport, Arctic cultural resource specialist on ANWR and NPR–A.

GSI Environmental Quality Control Action List

Figure 9–1

Listed below are major areas of environmental concern that relate to work on the Arctic National Wildlife Refuge. Any questions concerning this list or any other environmental matter should be directed to the GSI Party Manager or to the GSI Environmental Program Manager.

Archeology

1. Report any archeological or historic finds to the GSI Party Manager. Do not remove anything from a site.

Fish and Wildlife

1. Do not feed wildlife or leave garbage out that might attract wildlife (Note.—Arctic foxes are known carriers of rabies).

2. Do not molest or harass any wildlife.

Tundra/Vegetation Protection

1. When traveling over tundra, blades are to be kept in a raised position.

2. When plowing snow, blades are to be kept well above the underlying tundra.

3. When stopping on snow-covered tundra, do not drop bulldozer blades—lower them slowly.

4. In areas of snow-covered tundra, bulldozers are not to be turned with one track stationary.

5. When bulldozing open ice airstrips, confine the operation to ice-covered areas.

6. Avoid damaging or destroying survey stakes, monuments and other markers.

Water Quality

1. Crossing of a water course shall be made using a low angle of approach utilizing a snow/ice fill ramp. No cutting or bulldozing of a river/stream bank is permitted.

2. No equipment is permitted to work across open streams, lakes, rivers.

Solid Waste Disposal

1. All waste will be disposed of in a manner in accordance with a State of Alaska Dept. of Environmental Conservation permit. Check with the GSI Party Manager regarding the restrictions and/or limitations of the open burn permit.

2. Noncombustible wastes can only be disposed of in State of Alaska approved disposal sites.

Table 9–1. Guide to Environmental Protection. Geophysical Service Inc. This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

Resumes of Larry G. Bowles and Phillip D. J. Smith filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: oil, gas, and minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

Chapter 10. Group Participation

The purpose of this chapter is to describe the provisions that will be made in the exploration plan to facilitate group participation in the project in order to avoid unnecessary duplication of exploratory activities.

GSI proposes to do the exploration in the ANWR in a group non-exclusive mode. GSI has had experience as the operator or the sole contractor for the following group surveys on the North Slope of Alaska:

Survey	Year	Participants
Anaktuvuk River	1971	
Beaufort Hardwater Survey	1975	29
Beaufort Hardwater Survey	1976	19
Beaufort Hardwater Survey	1977	15
Beaufort Hardwater Survey	1978	18
Beaufort Hardwater Survey	1979	16
Beaufort Hardwater Survey	1980	19
Kuparuk Uplands—ARCO Grp	1980	14
NPRA Group	1981	14
Prudhoe Uplands—ARCO Grp	1981	11
Prudhoe UPlands—Chevron Grp	1981	7
Beaufort Hardwater Survey	1981	21
Kuparuk Uplands Group	1982	1
Beaufort Hardwater—Grp. I	1982	16
Beaufort Hardwater—Grp. II	1982	16
Camden Bay Hardwater Group	1983	7
Admiralty Bay/Barrow Group	1983	10

In the above surveys GSI collected in excess of 6500 miles of high quality, multi-fold seismic data. In addition to the above groups GSI will propose to industry two hardwater groups for the 1983–1984 winter season. They will be 15 member groups.

GSI has had meetings with industry participants on the following dates at which the exploration of the Arctic National Wildlife Refuge was on the agenda as the only or a major topic of discussion:

May 12, 1981
Jun. 10, 1981
Jul. 21, 1981
Aug. 11, 1981
Jan. 26, 1982
Jun. 3, 1982
Jul. 22, 1982
Aug. 3, 1982
Oct. 27, 1982
Nov. 16, 1982
Mar. 29, 1983.

To facilitate group participation in the GSI ANWR Exploration Group, GSI has advertised both in the Alaska Report published by Petroleum Information Inc. and in the Oil and Gas Journal. Additionally, GSI maintains an Interested Parties List of 40 companies and individuals who have expressed interest in the ANWR project. This list can be found in Appendix XVIII of this document. These companies receive all the communications that GSI issues regarding the group and have ample opportunity to join the group at any time.

Chapter 11. Quality Control and Assurance

The purpose of this chapter is to describe GSI's data quality assurance and control program.

The responsibility for quality assurance and control of GSI's operation in the ANWR will be shared by different people. Quality control begins at the crew level, and focuses on equipment and personnel on the crews.

The quality of the parameters chosen by the group to use in data collection and data processing is monitored by GSI's Area Geophysicist staff in Dallas and by group representatives who stay on the data collection crew and maintain close contact with the data processing crew.

The most fundamental aspect of GSI's quality control program may be found in the instrument testing procedures and quality control standards in Appendix XIX. The instruments and vibrators will be tested at the beginning of each season ensuring operation to specifications. The same series of tests will be performed daily and semi-monthly. Semi-monthly tests of the instruments are sent to GSI's Quality Assurance Department in Dallas for review and comment.

The summer maintenance program is another aspect of GSI's quality control program. All of the crew's equipment is inspected and defects are corrected to assure optimum performance during the following season. Special focus however falls on the repair and maintenance of geophones and cables. It is during the summer that geophones and cables are dynamically tested to ensure conformance to specifications.

At the start of each season a representative of GSI's Area Geophysicist staff will be present on the crew to help determine the optimum parameters for use on the program. After this initial visit there will be various unscheduled trips during the season to check progress on the program. Present at all times on the data collection crew will be a group representative. This representative is responsible for checking the quality of the data collected every day in the field and to alert the crew and the group of any drastic change in quality.

GSI maintains a survey support organization in Deadhorse and Anchorage. This organization is responsible for establishing the beginning and ending coordinates of each line in the program. After each line is surveyed the survey notes will be sent to Anchorage where they will be checked, corrected if necessary and then forwarded to GSI's processing center in Denver.

The TIMAP computer in Deadhorse serves a quality control function. There, semi-monthly instrument tests will be evaluated for conformance to specifications. Any tests that are not in conformance with specifications will prompt an immediate visit from a member of GSI's Field Service staff who will correct the deficiency found on the test.

Before the start of production processing, the processing crew will run a series of tests which will include those found in Appendix XX. These tests will be reviewed by GSI's Area Geophysicist staff and an elected representative of GSI's group before final parameters are chosen.

The production processing while in progress will be reviewed by the group representative to discern any changes in data quality. If changes in quality occur, more tests will be run to determine whether or not the processing sequence should be changed to optimize the data. It is important to note that in both data collection and data processing, group representative will monitor developments.

Chapter 12. Safety Program

The purpose of this chapter will be to elaborate on GSI's safety programs for its crews.

GSI's safety programs, policies and procedures are designed to maintain compliance by the field crews to the rules, regulations, procedures and guidelines that are given by the Occupational Safety and Health Administration, and the Alaska state agencies: the Department of Occupational Safety and Health and the Department of Environmental Conservation. The safety program consists of at least one formal safety meeting per crew per month and provides for other safety meetings by units at the subcrew level.

These reports are monitored and maintained by the GSI site safety officer in Anchorage, who reports to the GSI corporate safety officer, who in turn reports to the TI corporate safety officer. The GSI corporate safety officer makes an audit trip to Alaska once per season to ensure the ongoing nature of the program. In addition to the formal programs mandated corporate-wide, GSI in Alaska maintains an ice safety committee that works to ensure that all employees and crews have the information and equipment necessary for the safe conduct of operations on the ice.

New employees receive the safety orientation shown in Figure 12-1 and the booklet found in Appendix XXI before they leave Anchorage for the North Slope. Party Managers receive refresher information and reorientation each year at an annual Party Manager's seminar held by GSI in December.

Figure 12.1

New Employee Safety Orientation

The following safety guidelines were

presented to _____

on _____

I. Arctic Clothing

Each employee must possess artctic qualifty clothing while traveling to and from the work location.

Clothing should include but is not necessarily limited to: Arctic boots, Extra boot liners, insoles, Wool pants, Warm undergarments, Outer clothing—Wind proof pants, lined coverals per personal choice—must have heavy duty arctic outside fabric. Parka—long type with proper hood, Mitts—gauntlet type, insulated, wool liners, Face mask, Head and ear covering, Sun glasses.

Work gloves and safety hats, if required, will be furnished by GSI.

II. Traveling by Air

Before departure your pilot will advise you of the safety features of the aircraft and inflight rules. Do not hesitate to ask questions.

Always travel with your arctic clothing.

III. On-Site Safety Orientation

Each camp has a set of Safety Manuals and Safety Material. As soon as possible review the following documents and complete your safety orientation with your unit leader.

Arctic Safety and Survival, Safety Manual for Geophysical Field Operations—by IAGC, Occupational Safety and Health, Standard Explosives.

Chapter 13. Compliance with Regulations and Data Quality

The purpose of this chapter is to provide statements and reassurances that, when authorized to conduct exploratory activities, GSI shall comply with the exploration stipulations, its special use permit, its approved exploration plan, plan of operation and all reasonable stipulations, demands and orders issued by the Regional Director.

GSI will comply with all regulations for exploration, its special use permit, its approved exploration plan, plan of operation and all reasonable stipulations and orders issued by the Regional Director. GSI certifies that the activities proposed in this exploration plan comply with the Alaska approved coastal management program and will be conducted in a manner consistent with such a program.

GSI anticipates that the data it collects will be sufficient and adequate to complete the requirements of the Regional Director, the Secretary of the Interior and GSI's group. This sufficiency and adequacy will come as a result of the use of the vibratory energy source, the latest in the state-of-the-art data recording and processing techniques and the quality assurance and control that accompanies both. The end product will be data of the highest quality for locating not just structural anomalies, but also stratigraphic anomalies that may be hydrocarbon bearing. Thus these techniques will result in the best possible data for assessing the oil and gas potential of the Arctic National Wildlife Refuge.

Respectfully submitted,

Geophysical Service Inc.

George Buzan,

Project Manager.

Administrative note concerning the Geophysical Service, Inc.

Exploration Plan: Certain appendices to the Geophysical Service, Inc. (GSI) exploration plan have not been published in this notice. These appendices and the reasons for not publishing them are as follows:

Appendices I and II—Consist of a series of pre-printed GSI technology promotional brochures illustrating seismic processing techniques that have been developed by GSI. These brochures were referenced on page 5 of the exploration plan. The reasons for not publishing these brochures are that they were appended merely as examples, and are available upon request from GSI. These brochures are titled:

Worldwide Processing Power
Wavelet Processing System
Applications Software
G-Log Processing
Timap IV Custom Service Center
Field Processing System
3D Processing System
Interpretive Aids
3D Seismic Interpretation Methods

Field Development with Three-Dimensional Seismic Methods in the Gulf of Thailand—A Case History
Field Appraisal with 3D Seismic Surveys Offshore Trinidad
A Stratigraphic Case History Using Three-Dimensional Seismic Data in the Gulf of Thailand

Appendix III—Consists of two large folded maps indicating areas on Alaska's North Slope that have been explored by GSI in the past. These maps are referenced on page 6 of the exploration plan. Reasons for not publishing these maps are that they illustrate areas from which publicly-available data have been obtained, and the maps are not a part of the activities proposed by this exploration plan.

Appendix IV—Consists of: (1) Form 10–K, Annual Report to the Securities and Exchange Commission for Fiscal Year ended December 31, 1981; (2) a company brochure describing the history of Texas Instruments, Inc.; (3) a company brochure announcing the 1983 annual meeting of stockholders; and (4) Texas Instruments, Inc. 1982 Annual Report. Appendix IV is referenced on page 7 of the exploration plan. Items 1, 2, and 3 of this appendix are not being published because they essentially duplicate the information contained in item 4 or they provide information which was not solicited. These items are available from GSI. Item 4 of this appendix, the 1982 Annual Report is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: oil, gas and minerals) Anchorage, Alaska 99503 (phone 907–786–3381 or 3384).

Appendix V—Consists of a large folded map of the Arctic NWR coastal plain. This map is referenced on page 11 of the exploration plan. It is not published for the reason that it duplicates information provided by Appendix XI.

Appendix IX—Consists of a large folded chart as an example of previous data collected by GSI. This appendix is referenced on page 11 of the exploration plan and is not published for the reason that it is merely an example and it is not readily susceptible to publication.

Appendix XI—Consists of a folded 1:250,000 scale map illustrating GSI's proposed exploration program on the ANWR coastal plain. This map is referenced on page 11 of the exploration plan and is reproduced at a reduced scale following this administrative note.

Appendix XIII—Consists of an example of a daily production report as referenced on page 17 of the exploration plan. This appendix is not published because the text of the exploration plan adequately describes communication techniques and the contents of the daily production report and because the report is presented only as an example.

Appendix XV—Consists of an example of a weekly update telex as referenced on page 18 of the exploration plan. The reasons for not publishing this appendix are the same as given for Appendix XIII.

Appendix XVI—Consists of an example of a final report for a previous exploration program submitted by GSI to group participants. This report is referenced on page 18 of the exploration plan. The reasons for not publishing this appendix are the same as given for Appendix XIII.

Appendix XVII—Consists of photographs of equipment and facilities that GSI uses on the North Slope. This appendix is referenced on page 19 of the exploration plan. This appendix is not published because photographs are not considered text. Only the texts of the exploration plans need be published according to ANILCA Section 1002 (e)(2).

Appendix XXI—Consists of a safety brochure published by the American Petroleum Institute entitled "Staying Alive in the Arctic," API Bulletin 7401. This appendix is not published because it is submitted as reference material and is available from: Plant Deck, Inc., Publisher, 2135 S.W. Wembley Park Road, Lake Oswego, Oregon 97034.

The above appendices are available for inspection at the FWS Alaska Regional Office, 1011 E. Tudor Rd., Anchorage, Alaska or at the Arctic NWR Office, Federal Building and Courthouse, Rm. 266, Fairbanks, Alaska. All other appendices are published following this administrative note.

Appendix VI. Reflection Seismic Work

Reflection seismic work is used in exploration to obtain information about the earth's subsurface. Seismology is the study of acoustic or seismic waves travelling in and on the earth. Reflection seismology is the study of acoustic (seismic) waves that are generated at the earth's surace and reflected by its subsurface.

Acoustic waves reflect at boundaries in the earth that are characterized by acoustic impedance contrasts. The acoustic impedance of a rock layer is its density multiplied by its acoustic velocity. Geologists and geophysicists commonly attribute different rock characteristics to different acoustic impedances.

The reflection seismic method utilizes an energy source to generate acoustic waves travelling through the earth and then utilizes ground sensors to record the reflected energy transmitted back to the surface from the subsurface. The energy source may take many forms, such as:

1. Large trucks that systematically input variable frequency energy into the earth, (vibrators).
2. Buried dynamite.
3. Dynamite mounted on a stick in the air.
4. Large trucks that explode a propane mixture on the ground.
5. Large trucks that drop heavy (30,000 lb.) weights on the ground.

The ground sensor may take a couple of forms:

1. A magnet in a coil of copper wire.
2. A piezoelectric crystal.

The energy put into the ground takes numerous different forms also. Upon the genreation of acoustic energy, compressional and shear waves form and travel in and on the earth. These compressional and shear waves are affected by the earth as they travel in it and may be reflected, refracted, diffracted or transmitted when they reach a boundary represented by an acoustic impedance contrast. Reflection seismology studies the reflected compressional waves. It records all the other types of waves as well although it considers them noisy and tries to eliminate the effects that might be apparent from their existence.

In the practical aspect of reflection seismology there are two main parts, the energy source and the ground sensors. These parts are combined in the seismic field crew and called the recording crew. In the case of the crews being described in this exploration plan the recording crew would consist of the instrument engineer, the assistant engineer, the vibrator mechanic, the vibrator operators, the line truck drivers and the recorder's helpers. The equipment involved would be the recording instruments, the cables and geophones, the vibrators, the line trucks and the vibrator service truck. Upon designated surveyed lines the line trucks will carry personnel and cables and geophones. The personnel will, at one end of the line, be stringing cable out along the ground along with geophone strings. The geophone strings will be attached to the main cable which is in turn connected to the recording instuments in the truck that carries them. At the other end of the line there will be line trucks with personnel that will be engaged in picking up the cables and geophones that the people at the front of the line had laid out earlier. Somewhere between the two groups will be the vibrators and their operators with the vibrator mechanic. The vibrators will be vibrating at specified intervals at specified times. They will vibrate for example for 6 seconds and then move up 55 feet and vibrate another 6 seconds and so on to the end of the line. The vibrating trucks generate acoustic waves that enter the earth and are returned to the surface after some period of time. These reflected waves strike the geophones and generate an electrical signal that is passed down the cable to the recording truck where it is amplified and processed and then reocrded on magnetic tape. As the vibrators move along the specified line, portions are recorded. The line is continually laid out and then picked up as the line moves along. This is called the rollalong method of shooting reflected work. It involves the continuous moving of cable as opposed to the continuous moving of a seismic recording truck.

A survey crew supports the recording crew. The survey crew usually consists of two surveyors and 3 survey helpers and 3 Bombardier snowmobile type vehicles. This crew is responsible for locating and orienting the seismic lines designated on the ground, and for staking the lines at the proper interval that is chosen for the work. The survey crew needs to precede the recording crew in all instances. Their job includes recording the geographic location and a sampled elevation profile of each line.

Logistically supporting both the survey and the recording crew is the camp crew. The camp crew consists of the camp mechanic, the bulldozer operators, the cook, the cook's helper, the party manager and the camp attendant. They keep the camp trailers and crew vehicles in good condition, move camp when needed and feed and supply the recording and survey crews.

Appendix VII. Gravity Work

Gravity exploration involves the measurement of anomalies in the earth's gravitational field and the attribution of those anomalies to lateral changes in the earth's subsurface lithology. the results of gravity exploration are generally more ambiguous than those obtained by the seismic methods. Thus gravity exploration is generally a reconnaissance method when used alone or an adjunct to seismic methods when greater detail is required than either of the two methods could yield alone.

The equipment required for gravity exploration consists of 1 Model D LaCoste-Romberg Arctic gravity meter with tripod and 1 Bombardier type snowmobile. The only personnel involved in the data collection is one gravity meter operator.

The LaCoste-Romberg gravity meter does not measure the total gravitational field at any one point. It instead measures the difference between the gravitational fields at any two points. Thus the initial measurements require that readings be obtained at base stations of known gravitational field.

In this operation the gravity meter operator will operate out of a seismic field camp. He will meter along the seismic lines at specified intervals as chosen by the participants in the survey. Because the gravity meter can also function as a low-frequency geophone it is neccssary that the meter operate outside the influence of the vibrators that will be working the seismic lines. This generally means that the meter operator will be lagging the seismic recording crew by about 10 miles.

At each station the meter operator will dismount the snowmobile and mount his gravity meter on the tripod designed for that purpose. When properly mounted he will unclamp the gravity meter and take multiple readings at that station. Once finished recording the readings in a notebook the operator will clamp the gravity meter again, load it into his Bombardier and drive to the next station where the process is repeated.

When the data is collected it will be reduced and maps showing non-terrain corrected free air and Bouguer anomalies will be produced. This processing phase will not exceed twelve weeks following the termination of data collection operations.

APPENDIX VIII. SUGGESTED DATA COLLECTION PARAMETERS

Parameters	Option A	Option B
CDP Fold	30	60
Number of groups	120	120
Group interval (feet)	110	110
Geophone location/group	24	24
Geophones/location	1	1
Geophone spacing (feet)	9.2	9.2
VP interval (feet)	220	110
Near trace offset (feet)	495	495
Sweeps/VP	6 w/4	4 w/4
Sweep length (seconds)	12	12

Appendix X. Testing Procedures

Prior to conducting a seismic survey in an unexplored area, it is always advisable to obtain a noise analysis. This type of analysis allows the geophysicist to determine the signal and noise characteristics of the survey area. The information thus obtained is used to design a data collection system which will maximize the recording of a signal energy while simultaneously attenuating both coherent and noncoherent noise. Although there are several types of noise analysis tests, the walk away analysis is the recommended type of noise test to be used in arctic conditions.

The field layout for the walk away test is designed such that the signal and noise characteristics may be easily determined. Figure A shows a proposed setup for the test. The sampling of the data should be at relatively short intervals. Previous testing in arctic environments indicates that a 10 ft. sampling is sufficient to prevent spatial aliasing at the shorter wavelengths.

When performing a noise analysis it is desirable to obtain a signal level which will be comparable to levels obtained in the production. For this reason, it is advisable to use the same number of geophones per receiver location that will be used in production (24 in this case). The geophones can either be bunched or stretched at equal intervals perpendicular to the shot-receiver line, thus acting as a linear array for broad-side noise attenuation.

The broad-side noise should also be sampled. To achieve this, another cable is laid perpendicular to the inline cable. Again, the geophones per location may be stretched in the inline direction so that only the broad-side noise is sampled. It is recommended that 8 sweeps (using 4 vibrators) be taken at each shot location. Since the maximum offset should be equal to or greater than the length of the production spread, it is recommended that at least 30 source points be collected. Table 1 lists the suggested field parameters which would be used to obtain the noise analysis.

The walk away noise test will provide the geophysicist with enough information to properly design a data collection technique which will result in an optimum signal to noise ratio. After choosing a particular field design, it may also be desirable to test the sweep length, number of sweeps, and the sweep frequencies.

Table 1.—Walk Away Test Field Parameters

A. Source:
1. Drive level 18–25%
2. 100% linear tape
3. 8 sweeps per location
4. 30 shot locations

B. Spread:
1. 10 ft. receiver group interval
2. 24 geophones per group

C. Recording:
1. 96 channel DFS V
2. 12 second sweep with 5 second listen
3. .75 second cosine taper
4. 10–75 Hz. sweep
5. 4 msec. sample rate

BILLING CODE 4310-55-M

Figure A

BILLING CODE 4310-55-C

Appendix XI. Map depicting proposed seismic lines, Geophysical Service Inc. This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

Appendix XII

Processing Sequence

I. Parameter Determination Package

A complete set of tests will be performed at the start of the project. Processing polarity to be the same as the SEG convention. A downward motion of a geophone element generates a downward breaking trace on the camera.

II. Basic Processing Sequence

A. Pre-processing
1. True amplitude recovery
2. Trace edit
3. Deconvolution
4. Time variant scaling (Equalization)

B. Preliminary stack. Brute stock using best velocity estimates

C. Residual static analysis. Calculation of shot and receiver surface consistent residual statics, with four separate iterations

D. Velocity analysis (Velscan or Velpac) and interpretation
1. Variable function stack
2. 11 depth points
3. 9 stacking functions
4. 1 variable function stack every ½ mile

5. Comparison made of adjacent and intersections analyses (on line and at line intersections as available)

E. Post-processing
1. Normal moveout corrections (using newly determined velocities)
2. Residual static application
3. First break suppression
4. Common depth point stack
5. Time/space variant filtering
6. Time variant scaling (optional)

F. Final stack
1. Scaled final section (film display)
2. Wave equation migration (film display)

III. Description of data to be processed
A. 120 trace
B. Vertically summed and correlated vibrator data
C. Recorded with a 110 foot group interval
D. Either 30 fold or 60 fold multiplicity
E. Processed to maximum record length of 6 seconds
F. Sample rate of 4 milliseconds.

APPENDIX XIV. RADIO FREQUENCIES USED

Frequency	Emission	Output (Watts)	Service	Call Signs
Kilohertz:				
3198.0	2.8A3A	150	Alaska Public Fixed	WDT49, WDT50, WDT51, WDT52, KOS97, KDT27, KOU73, KOU78, WGG57.
3201.0	2.8A3J	150		
4791.5	2.8A3J	150		
6948.5	2.8A3J	150		
7368.5	2.8A3J	150		
5164.5	2.8A3J	150		
5167.5	2.8A3J	150		
8067.5	2.8A3J	150		
8070.5	2.8A3J	150		
11,437.0	2.8A3J	150		
11,601.5	2.8A3J	150		
4,143.6	2.8A3J	1,000	Maritime Mobile, Limited Coast liB	KTE54 Anchorage.
6218.6	2.8A3J	1,000		
8291.1	2.8A3J	1,000		
12,429.2	2.8A3J	1,000		
Megahertz:				
122.8	6A3	10	Aeronautical Advisory	WON-5
121.5	6A3	10		
1614.0	3.5A3J	2,000	Petroleum	KCZ-773
1628.0				
1652.0				
1676.0				
1700.0				
2292.0				
2396.0				
4637.4				
25.02	2.OF9	60		
25.06				
25.10				
25.14				
25.18				
25.22				
25.26				
25.30				
153.05				
153.11				
153.14				
153.17				
153.20				
153.23				
153.26				
153.29				
153.35				
158.31				
158.37				
158.43				
451.55	2.OF3	50		
451.60	1.6F2			
451.65				
451.70				
451.75				
152.51				
152.57			Common carrier	Artic Slope Telephone, Licensed and Operated to Kaktovik.

Appendix XVIII.—Interested Parties List

Amerada Hess Corporation, 6th Floor, 1200 Milam, Houston, Texas 77002
American Petrofina Co. of Texas, One Houston Center, Suite 1200, Houston, Texas 77002
Amoco Production Company, 1670 Broadway, Box 4279, Denver, Colorado 80202
Arco Alaska Inc., Box 360, Anchorage, Alaska 99510
BP Alaska Exploration, 1 Maritime Place, San Francisco, California 94111
Champlin Petroleum Company, Box 1257, Englewood, Colorado 80150
Chevron USA, Inc., P.O. Box 8100, Concord, California 94524
Cities Service Company, Box 27570, Houston, Texas 77218
Conoco Inc., Box 218650, Houston, Texas 77218
The Continental Group, Inc., One Harbor Plaza, Box Number 10129, Stamford, Connecticut 06904
Dome Petroleum Ltd., Box 200, Calgary, Alberta T2P 2H8
Elf Aquitaine Oil & Gas, One Memorial City Plaza, 800 Gressner, Suite 1200, Houston, Texas 77224
Exxon Company, U.S.A., Gulf Atlantic Division, Box 4279, Houston, Texas 77001
Florida Exploration Company, 717–17th Street, Suite 2880, Denver, Colorado 80217
Getty Oil Company, 6750 W. Loop S.; Suite 400, Bellaire, Texas 77401
Gulf Oil Exploration & Production Company, Box 1392, Bakersfield, California 93302
Hamilton Bros. Oil Company, North American Exploration, 1600 Broadway, Suite 5870, Denver, Colorado 80217
Home Oil Company, 2300 Home Oil Tower, Toronto Dominion Square, Calgary, Alberta T2P 2Z5
Hunt Oil Company, 2900 N. Loop W., Suite 800, Houston, Texas 77092
Idemitsu Oil Denver Corporation, 999 18th Street, Suite 3060, Denver, Colorado 80202
Kerr-Mc Gee Corporation, Box 25861, Oklahoma City, Oklahoma 73125
Marathon Oil Company, Box 2380, Anchorage, Alaska 99510
Mobil Oil Coporation, Box 5444, Denver, Colorado 80217
Murphy Oil Corporation, 200 Jefferson Avenue, El Dorado, Arkansas 71730
Occidental Exploration & Production Company, 5000 Stockdale Highway, Bakersfield, California 93309
Ogle Petroleum Inc., Box 5549, Santa Barbara, California 93108
Pennzoil Exploration & Production Company, Box 2967, Houston, Texas 77001
Phillips Petroleum Company, 8055 E. Tufts Avenue Parkway, Denver, Colorado 80237
Placid Oil Company, 425 G Street, Suite 800, Anchorage, Alaska 99501
Santa Fe Energy Company, 1 Security Park, 7200 I–40 West, Amarillo, Texas 79106
Shell Oil Company, Western E & P Region, Box 527, Houston, Texas 77001
Sohio Alaska Petroleum Company, Pouch 6–612, Anchorage, Alaska 99510
Superior Oil Company, Box 4100, The Woodlands, Texas 77380
Tenneco Oil Company, Box 2511, Houston, Texas 77001
Texas Eastern Exploration Co., Box 2521, Houston, Texas 77001
Texaco USA, 3350 Wilshire Blvd., Los Angeles, California 90010
Union Oil Company of California, Box 6247, Anchorage, Alaska 99502
Union Texas Petroleum Corp., Box 2120, Houston, Texas 77001

Appendix XIX.—Quality Control Standards and Tolerances

The following are standards and tolerances for seismic operations:

General: GSI will perform and accomplish all work under the terms hereof in a good and workmanlike manner in accordance with the accepted standards of the geophysical profession, and all acts and operations by GSI hereunder will be judged by such standards.

1. Instrumentation

1.1 Instantaneous floating point seismic recording systems for recording 120 seismic traces.

1.2 A daily log sheet will be kept by the recording crew. In order to assist processing of the data, such items as pertain to normal daily recording operations will be frequently noted as will any deviation from normal procedures. Such logged items will include, but are not limited to: Date, location, line number, vibrator pattern numbers, reel numbers, weather, bad traces, missed source points, signal-to-noise level, number of vibrators, sweep parameters, and source pattern information.

1.3 A monitor or read-after-write seismogram will be made at the discretion of the technical representative. Such seismograms will display a reasonably "broad band response" of the seismic signals from 48 detector groups of the recording cable, the source instant, and timing signals.

2. Cable, Geophones, Water Depths

2.1 A conventional land cable system with connectors spaced at 110 feet usable at multiples of 220 feet, 330 feet or 440 feet will be employed.

2.2 Twenty-four digital grade geophones at an interval of 9.17 feet between geophones available for each trace.

2.3 Water depth will be taken by means of a manual sounding when operating over water.

3.0 Quality Control Tests

3.1 General Instructions:

(a) GSI will furnish the technical representative with a test tape from the instruments that will be used on the crew. Tape will be made not more that 14 days prior to beginning work for the group.

(b) These instructions pertain to the initial test tape as well as daily, semi-monthly and monthly digital instrument field test procedures. The listed procedure is intended as a guide and deviation is permissible, so long as the object of the test is accomplished.

3.2 Dynamic Range (initial test tape and daily thereafter)

(a) Demonstrate the amplifiers' ability to supply a full-scale signal to the digitizer with acceptable minimum distortion.

(b) Demonstrate noise in the seismograph amplifier multiplexer and digitizer with amplifier in maximum gain control.

3.3 Input noise (initial test tape and semi-monthly)

(a) Purpose of this test is to measure the overall system noise level at maximum and minimum gain.

3.4 3.4Tape Skew Test (initial test tape and monthly)

(a) Write a two minute all one's record from each tape transport used.

3.5 Transient response and polarity (initial test tape and semi-monthly)

(a) Check the system response to transients for possible filter or other malfunctions. The overall polarity of the system must be determined, and should not be changed for the duration of the operation.

3.6 Timing Check (inital test tape and daily)

(a) Determine if the timing standard (digital clock) used for measuring travel time for seismograph signals is accurate.

3.7 System Crossfeed (initial test tape and semi-monthly)

(a) Demonstrate the amount of signal crossfeed from one channel to another.

3.8 Tape Transport Speed (initial test tape and daily)

(a) Determine if the tape speed handling capability of each transport is within the tolerance of the computer.

3.9 Determine that the time break reference is adequately recorded on tape.

4. Dead traces

4.1 A dead trace is recognized as any trace where no apparent seismic energy is being recorded. All dead traces as well as polarity reversals are to be noted on the Observer's Daily Log Sheet with the time that the condition was corrected.

5. Vibrator Units

5.1 Four Texas Instruments X–2 vibrator units will be available as the energy source.

5.2 The vibrator units will be mounted on tracked carriers.

5.3 The vibrator units will be checked daily for sweep similarity.

5.4 Any vibrator unit replaced on the line during an operating day will be checked for sweep similarity.

5.5 Vibrator similarity will be tested each time sweep specifications are changed.

5.6 The sweep similarities of each vibrator unit will be controlled within ten percent of all other units.

6.0 Work will not commence on any line under any of the following conditions, unless authorized by the technical representative.

6.1 Two or more dead traces.

6.2 Ambient noise level too high.

6.3 Monitor camera inoperative.

6.4 Time-break circuit inoperative.

6.5 Any essential component of the recording system not meeting specification as outlined in Section 4.
6.6 Fewer than three vibrator units are functioning properly with verified similarity tests.
7. Overlap
7.1 When returning to a line to continue shooting due to the addition of new program or ice conditions, the overlap will be counted as new line mileages.
8. Offset distances
8.1 Variable as chosen by technical representative.
9. Cable/Source diagram
9.1 A cable/source diagram will be included with each data shipment showing source positions and offset.

Appendix XX. Processing Tests

The following tests will be performed at the start of each year's data processing:

1. True Amplitude Recovery.

2. Deconvolution before stack—"Predictive" Deconvolution vs. System (Wavelet) vs. "Spiking" Deconvolution. Tested with variable design gates, operator lengths, white noise levels. ("Predictive" decon to include first zero and second zero crossing prediction distance, may or may not be automatically selected.)

All types above to be done on at least 96 stacked traces and compared against no decon stack of same coverage.

Autocorrelations are to be demonstrated on all data. This will be accomplished by producing an autocorrelogram on the singlefold and stacked output of the deconvolution test.

2A. Deconvolution After Stack (to be done on the best of 2).

Input stack will have the type deconvolution before stack that was chosen in No. 2 above.

2B. Up to 10 post stack deconvolution tests will be run.

2C. Time variant scaling before vs. after stack. (To be done on the best of 2B).

3. Muting tests—inside and outside trace stacks to be performed as specified below:

Six 4 fold stacks (near to far offsets)
Four 6 fold stacks (near to far offsets)
Three 12 fold stacks (overlapping offsets)

4. Frequency Analysis—digital filters applied to determine display filtering (to be done on best of 2C). To be applied to 96 depth points of 24 fold stacked data.

NORPAC EXPLORATION SERVICES, INC. PLAN FOR GEOPHYSICAL EXPLORATION

NORPAC Exploration Services, Inc., d.b.a. Mile High Exploration Co., North American Exploration, Pacific West Exploration Co., Proposal for a Seismic Exploration Plan for the Arctic National Wildlife Refuge (ANWR)

This proposal to explore the Arctic National Wildlife Refuge is tendered by Norpac Explortion Services, Inc., a Delaware Corporation, with corporate offices located at 6160 South Syracuse Way, Greenwood Village, Englewood, Colorado 80111. Norpac has branch offices located in Houston, Texas; New Orleans, Louisiana; Midland, Texas; Bakersfield, California; Tulsa, Oklahoma; London, England; Perth, Australia; Brisbane, Australia; Casper, Wyoming; Oklahoma City, Oklahoma; Istanbul, Turkey; Lima, Peru; and Anchorage, Alaska. Norpac Exploration Services, Inc., hereinafter called Norpac, is a publicly held corporation and its stock is traded on the National Over-The-Counter Stock Exchange in New York City, New York. Principal officers of the corporation are as follows:

Harold F. Murphree, Chairman of the Board, President
M. John Rabalais, Senior Vice President, U.S. Land Operations
Harry Hebberd, Senior Vice President and Operations Manager
Joseph M. Ferri, Senior Vice President, Treasurer, Chief Financial Officer
Wayne M. Woodside, Senior Vice President, NORPAC Processing
William E. Held, Senior Vice President; President North American Exploration
Charles H. Selman, Vice President, Alaska Division

Messrs. Murphree, Hebberd and Selman have been associated with Alaskan Arctic operations since the mid-1960's; Mr. Selman as Division Geophysicist for ARCO, Messrs. Murphree and Hebberd as Manager and Chief Engineer for a competing geophysical company prior to the formation of Norpac.

Norpac has conducted operations in the Arctic and Sub-Arctic regions since August, 1979. Four years of Sub-Arctic operations have been conducted on the Kenai National Moose Range under the direction of Mr. Bob Ritchie, Director of the Kenai National Moose Range. Two years of operations have been conducted on the National Petroleum Reserve, Alaska (NPR-A) under the direction of M. Thomas Dean, Director, Bureau of Land Management, Fairbanks, Alaska. During this time period, Norpac has never been reprimanded for violations of the permits issued. Norpac's total sales for fiscal year 1982 were $101.0 million, and the Company has operated up to 40 crews worldwide.

Norpac's approach to this Exploration Plan will be to form a steering committee of five representatives who will serve on this committee. They will be selected from the oil companies which are committed to this proposal. This Plan will conduct geophysical exploration only, and includes magnetic, gravity, and conventional seismic surveys. Both the magnetic and gravity will be of the ground variety. The seismic exploration will be the vibroseis® mode. No surface geological survey parties are contemplated under this Plan.

The general manner and sequence of this Plan will be to mobilize the crews in mid-December, travel to their starting destination, conduct the necessary experimental work, then shut down the crews, except for caretakers, over the Christmas holidays. During this time, the experimental work will be evaluated, and the final input parameters selected. The crews would return to work on January 1, 1984 and commence normal operations. Operations would cease approximately May 1, and the entire area would be vacated by May 10. No equipment would be parked on the Arctic National Wildlife Refuge during the summer season, when the area is teeming with widlife. No alternate exploratory methods are contemplated at this time.

The program will be conducted utilizing the equipment of three seismic crews, two tracked vibrator crews, and one buggy-mounted vibrator crew, all with Michilen sled-mounted camps. Equipment on each crew will consist of five (5) vibrator units, thirteen (13) support units, seventeen (17) camp units, including fuel sleds, and seven (7) D-7 cats. The various crews will be supplied by air support and cat trains. A quality control man will be maintained on each crew, and an instrument technician will be on station, subject to call at all times. Seismic reflection identification will be established from the existing well control outside ANWR. To avoid unnecessary duplication, if areas of no results are encountered, the crew will immediately cease standard operations and conduct additional testing, to see if results can be improved, then the input parameters changed accordingly.

Monitors, or field recordings, will be displayed every tenth vibrator point to check data quality. Each crew will be equipped with full processing capabilities to produce final processed subsurface presentation on a daily production basis.

The Plan is projected to acquire approximately 1,200 miles of 30 fold CDP, State-of-the-Art, seismic data in the time period January 1, 1984—May 10, 1984 as discussed earlier. These 1,200 miles of data are laid out in a broad reconnaisance grid to cover the entire area the first season. Data collected by this survey will be processed in NORPAC's Denver facility. The processing sequence will be determined by the steering committee and will be State-of-the-Art, up to and including Migration, if necessary. An ongoing interpretation will be conducted as results become available. These maps will be Time Structure and will consist of, but not limited to, the following horizons:

Tertiary
Cretaceous
Paleozoic
Seismic Basement
3 Isotimes
Velocity

An additional 1,200 miles is planned for the season January 1, 1985—May 10, 1985. This additional coverage will be programmed from the results gained from the original survey. Any additional needed coverage would be then scheduled for the time period January 1, 1986—May 10, 1986. Surveying will be done with electronic positioning, such as a Mini-Range or a Del Norte system. Temporary bench marks will be set for survey control when necessary. There will be removed when the Exploration Plan is completed.

All crews will travel to and from the Refuge from Deadhorse on the Beaufort Sea ice pack. Travel routes to and from the initial locations and within the Refuge will be restricted to the seismic lines. There will be no fuel caches as such. Fuel storage will be in movable tanks and will be located at the temporary airstrips. They will move as the seismic crews move to cut down unnecessary travel.

A copy of this proposal will be submitted to the proper coastal zone management

councils. The proposed program will comply with the State of Alaska's approved coastal zone management regulations and will be conducted in a manner consistent with these regulations.

Radios for communications will be placed on all crews and support units. All crews will be equipped with both single side band and AM radios for ground-to-ground and ground-to-air communication. Supply trains and advance units, such as the survey unit and supply trains, will be equipped with the same radio equipment as the crew trains and base and support camps. Each of the advance and supply units will be equipped with a survival unit. Every seismic camp will be equipped with a non-directional beacon so that aircraft can locate the camp.

Two of the three crews will be equipped with tracked units, Terra Flex FN-110's, TF 240's, and TF 305's. These crews will work in the higher elevations. The third crew will be equipped with Litton LRS 309 buggies for the vibrators, and TF-100's and TF-300's for the support units. This crew will work along the coast. The energy source will consist of five (5) Litton LRS vibrators with Pelton V electronics. The recording instruments are Texas Instruments DFS V's equipped with TI FT-1 TIMAP systems, capable of demultiplexing and real time correlating, along with sufficient cables, seismometer strings, and support equipment to maintain a continuous 30-day operation.

A mobile facility will be located at the airstrips, either temporary or permanent. Supply trains will travel between the airstrips and the camp locations. Temporary airstrips will be located on large lakes which can accommodate the air craft necessary to supply these units. Norpac maintains a base camp support facility at Deadhorse, Alaska. Additional base camp support units could be installed at Flaxman Island, Barter Island, Kavik, or any place they are needed. Support facilities will consist of sufficient camp units to house rotating personnel, and necessary fuel storage tanks to supply the three crews. Method of access for supply of these crews will be by air when possible, augmented by cat trains on the ground.

Personnel necessary to accomplish this proposed Plan are projected to be, but not limited to, the following list:

1—Party Manager
1—Clerk
1—Observer
1—Junior Observer
1—Head Vibrator Operator
4—Vibrator Operators
2—Surveyors
2—Surveyors Helpers
1—Cook
2—Bull Cooks
1—Camp Attendant
1—Vibrator Mechanic
2—Mechanics
1—Camp Mechanic
1—Technician
1—Head Linesman
2—Cable Repair
12—Helpers
7—Cat Skinners

Necessary personnel for rotation to effect a break schedule while maintaining a continuous 30-day operation.

Each camp is equipped with enough floor space to house 45 individuals, with additional capability should an emergency arise. With 45 people in this camp, this facility meets State of Alaska and OSHA space requirements, along with the necessary environmental requirements.

Each crew will be equipped with Alaska Crowley Maritime Oil absorbent diapers to control spills of hazardous substances. These pads are used to remove the substances from the ground and are subsequently incinerated, or flown back to Deadhorse and disposed of there. Any residue remaining is then picked up manually, by shovels, and incinerated. Solid human waste will be incinerated and the remaining residue backhauled to Deadhorse and disposed of. All combustible trash will be treatd in a similar manner. Noncombustible solid waste will be backhauled to Deadhorse.

Since these operations are to take place in the time frame January 1 to May 10, the impact upon the Refuge's wildlife will be minimal. The Vibroseis* energy source causes the least noise polution of any seismic system. The program will be planned so as to avoid the musk ox calving areas after April 15. Crews will be instructed that no vibrator points will be used on fish bearing rivers unless the river is solidly frozen to the bottom. Riparian willow stands are to be avoided, and snow bridges are to be removed after use. Side cutting of river banks is to be held to a minimum as required under 50 CFR 37-31C-1 through 5. A winter operation such as this will also cause minimal impact on the vegetation, wildlife habitat and the surrounding environment.

There should be little or no impact upon subsistence use, as hunting and trapping are prohibited for crew personnel. Cultural resource impact will be limited to contact with the expeditors assigned to the base camps, when located near the inhabitants, and to transient personnel going to and from the work locations. Since alcohol and drug use is prohibited at any Norpac facility, this is not thought to present a problem.

Prior to entering the Refuge all crews will be instructed by Norpac's safety engineers concerning the procedurers to be followed while conducting operations in the area. At this time, the environmental monitors will instruct the crews on the environmental considerations and the procedurers to follow when these concerns are encountered. All personnel will be required to attend these meetings. These items will be discussed with the crews at least once a week, along with any changes in instructions which may have been recieved. Should changes in instructions from either Norpac or the Fish & Wildlife Service need to be implemented immediately, these changes will be discussed with the appropriate crew or crews on the morning after it is received and before the crew leaves for their work station. NORPAC will make time available for Regional Director or his appointed representative to conduct briefings on environmental concerns at the Director's request. All personnel will be required to attend these briefings. Norpac will also provide all employees with a copy of the regulations including the environmental section. Any inadvertant or overt violation of either the permit, or the regulations, will be reported to the Fish & Wildlife Service immediately, in writing. The same procedures will apply to spills of any hazardous substances.

Norpac hereby states that, if issued a special use permit to conduct the Exploration Plan, The Company will comply with all regulations, environmental considerations, stipulations, demands, and orders issued by the Regional Director. Minor alterations of line locations will be reported in writing to the Director, along with the reason for the alteration. Major changes in the exploration Plan will follow the procedure outlined in 50 CFR 37.25. Norpac also hereby states that it will adhere to the environmental protection stipulations, as discussed in 50 CFR 37-31.

Norpac is furnishing with this document as per instructions in 50 CFR 37-14, Proof of Surety Bonding. Norpac is bonded by Travelers Indemnity Company of Hartford, Connecticut, in the amount of $100,000.

Norpac's designated general representative who is accountable for managing its authorized activities is:

Charles H. Selman—Vice President and General Manager, Alaska Division.

Alternate: M.J. Rabalais—Senior Vice President, U.S. Land Operations.

Norpac's designated field representative who is accountable for its field operations is:

John O. Krook—Area Field Supervisor.

Alternate: Harry Hebberd—Senior Vice President, Operations Manager.

Submitted with this Exploration Plan is a proposed program map at the required scale of 1" = 250,000' covering the Artic National Wildlife Refuge showing the critical wildlife considerations that will affect this survey. Also, as requested, a reproducible map sized 8½" X 11" is attached to the proposal.

Norpac Exploration Services, Inc. sincerely appreciates this opportunity to submit this Exploration Plan for the Arctic National Wildlife Refuge.

Respectfully submitted,

Norpac Exploration Services, Inc.

C. H. Selman,

Vice President, General Manager Alaska Division.

Attachments

Fig. 1. Map depicting proposed seismic lines, Norpac Exploration Services, Inc.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907-786-3381 or 3384).

Administrative Note Concerning the Norpac Exploration Services, Inc. Exploration Plan

This plan contained a $100,000 surety bond, which is required by 50 CFR 37.14, to be furnished prior to issuance of the special use permit for exploratory activities. However, because these documents are not among the items required by 50 CFR 37.21(d) to be submitted as part of the exploration plan, they are not published herein. These documents are available for inspection at the FWS Alaska Regional Office, 1011 E. Tudor Rd., Anchorage, Alaska or at the Arctic NWR

Office, Federal Building and Courthouse, Rm. 266, Fairbanks, Alaska.

PETTY-RAY GEOPHYSICAL PLAN FOR GEOPHYSICAL EXPLORATION

Exploration Plan, Arctic National Wildlife Refuge Seismic, Gravity, and Magnetic Surveys

Submitted by Petty-Ray Geophysical, 100 West International Airport Rd., Suite 209, Anchorage, Alaska 99502, May 20, 1983.

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1.0 Introduction

This exploration plan is submitted by Petty-Ray Geophysical, a division of Geosource, Inc. The purpose of this submittal is to obtain a special use permit to conduct a combined seismic, gravity and magnetic survey on Arctic National Wildlife Refuge (ANWR) lands.

Petty-Ray has made known to potentially interested companies of the oil and gas industry, through direct correspondence and through an advertisement in the May 2, 1983 issue of "The Oil and Gas Journal," its plan to seek a special use permit for a seismic, gravity and magnetic survey in the ANWR. Additionally, recommendations received from industry have been incorporated into this exploration plan. Petty-Ray expects the execution of this exploration plan to be through group participation of all interested parties. Further, it is expected the group will select a Technical Committee and will elect a Technical Coordinator by majority vote of all participants. The Technical Coordinator will represent all participants and direct Petty-Ray's overall plan of operation and oversee the day-to-day activities on behalf of the group.

Petty-Ray will hold this group open to all interested parties for original participation until 30 days following aproval of this exploration plan. If requested by USFWS, Petty-Ray will immediately reopen this group to afford all other interested parties an opportunity to participate. As participants join, their names and addresses will be supplied to the USFWS Regional Director. Petty-Ray Gophysical will also reopen the group to additional participants, if directed by the USFWS, as a result of any changes to the approved exploration plan relating to areal extent, intensity of exploratory activities, or logistical support.

Petty-Ray and all participants will, through a signed agreement, be bound by the regulations of 50 CFR Part 37, Petty-Ray Geophysical's Special Use Permit, this exploration plan when approved, an approved plan of operations, and any reasonable stipulations, demands and orders issued by the USFWS (50 CFR 37.21(d)(13)).[1] All activities conducted under this exploration plan will comply with any applicable federal laws or any applicable state and local laws, the requirements of which are not inconsistent with 50 CFR Part 37. Both federal and state requirements for conducting seismic, gravity and magnetic exploration activities will be met. The proposed activity complies with the State of Alaska's approved Coastal Management Program and will be conducted in a manner consistent with that program. In the event of an inconsistency between requirements, Petty-Ray Geophysical will satisfy that requirement which provides the greatest envoronmental protection.

2.0 Proposed Activity

2.1 *Planned Exploration Activities* (50 CFR 37.21(d)(5), (6) and (9))

The exploratory activities to collect seismic, gravity, and magnetic data will occur only during winter (from December 1 to May 1 of each year 1983 through 1986) to minimize potential environmental impacts.

The proposed activity will be conducted over two winter seasons. Based on interpretation of the first season data, a third season may be required if areas selected for detailing cannot be completed in the second season. An approximate 1250-mile program is planned for the first season. This will be accomplished with two high-production crews as outlined in Section 2.2. The 1250 miles includes 62 miles in the Canning River area that are subject to deletion by USFWS because of the sensitive nature of that area. If access is approved by USFWS, the data from this area would fill in and tie to existing data on the west side of the Canning River and would provide critical ties to two existing wells on the west side of the Canning River. The 1250-mile program also includes 126 miles on Kaktovik Village lands. As required by USFWS, Petty-Ray will submit a separate permit application for activity on these lands; however, because these 126 miles are an integral part of the total program, they have been included and clearly marked on the map accompanying this plan.

The program proposed for the first season contains approximately 40 line miles offshore to provide ties to existing nonexclusive seismic data available to the industry. Industry sources believe these extra 40 miles will provide 24 ties from the west Camden Bay areas to approximately Beaufort Lagoon. A separate permit application will be submitted to the State of Alaska for these and all other line miles that are in the waters claimed by the U.S. and Alaska.

The program's orientation reflects the consensus of a sampling of the industry's expections for this area. The line spacing is designed to provide adequate first-season coverage and maintain the objective of a minimum number of crews (two) in the area, thus minimizing environmental impact. As shown on the attached map, the program's grid changes from 4-mile × 4-mile to 4-mile × 6-mile to maintain the important spacing multiple of 2 miles × 2 miles. This feature will provide maximum flexibility for infilling any area to a 2-mile × 2-mile or smaller spacing while maintaining the minimum number of line miles in other areas. If the first-season data indicates a need to further assess the area, additional program lines will be planned for the 1984/1985 season. There is, at this time, reason to anticipate a second season containing approximately 1200 miles. The two seasons combined mileage of approximately 2400 miles would produce a sufficiently close grid, approximately 2 mile × 2 mile, over the anticipated anticlines and still allow for 300 to 600 line miles to detail other selected features of high interest. A third season would only be required if the number or size of the areas of high interest revealed in the first year cannot be adequately detailed with the crew time available in the second season.

It is anticipated that the March 1, 1984 date for submitting additional plans for exploration will be too early to know the full extent of the high interest features in the study area that may be revealed by the 1983/1984 data. Thus, the number of second and third season miles required to infill and detail these areas may remain uncertain on March 1, 1984. However, Petty-Ray will make every effort to propose on March 1, 1984 a meaningful plan of exploration for the winter 1985/1986 season if required.

Petty-Ray believes this multi-year two crew approach to be preferable to a single season with more crews. The first season's data will be used to plan the next season's program. The proposed program will assure an accurate evaluation of the study area with the minimum number of line miles of seismic data, thus minimizing environmental impact on the ANWR.

This proposed survey also includes collection of gravity and magnetic data using the seismic crew's camp as the base of operation. These measurements will be made at line intersections and every 1 mile along the seismic line. When an area is infilled to produce a 2 mile × 2 mile seismic grid, additional gravity and magnetic measurement points will be located at the center of each seismic loop or square formed by crossing seismic lines. The final coverage for gravity/magnetic station separation will be 1 mile × 1 mile in the 2 mile × 2 mile seismic line separation area.

[1] Refers to the specific regulation that requires this information be included in exploration plans.

Access to the Arctic National Wildlife Refuge for startup of these activities will be achieved over the Canning River at a site that assures safe crossing and is improved by USFWS. Two, 45 to 50-person crews will be moved from the Deadhorse area to the Canning River along the shore on existing trails or landfast ice. Movement across the Canning River will be on or near seismic lines selected for starting work in the initial western work area. River ice on the approved route will be check-drilled while crossing to assure that USFWS river crossing requirements are met. The initial work areas will be determined by the final map from the USFWS Regional Director listing environmental restraints existing at the time work is to commence.

After the crews are on location, the day-to-day support for personnel and supplies (except fuel) will be via aircraft. The type of aircraft will be determined by available landing conditions near the crews. Due to the limited number of lakes on the coastal plain that are suitable for ice runways, most support is expected to be via single engine aircraft operating on skis. Fuel can be supplied in two fashions. One method could be to land aircraft on lagoon or sea ice, off-load the fuel via portable sled-mounted tanks, and transport it by Caterpillar tractors or other vehicles to the crews working onshore. A second access method for fuel could be via truck along an existing ice road to the Flaxman Island area and then by cat train to the crews. In each case the on-land route for a cat train or other fuel resupply vehicles will, where possible, be along the path of the seismic lines as shown on the map submitted with this plan. Either of these scenarios are workable and both may be required during the implementation of this plan. The primary concerns will be the structural integrity of the containers and the transfer techniques and locations.

Only vibrators will be used to produce the acoustic energy; *no explosives will be used in these exploratory activities.* The seismic energy source will be Failing Y-1100 vibrators controlled by Geosource HSV-310 electronics and mounted on FN-240 vehicles (or their equivalent). There will be five vibrators per crew to increase the probability that four will be operational at all times. Geosource MDS-10 recorders with the optional Vari-Source weighted field summing unit will provide 48-fold data, with only the level of field effort normally expended to collect 24-fold data. Each crew will have two complete recording vehicles to minimize production time. These techniques can increase the production rate by as much as 30 percent. The cables and geophones will be current design and quality products manufactured by Geosource for use in the Arctic. The final selection of geophone station interval and vibrator point spacing will be subject to the conditions of the earth as determined by field tests in the prospect area. Testing will consist of the same general activity as production seismic data gathering. A variety of geophone arrays, configurations and spacing, plus variations if energy source arrays, separation of vibrator points, duration of vibrator sweeps and the frequency range of the sweeps, will be experimentally tried to determine the combination that achieves the best response from the earth.

The sequence of field operations will commence with a survey team and an Environmental Specialist scouting the proposed lines in a light-weight Bombardier vehicle or snowmachines. After initial scouting has shown the area to be unobstructed by environmental constraints, the surveyors will stake out the line and mark all the appropriate locations with lath or pin flags. (Any geodetic land survey monuments will only be used for the purpose intended. No damage, alterations or disturbance will occur to any monument or marker used.) If an environmental constraint is encountered, mitigation procedures discussed in Section 3.0 or those required by the USFWS will be implemented. Each such event will be documented.

Following immediately behind the survey team will be the gravity and magnetic recording crew and then the seismic recording crew. Two operators, one vehicle and two sets of gravity and magnetic instruments are planned for each gravity/magnetic crew. The gravity and magnetic crew will be followed by the seismic recording crew who will lay out the geophones and the interconnect cable for attachment to the recorder. After the recorder is attached to the cable and the proper connection of the cables and phones over the complete spread has been verified, the vibrators will be activated at each vibrator point along the line. Once a section of cables and phones are no longer needed in their present location, they will be loaded onto vehicles and moved to the front of the line to be reused in a roll-along fashion. The completed area will then be surveyed by the Environmental Specialist to assure the impact on the area has been within the prescribed goals.

A program map submitted with this exploration plan shows the first season 1983/1984 seismic program. The environmental sensitive areas of the Hulahula River and Sadlerochit Springs that will be avoided are denoted. The Tamayariak, Sadlerochit, Okpilak, Canning and Aichilik Rivers have been identified as fish habitat areas where extra caution will be exercised when selecting crossings.

The support camp and fuel storage trailers will be moved daily, as required, to maintain a minimum travel time for the personnel and still maintain an adequate distance from the recording operation to assure non-interference from camp-generated acoustic noise. Because of the size and configuration of the camp, it cannot always traverse the same path as the seismic lines. However, the camp moves will be routinely monitored by the Environmental Specialist to minimize potential environmental impacts.

Compacting of snow on streams and rivers, identified by the USFWS as inhabited by fish, may be requested from time to time. Requests to cross and thus compact snow on these waterbodies will only be initiated when the route of travel would, in the opinion of the Environmental Specialist, produce the least significant impact on the environment. Every effort will be made to identify these situations prior to initiating field operations and all such events will be documented.

2.2 *Support Facilities and Equipment* (50 CFR 37.21 (d)(8) and (9)

No permanent support facilities are planned. If approved by USFWS and/or the U.S. Air force, abandoned DEW sites at Camden Bay and Beaufort Lagoon and the Barter Island airstrip will be used as temporary fuel transfer locations. These locations will be cleared of all equipment, camp trailers, fuel storage trailers and any other items brought in by Petty-Ray Geophysical at the end of the proposed exploration activities or not later than May 1, 1986.

Temporary storage of fuel on the refuge will be in double-walled metal tanks designed and manufactured for that purpose. Each tank is individually fitted with valves, hoses and fittings capable of arctic service. Each crew will have a fuel storage capacity of approximately 30,000 gallons. The tanks will be mounted on reinforced trailers that are designed and manufactured to withstand the rigors of being pulled on sleds or tracks in the Arctic.

Campsites will be on land and frozen lagoons or, with the approval of USFWS, on frozen lakes. Rivers will not be used for crew camps. Campsites will be situated approximately every 10 to 20 miles along, and 1 or 2 miles either side of, the seismic line. Site selection will be based on minimum impact to the surrounding area, minimum noise impact on the seismic equipment operation, minimum vehicle traverse impact, and safety considerations for personnel working on the crews and traveling in aircraft to and from sites outside the study area. Gray water discharge from the camps will be passed through a 800-micron filter and then disinfected using chlorine tablets or equivalent equipment. Gray water will not be discharged directly onto rivers or lakes. Each crew will have an incinerator for all combustible waste. All noncombustible waste will be transported off the refuge and disposed of in accordance with existing regulations for the area of final disposal. Human wastes will be immediately incinerated in Incinolet toilet units. The trails and campsites will be inspected regularly to assure all waste has been disposed of in the prescribed manner.

All vehicles will be nodwells, cat tractors, or Bombardiers on flexible tracks or wheels, and equivalent vehicles designed for minimum impact to the terrain. The camps will be on flexible tracks or skids.

Communications with the crews will be maintained by a mobile satellite transmitter/receiver. Each mobile unit is designed for use in the Arctic and consists of a radio cab and a 4.5-meter antenna system. The system provides two voice channels and one 56-KBPS bandwidth data channel suitable for teletype, facsimile or other equipment. The system will also be equipped with a data-link control unit capable of transmitting prerecorded seismic data at speeds up to 1.544 MBPS. The fixed earth station through which all communications will be linked is located at Petty-Ray Geophysical's facilities in Houston, Texas. This satellite system is owned and operated by Geosource/SBS Inc. All communication to and from the crews

operating in the refuge will be directed through the Houston center.

The Houston staff will be available on 24-hour call to assist field crew personnel in identification, location and repair of malfunctions that may occur in any of the highly sophisticated recording and computer equipment. Seismic data will be computer processed, analyzed and interpreted by senior-level personnel using the most modern computing equipment located in the Houston processing center. Field tests will have the benefit of same day analysis and evaluation by senior-level quality control personnel. These systems and techniques will provide improved data quality, enhance the crews' operating efficency, increase production, and reduce environmental impact by reducing the time in any given location.

Equipment listed below, or in the case of vehicles, their rubber-tired equivalent, will be assigned to each seismic, gravity and magnetic data collection crew.

I. Vehicle Equipment—All units equipped with 2-way radios

A. Field Recording

Five (5) Foremost 110, 6-man cab cable and geophone handling units.

Two (2) Foremost 110C, 4-man cab recording units mounted with arctic recording cab and diesel-powered power unit.

Five (5) Foremost Model 240 vibrocarriers.

B. Field Support Units

One (1) Foremost 110, 6-man cab with an additional 10-man cab personnel carrier.

One (1) Foremost 110C, 4-man cab with an additional 5-man cab personnel/utility unit.

One (1) Foremost 110C, 4-man cab vibrator support unit.

One (1) Foremost 110, 6-man cab mechanic unit.

C. Survey Unit

One (1) Bombardier survey unit.

One (1) Foremost 110, 6-man cab survey unit.

Two (2) twin-track skidoo units for scouting, surveying, etc.

D. Camp Support

Two (2) Foremost Delta III supply/cargo units with 9-man cab, 1,800-gallon stake bed fuel tanks and front-mounted 25,000-lb. winch, fuel transfer pumps and Atlas Model 852, 15,000-lb. loading cranes.

One (1) Foremost 110, 6-man cab utility unit.

One (1) Bombardier party manager unit.

E. Gravity and Magnetic Unit

One (1) Bombardier

II. Geophysical, Gravity/Magnetic, and Survey Equipment

A. Geophysical

1. Two recording doghouses, each equipped with:

A. One (1) MDS-10 120-channel seismic recording system with 2/4-millisecond sample rate and equipped with:

1. Summing system
2. Two (2) MM-1 memory systems
3. Vari-Source system

B. One (1) SDW-400B camera

C. One (1) RLS-240/120 rotalong switch

D. One (1) LT-240 line test unit

E. One (1) RCV-310A recorder control

F. One (1) 465 B/7 oscilloscope

G. One (1) DC-6000 correlator (48-channel)

2. One-hundred sixteen (116) portable CDP cables, 88 pair 464-ft., 4 stations/cable.

3. Six (6) portable 88-pair, 350-ft. extension jumpers.

4. Four-hundred eighty (480) runners with 12 MD-79 10-Hz geophones/runner, 30-ft. interval.

B. Energy Source

1. Five (5) Failing Y-1100 vibrators mounted on Foremost 240 vibrocarriers.

2. Five (5) HSV-310A vibrator control units.

C. Gravity and Magnetic

1. One (1) LaCoste Ronberg Model G gravity meter.

2. One (1) Geometrics Model 816 magnetometer.

D. Surevey

1. Two (2) Red-one-a distance measuring equipment.

2. Two (2) T-1 theodolite survey instruments and all necessary survey related equipment.

Two (2) Telurometers.

III. Camp—all units mounted on track or sled undercarriages

1. Twelve (12) 4-man arctic (or equivalent) sleeper units.

2. On (1) fully equipped kitchen unit.

3. One (1) fully equipped dining unit.

4. On (1) fully equipped shower/toilet washroom unit.

5. One (1) fully equipped office/radio/sleeper unit.

6. One (1) workshop.

7. One (1) 75-kw generator cool/freezer/dry storage unit.

8. One snow melter/75-kw generator, water storage.

9. Three (3) 75-kw generator and storage units.

10. Ten (10) fuel storage trailers.

11. Six (6) D6/7 cat tractors.

12. One (1) survival unit.

2.3 *Schedule*

The working season for the two seismic, gravity and magnetic crews will be from approximately December 1 to May 1 each winter season. Adequate surface conditions usually exist by December 1 and breakup rarely occurs before May 1. The actual start and stop dates will be regulated by the current conditions of each year 1983 through 1986.

During each winter season, the areas to be worked will be regulated to assure that there will be no conflict with the critical times in caribou and muskox calving areas. Caribou calving normally starts in mid-May, so potential for impact is almost nil. Muskox calving starts approximately April 15 each year. To assure that there will not be any crews in muskox calving areas after that date, these areas will be worked early each season, i.e. December through February. The number of seismic line miles in the three muskox calving areas is under 200. Using a conservative daily production rate of 4 miles per day, it will require only 25 days for the two crews to complete work in these areas.

A workable schedule will consist of starting the season December 1 with both crews moving into the western quarter of the coastal plain where the western muskox calving grounds are located. The crews will jointly work that western segment of the coastal plain and then both crews will work their way east. One will go direct to the eastern muskox calving area in the east quarter of ANWR while the second crew moves to the middle muskox calving area. The middle area is small, approximately 30 seismic line miles, and will be completed in approximately one week. This crew will then join the other crew in the eastern segment and complete data collection in that area. Both crews will then work the central area, progressively moving back to the west where work will be completed approximately May 1.

The logistics support for the time and space schedule proposed will have minimum impact on the environment. During the early portion of the season when both crews are working to the west, fuel will be supplied over an existing ice road on the sea ice or if the road is not available it will be delivered by aircraft to a runway on the coastal sea ice near the abandoned Camden Bay DEW station. When the crews move to the eastern areas, the temporary support points will be moved to the abandoned Beaufort Lagoon DEW station and an ice runway near that location will be used to supply fuel. As the crews work the central area and move back to the west, the fuel and supplies support will be moved to Barter Island or an approved central lake.

2.4 *Group Participation*

Due to the uncertainty surrounding issuance of permits to seismic survey applicants in the ANWR, most interested companies desired to remain flexible and deferred committing to any plan pending of USFWS decision. In an effort to assist the industry to achieve maximum flexibility, Petty-Ray has not sought commitments to this proposed plan. Issuance of a permit to Petty-Ray will result in a group survey and that group will be open for original participants until 30 days after this plan is approved unless Petty-Ray is directed by USFWS to extend the period in accordance with 50 CFR 37.13.

Petty-Ray has surveyed the industry for potential participants. Those companies that have indicated interest in participation in a group seismic exploration program in the ANWR are: Amarada-Hess, Amoco, B. P. Alaska Exploration, Chevron U.S.A., Conoco, Elf Aquitaine, Exxon, Getty Oil, Gulf Oil, Kerr McGee, Marathon Oil, Murphy Oil, Phillips Petroleum, Shell Oil, Sohio Oil, Superior Oil, Union Oil of California, and Union Oil of Texas.

3.0 Environment Impacts and Mitigation

(50 CFR 37.21(d)(11)

3.1 *Approach to Environmental Protection*

Petty-Ray Geophysical and its subcontractors are committed to environmental protection and fully intend to comply with all laws and regulations

applicable to the ANWR exploration process. Emphasis during all operations will be on prevention of impact through advance planning, coordination with USFWS, and thorough personnel training.

Environmental Specialists will provide a major input into the planning process. Environmental planning will involve more than just avoidance of Special Areas; it will involve such considerations as logistic efficiency to avoid unnecessary trips and other subtle mitigation techniques.

In addition to the USFWS environmental briefing required by 50 CFR 37, Petty-Ray will provide additional training for its employees and subcontractors to assure that they are aware of Petty-Ray's commitment and have the background knowledge to operate in an environmentally enlightened manner. Inhouse briefings will include such aspects as: recognition of sensitive areas, animal behavior, and hazardous waste contingency planning. The day-to-day contact between the Environmental Specialists and other crew members will further reinforce environmental awareness.

3.2 *Surface Disturbance*

Mitigation Measures

Permanent Facilities—As specified in 50 CFR 37, no permanent facilities will be placed on the refuge.

Minimization of Personnel and Equipment—Because of Petty-Ray's advanced equipment, data acquisition techniques, and careful planning, only two seismic crews for two (or possible three) seasons will be required to provide coverage of the entire study area.

Vehicles—Equipment is listed in section 2.2. These types of vehicles are all characterized by low ground pressure and have been accepted for use in winter seismic programs in NPRA and other arctic areas.

Corridor Planning—In order to minimize surface disturbance, substantial thought has been given to planning travel corridors and staging areas. Fuel supplies to the western and central part of the study area will either be transported over the sea ice by ground vehicles or flown to a landing strip on the sea ice. This approach will minimize surface disturbance and minimize the number of crossings of the sensitive Canning River area. Supply to the eastern portion of the study area will originate at the Beaufort Lagoon DEW site, thus allowing short travel distances to seismic crews working in the eastern area. All travel planning within the refuge will take into consideration the total environmental conditions existing in the area at the time of travel. The impact of repeated travel along a selected corridor will be evaluated prior to entry to the area. Trails subject to repeat travel will be evaluated to determine if a single path or multiple parallel paths would produce the least impact to the surface. Vehicle operators will be instructed accordingly of each determination.

Minimum Snow and Frost Depth—The criteria used for NPRA seismic operations—6 inches minimum snow cover and 12 inches minimum frost depth—will be used as general guidelines during ANWR seismic exploration. Under most circumstances, vehicle movement will be minimized unless those minimum criteria are satisfied. It will be the goal to maintain a snow cover that is as deep as can be practically traversed by the various vehicles. In areas where snow depths exceed 6 inches, a minimum of 6 inches of cover will be maintained when snowplowing is required during camp moves and on seismic lines.

It is anticipated that in some areas, especially wind blown ridges, snow depth will be less than 6 inches. Under these circumstances, the decision whether to proceed or not will be based on the performance standard of whether "significant adverse impact" will occur to the vegetation, as defined by the USFWS Field Monitor. Areas of marginal snow cover will be identified in advance of the crew movement either by aerial or ground reconnaissance and reported to USFWS so that decisions can be made in a timely manner.

Blading and Other Vehicle Procedures—Tractors used to pull the cat trains and plow snow have the greatest potential to damage vegetation (Reynolds 1978, U.S. Fish & Wildlife Service 1983) and, at the same time, they play the major role in constructing the tracks to be used by the other vehicles. Therefore, the operators of these vehicles will be carefully trained to minimize damage and maintain maximum snow cover. Sharp turns and spinning tracks will be avoided. All blading of snow will be done carefully to avoid cutting vegetation. Operators of all project vehicles will be instructed to remain on established trails and avoid unnecessary movement.

Avoiding Riparian Willow Vegetation—The location of extensive willow stands will be taken into consideration during the planning stage. Every attempt will be made to avoid these areas during placement of the seismic grid. Nevertheless, some willow stands will probably conflict with some of the seismic lines. In these cases, advance scouting of the willow zones by the Environmental Specialist will identify the least damaging routes through the willows. Crossing of these areas will not be made without approval of the USFWS Field Monitor as required by 50 CFR 37.31(b)(3).

Camp Locations—Campsites for the seismic crews will be on land, lagoons frozen to safe depths, or approved frozen lakes. Rivers will not be used for seismic crew camps. Campsites will be situated approximately every 10 to 20 miles along, and 1 or 2 miles either side of, the programmed seismic line. The site selection will be based on minimum impact to the surrounding area, minimum camp noise impact on the seismic detecting equipment, minimum vehicle traverse impact, and safety consideration for personnel working on the crews and traveling in aircraft to and from sites outside of the study area.

Fire Control—Since the planned activities will take place exclusively in the winter months when the ground is snow covered, there should be no danger of tundra fires associated with this activity; however, each vehicle will be equipped with fire extinguishers.

Unavoidable Impacts

It is anticipated that a winter seismic operation with cat train support will have some minimal impact on the vegetation underneath the vehicle paths. Past experience with similar exploratory activity in the NPRA has shown that cat trains and, to a lesser extent, flexible-track seismic vehicles cause some compaction of the vegetation even when substantial snow cover is present (Reynolds 1978, U.S. Fish & Wildlife Service 1983). During the thawed season, these compacted corridors may be visible from the air and the ground. The extent of such compaction and its ultimate aesthetic impact will depend on the amount of snow cover as well as the number and kinds of vehicles that travel on a particular path. The greatest visual impact is likely to occur along cat train corridors serving as major resupply routes with less impact occurring along seismic lines. In most kinds of terrain, no actual damage to the vegetation or the vegetative mat will occur.

On some kinds of terrain, particularly tussock tundra and steep, broken slopes, cat trains can cause breaking of the vegetation clumps, in some cases exposing bare soil. Minor damage to tussocks may occur even when snow cover exceeds one foot (Reynolds 1978). Again, the extent of damage is highly dependent on the amount of snow cover. Willow shrubs extending above the snow are also vulnerable to damage from vehicles. The proposed winter seismic operation will avoid areas of extensive willow growth and will avoid traversing tussock terrain with inadequate snow cover. However, since tussock terrain is extensive and snow cover irregular within the coastal plain, some minor damage to tussock vegetation is likely to occur. When operations are conducted with care, damage should not be sufficiently servere to create significant erosion or thermokarst problems.

Rehabilitation Plan

Winter geophysical exploration employing low ground pressure vehicles and experienced operators should result in minimal damage to tundra vegetation. However, in places with steep or broken terrain or thin snow cover, there is increased potential for damage to the vegetative mat. If it is determined by the USFWS Regional Director that revegetation is required following geophysical activities, restoration will be accomplished with endemic species.

At the present time, endemic seed stock is available from growers in Delta, Alaska for four tundra species (W. W. Mitchell, personal communication). These include tundra bluegrass (*Poa glauca*), arcta red fescue (*Festuca rubro*), norcoast Bering hairgrass (*Deschampsia beringensis*), and polar grass (*Arctagrostis latifolia*). The latter two species are most suitable for mesic sites. Recent investigations by Chapin and Chapin (1980) suggest that the arcta red fescue provides good cover for up to 3 years following revegetation. The same study suggests that a single application of high phosphorus fertilizer will stimulate the natural invasion of cottongrass (*Eriophorum vaginatum*) on unseeded plots after three growing seasons. Wien and Bliss (1973) and Van Cleve (1977) reported that fertilization also induces abundant flowering and seed production by

cottongrass and sedges and Chapin and Chapin (1980) recorded a 25-fold increase in inflorescence with addition of phosphorus and potassium.

Restoration methods will proceed as follows. As soon as top portions of the active layer are ice-free, which usually occurs in mid-July, disturbed surface areas will be rehabilitated. All personnel and equipment will be transported by helicopter. Disturbed surfaces will be scarified to a depth of 2 to 3 inches to provide a good seed bed that is protected from the wind. High phosphorus fertilizer (6-32-16) will be applied at a rate of 70 to 80 pounds per acre. In some cases where organic soils are exposed with no serious erosion potential, only fertilization will be required. All exposed mineral soil areas will be seeded and fertilized. On drier sites, a blend of tundra bluegrass and arcta red fescue will be applied and a combination of norcoast Bering hairgrass, polar grass and arcta red fescue will be used in wetter areas. Seed mixes will be applied at a rate of 30 to 40 pounds per acre.

It is anticipated that seed and fertilized areas will rapidly establish a ground cover and root mat. After approximately three growing seasons, singnificant invasion by adjacent local species should be evident (Chapin and Chapin 1980).

3.3 *Wildlife Disturbance*

Mitigation Measures

Avoidance of the Summer Period—A winter seismic operation will avoid many wildlife species that are present only during the thawed season such as water birds. The exploration work will also be completed prior to caribou calving.

Avoidance of Sensitive Areas—Conflicts with environmentally sensitive areas have been minimized while at the same time maximizing geophysical information by overlaying a grid with the optimum configuration of seismic lines onto a map delineating sensitive areas. Adjustments have been made to the grid, as well as individual seismic lines, to achieve the minimum conflict. The timing of the seismic crew movements within the grid will also be adjusted to avoid time-sensitive Special Areas such as those used by muskox for calving (see Section 2.3). The seismic grid presented on the attached map reflects an initial attempt to avoid sensitive areas. The location of the grid and other facilities will be further refined during development of the Plan of Operations as more information from the USFWS becomes available. Stereoscopic analysis of aerial photos will aid in the above considerations prior to submittal of the Plan of Operations.

In addition to advance planning to avoid sensitive locations, other areas will be identified and avoided while in the field. Environmental Specialists and surveyors will scout in advance of seismic crews and report any potential environmental conflicts to the Crew Supervisor. Case by case decisions will be made on how to avoid the area or otherwise minimize impact.

Non-harassment of Wildlife—All personnel will be instructed to avoid unnecessary disturbance of wildlife; failure to comply will be considered grounds for dismissal. Special situations that may arise, such as a muskox herd in the path of a cat train, will be handled on a individual basis with advice obtained from USFWS Field Monitors and the Environmental Specialist.

Aircraft pilots will be instructed to maintain the highest practicable altitude (1,500 foot minimum, weather permitting) and to fly straight to their destination. Number of flights will be kept at a minimum.

Free Passage of Wildlife—No structures will be erected that will impede wildlife movements. Generally, the operation of a winter seismic crew will not occupy sufficient linear distance to cause wildlife passage to be significantly affected in view of the vast open area of the coastal plain. Exceptions could occur under specific circumstances such as muskox movement within a defined river valley. Special situations will be handled on a case-by-case basis. Equipment can be stopped to allow animals to pass or may be moved out of the way of obvious travel routes.

Preventing Wildlife from Obtaining Food Items—All personnel will be instructed not to feed animals or leave food items where animals can get them; failure to comply will be cause for dismissal. All putrescible solid wastes will be kept inside camp buildings. Food wastes will be incinerated within 48 hours of the waste production. Littering will not be tolerated.

Hunting and Firearms—Hunting and possession of personal firearms will be prohibited on Petty-Ray geophysical crews. Company firearms will be issued by the Crew Supervisor on a day-to-day basis to specific individuals when the carrying of such firearms is judged to be necessary for protection of life and property. Firearms will be locked up when not in use.

Nuisance or Hazrardous Animals—All human/animal contacts or potential conflicts will be reported to the Environmental Specialist. If significant, the incident will be reported to the USFWS Field Monitor and a course of action developed for handling the problem. During a winter operation, nuisance animal problems are most likely to develop in relation to the arctic fox. See Section 6.0 for a discussion of rabies hazards and proposed procedures. A much more significant but less likely event in the winter is an encounter with a polar bear along the coast. In such an event, every effort will be made to avoid the animal and maneuver around his location. All personnel will be instructed to stay at least ½ mile away. The USFWS will be notified of the encounter as soon as contact can be reasonably established.

Unavoidable Impacts

Impacts to wildlife from a winter seismic operation will be minimal. Some disturbance to local wildlife as a result of noise and activity from vehicles, aircraft, generators, etc. will occur. Animals most likely to be affected are muskox and caribou.

The density of caribou in the study area is low in the winter. These mobile animals will usually move away from the source of disturbance. The behavior of caribou may also be altered when they encounter plowed seismic tracts; however, there is no indication that this partial "barrier effect" has significant impact on overall movements (U.S. Fish and Wildlife Service 1983).

Muskox are generally more vulnerable to disturbance than caribou because of their limited home range, lower mobility, and social behavior (U.S. Fish & Wildlife Service 1983). However, in most cases, muskox herds can be easily located and avoided and significant disturbance is unlikely.

It is possible that the various travel corridors could pass near a previously unidentified brown or polar bear den. In this unlikely event, and depending on the extent of disturbance, the animal or its young could be adversely affected through deterioration of its physical condition. However, as stated earlier, advance scouting should minimize or make nil the possibility of this occurring.

3.4 Aquatic Environment

Mitigation Measures

Stream Bank Protection—Steep stream bank areas will be identified ahead of time and avoided if possible by the positioning of the seismic grid.

All stream crossings will be given special consideration in the field. Project personnel, including the Environmental Specialist, will scout streams ahead of the cat trains and seismic crews. Optimum approach routes and crossing sites will be identified, taking into account snow depth, bank steepness, ice conditions, and vegetation.

If necessary, snow bridges or snow ramps will be constructed to minimize vehicle damage to steep banks. Under normal circumstances, snow bridges and ramps will be constructed by pushing clean snow in the direction of travel and thus progressively building the ramp in front of project vehicles so that no vehicles will traverse the unprotected bank. Breaching or removal of snow bridges will usually be accomplished immediately after the crew has passed the location or, if the route is to be used for subsequent travel, removal will occur well before breakup. Care will be taken to avoid blading into unprotected ground during removal or snow bridges. In most cases, ramps will be left in place to thaw naturally.

Explosives Use—No explosives will be used during these proposed winter seismic programs.

Water Withdrawal—Water required for camp and other uses will be obtained in most cases by melting snow. If surface water is required to supplement the water supply, it will be withdrawn from lakes or streams that do not contain fish. Subsurface water or springs will not be used as water sources.

Fishing—Fishing by project personnel will not be permitted.

Compaction of Snow Cover on Fish Streams and Lakes—Lakes identified by USFWS as containing fish or designated overwintering Special Areas will not be crossed, unless approved in writing by USFWS. Special procedures will be implemented during crossings of fish streams outside of Special Areas. Crews operating in advance of the seismic operation will scout stream crossings and, using ice augers, will drill the stream ice to determine whether water is present under the ice and whether the ice is sufficiently thick to support project

vehicles. If no water is present, then the crossing will proceed as usual. If water is present, then alternative crossing locations will be investigated where the stream may be frozen to the bottom. If flowing water is continuous under the ice, then a decision will be made based on USFWS guidelines to either not cross the stream or to compensate for the compaction of snow by adding additional snow to the surface of the ice such that the insulating value is approximately the same after compaction as it was before compaction. Fish stream crossings will not be made if there is any danger of breaking the ice and, thus, impeding under-ice water flow.

Assuring Free Passage of Fish—The procedures described above for avoiding snow compaction and ice breakage on ice-covered streams will assure that fish passage is not impeded during the winter or after breakup. Removal of snow bridges prior to breakup will prevent constriction of flow from these structures.

Water Pollution—Few opportunities will exist for polluting substances to enter water bodies with the possible exception of fuel transort operations on the sea ice. See Section 4.0 for procedures to be implemented in the unlikely event of an accidential fuel spill.

Unavoidable Impacts

Very little impact on the aquatic environment will result from a winter seismic operation. Adherence to the above mitigation measures will assure that critical overwintering habitats and other flowing water areas are protected. Some temporary construction of flow due to snow compaction may occur during breakup in areas where streams were crossed by project vehicles.

3.5 *Waste Disposal*

Mitigative Measures

Solid Waste—All putrescible and combustible solid wastes will be completely incinerated in diesel-fired incinerators. Incinerator ash and other non-combustible waste will be inclosed in covered containers and carried with the cat train until it can be transported off the refuge and disposed of in accordance with existing regulations in the area of final disposal.

Littering with trash or any other item will be strictly prohibited. No equipment will be left in the field except that temporary storage of euipment during the winter season may occur at locations approved by USFWS. Trails and campsites will be inspected regularly to assure that all waste has been disposed of in the prescribed manner.

Liquid Wastes—Gray water discharge from the camp facilities will first be passed through a 800-micron filter and then disinfected utilizing chlorine tablets or equivalent equipment meeting the requirements of USFWS. Gray water will be discharged onto the land surface such that it will not enter lakes or streams.

Human wastes will be immediately incinerated in Incinolet toilet units.

Unavoidable Impacts

Incinerator smoke will cause a periodic temporary aesthetic impact but no significant degradation of air quality will occur. Gray water discharge will discolor the snow in localized areas but will not be noticeable after breakup.

3.6 *Cultural and Subsistence Resources*

Mitigative Measures

Pre-planning—Cultural and subsistence resource areas will be marked on the master resource sensitivity map. The seismic grid will be located to avoid these sites as much as possible. Individual seismic lines may also be adjusted to avoid specific conflicts. The timing of crew movements within known areas of traditional subsistence use will be adjusted, when possible, to avoid conflicts with users. Petty-Ray has met with representatives of Kaktovik Village to discuss local subsistence use concerns and has incorporated this increased understanding into plans for this proposed exploration activity. Additional discussions will be held prior to submittal of the Plan of Operations.

Site Marking—Petty-Ray will work with USFWS and other geophysical contractors, if applicable, to mark the cultural resource sites identified by USFWS. The type of markings will be determined through consultation with USFWS representatives and will be designed to be clearly visible under winter conditions. Subject to permit issuance, marking will occur prior to snow fall in 1983. Access to the area for marking will be achieved via helicopter after most waterfowl have left the area and before snow cover arrives, or as directed by USFWS representatives. Additionally, the locations of each site will be plotted on the final program map to assure the greatest probability that the survey crew will be anticipating every site before it is reached. No vehicles or personnel will be allowed within 150 yards of any marked site

Field Reconnaissance—As part of their regular duties, the Environmental Specialist and other advance personnel will scout ahead of seismic crews. If visible evidence suggests the presence of an unrecorded culturally valuable site, the site will be reported to the USFWS. Impact to the potential site will be avoided until the site can be evaluated and a course of action determined in conjunction with USFWS.

Unavoidable Impacts

No impacts to cultural resource areas are anticipated with the winter seismic program.

The presence of seismic crews could cause a minor temporary impact on late winter subsistence hunting activities by dispersing animals in the immediate ¼ to ½-mile area around a camp or line crew.

4.0 Hazardous Substances Control and Contingency Plan

(50 CFR 37.21(d)(10))

The proposed use of vibroseis methods of exploration generally avoids the utilization and/or generation of hazardous substances designated under Section 311(b)(2)(A) of the Federal Water Pollution Control Act, Subtitle C of the Resource Conservation and Recovery Act of 1976 (Pub. L. 94–580), or the proposed State of Alaska, Department of Environmental Conservation Hazardous Waste regulations in 18 AAC 62.050. The mobile equipment to be used requires petroleum products, which represent a potential for accidental or inadvertent spills into or upon navigable waters. Therefore, a Spill Prevention Control and Countermeasure Plan (SPCC Plan) has been prepared in accordance with 40 CFR 112.7.

If bulk fuel supplies are temporarily stored at DEW sites, the fuel will be stored in 3,000-gallon or smaller double-walled steel tanks. These will be surrounded by secondary containment berms sufficient to contain the volume of the bulk tank plus expected precipitation.

Procedures for transfer of fuel from trucks or aircraft to the 3,000-gallon refueling units will meet U.S. Department of Transportation requirements and regulations. These will include warning signs and physical disconnect procedures that are incorporated with employee training programs. Drivers will perform routine checkout of lower tank outlets to prevent leakage while in transit and will periodically examine all flexible fuel and hydraulic lines for wear and degradation to prevent breakage or leaking under normal conditions.

Fuel resupply procedure may involve constructing a landing strip on the shorefast ice near the coastline, hauling in fuel by aircraft, and transferring the fuel to several 3,000-gallon or smaller tanks mounted on tracked or skid vehicles. In such case, a bermed enclosure will be constructed of snow to contain the fuel transfer operation. A snow ramp will provide access to and egress from the enclosure, which will be sufficiently large to contain at least 110 percent of the portable tanks involved in the transfer operation.

Precautions will be taken to avoid spills and to prevent fires. Fuel spills on snow or ice will be promptly taken care of through the use of absorbant pads or they will be scraped up and incinerated in suitable containers. No burning of spilled fuel on sea ice or snow will be allowed unless unusual situations arise that preclude more effective cleanup procedures. Fire extinguishers will be available.

A drip barrel or similar container will be provided for all hose nozzles when they are not in use and proper disconnect procedures at the aircraft resupply tank will be observed to prevent back drainage of fuel in the line onto the ice.

All reasonable precautions will be taken to prevent oil spills, including personnel training, periodic review of practices, good housekeeping, and follow established procedues. Particular attention will be paid to fuel transfer operations, making sure that all valves are closed and opened as required in the right sequence, fuel tank level indicators are operable and observed, and routine checks are made for items that need repair such as leaking valves, frozen lines, cracked walls, and other potential problem areas. No fuel transfer operation will be left unattended; an operator will always be present and constantly monitoring events.

In the event of a spill, the operator(s) will be instructed to accomplish the following list of priorities for response action:

1. Eliminate hazards from fire and explosion; protect life first and then property.

2. Stop the spill source if it can be easily and safely done, such as shutting off valves or plugging drains.

3. Notify the Party Supervisor or his assistant by the fastest means of communication possible and then contact the Environmental Specialist to supervise containment and countermeasures.

4. Confine the spill to the smallest possible area by use of snow, gravel, or earth birms and sorbent materials. Prevent oil from entering water if at all possible.

Cleanup of fuel spills will begin as soon as possible after the above steps have been accomplished. The Environmental Specialist will determine the most environmentally sound practice to be followed to minimize any further impact to natural communities of organisms. Contaminated sorbent materials will be backhauled to the staging camp for incineraton or further disposal by acceptable means. Spills that threaten the refuge's resources, environment or human safety will be reported to the USFWS immediately or as soon as communication can be established. Notification of other regulatory agencies will follow institution of adequate control and countermeasures and within the time guidelines stated in 18 AAC 75.080. Spills of ½ pint to 10 gallons will be reported within 7 days; those of 10 to 55 gallons within 24 hours; and spills of more than 55 gallons within 5 hours.

Signs or placards outlining the major points of the SPCC Plan and communication channels will be mounted on appropriate equipment in conspicuous locations and pocket-sized or wallet-sized information booklets will be furnished to each member of the field party for ready reference.

5.0 Environmental Monitoring

5.1 *Planning Phase*

Environmental Specialists will participate in development of the Plan of Operations to assure that exploration procedures integrate environmental concerns along with geophysical objectives. It is anticipated that this ongoing dialogue will eliminate, to a large degree, future environmental conflicts. The draft Plan of Operations will receive a formal review by an inhouse committee composed of senior enviornmental and geophysical specialists prior to submittal to USFWS to further identify and resolve any potential environmental problems.

USFWS review of the Plan of Operations, as required by the regulations, constitutes another stage in the environmental monitoring process. Environmental Specialists will be available for consultation during the USFWS review to help resolve any issues that may arise.

5.2 *Field Phase*

Petty-Ray Geophysical intends to provide two full-time Environmental Specialists to monitor the seismic operation in the field. The Environmental Specialists will be trained in the biological and physical sciences and will be familiar arctic with ecology and impact mitigation. The Specialists will accompany each seismic crew throughout the field season. Duties of the Environmental Specialists will include:

- Assurance of compliance with all applicable environmental regulations and laws
- Monitoring of local, state and federal permit compliance
- Assurance of compliance with exploration and operations plans
- Advance scouting of seismic lines and cat train routes to identify potential areas of environmental sensitivity
- Field technical assistance in regard to onsite mitigation measures such as planning stream crossings to minimize impact to stream banks, fish and riparian vegetation
- Administration of oil spill contingency programs including equipment readiness, personnel training, spill cleanup, and reporting
- Investigation of human/animal encounters; handling and reporting nuisance and hazardous animal situations
- Logging and reporting of environmental phenomena and other items of environmental interest
- Liaison with USFWS monitoring personnel

In addition to the inhouse monitoring program, accommodations and free access will be made available for USFWS Field Monitors upon request of the USFWS Regional Director. It is intended that the Petty-Ray Environmental Specialists will complement the USFWS Field Monitors and thus assure an environmentally sound and efficient program.

5.3 *Follow-up Phase*

An aerial reconnaissance of selected seismic lines, supply routes, campsites and other facility sites will be conducted by Environmental Specialists during the early summer following each winter seismic program. The areas selected for reconnaissance will be chosen based on onsite observations by the Environmental Specialists and USFWS Field Monitors during the winter operations. These reconnaissance flights will be coordinated to allow USFWS representatives an opportunity to participate. In areas where surface disturbance has occurred, impacts will be assessed and, if necessary, site-specific rehabilitation plans will be developed, coordinated with USFWS, and implemented for those areas where specific rehabilitative measures are judged by USFWS to be needed. A report providing the results of the follow-up reconnaissance along with rehabilitation methods will be submitted to the USFWS Regional Director in October of each year.

If rehabilitation is implemented at any location, a follow-up investigation of the site will be conducted after one year to verify the success of the methods.

6.0 Occupational Safety and Health Standards

Petty-Ray Geophysical has previously performed several geophysical surveys in northern Alaska similar to that proposed to be conducted on the Arctic National Wildlife Refuge. Those surveys were performed in accordance with applicable OSHA regulations. Review of current OSHA Safety and Health Standards for general industry (29 CFR Part 1910) and for construction industry (29 CFR Part 1926) show that Petty-Ray procedures and programs are well within compliance with appropriate standards. A safety training and education program for employees is in place and periodically reviewed and updated; proper first aid attendant is included in the field party; and all employees are instructed in recognition and avoidance of unsafe conditions. Regulations applicable to the work environmment to control or eliminate any hazards or other exposure to illness or injury will be made available to employees and their supervisors. Proper clothing and protective equipment will be a requirement for all workers.

The Arctic Coastal Plain envirnoment is inhabited by artic and red foxes, which are recognized hosts of rabies. They are also effective opportunistic feeders on garbage and handout food associated with most human activities, and are attracted to camps and work areas. This naturally leads to significant human-fox interactions that have high potential for rabies transmission, particularly during periods when fox populations are at a cyclic high and rabies incidence is at the epidemic stage. Proper garbage disposal and personnel training will be required as a part of this effort and will be very effective in preventing most human exposure to rabies. Procedures to suppress human-fox interactions will be strenuously enforced and any unusual animals that threaten or attack workers will be killed by authorized personnel, with care taken to avoid damage to the heads of suspected rabid foxes so that they can be examined by qualified persons at the U.S. Department of Health laboratory in Fairbanks. Prompt diagnosis of exposure to rabies is essential to effective treatment of the disease. Proper procedures will be discussed with survey party personnel and the Environmental Specialist will be instructed as to how to handle each situation that may arise. Further precautions will be taken by maintaining strict control of garbage and field lunches.

All subcontractors to Petty-Ray who will be responsible for food handling, living quarters, washing facilities and other services will be required to maintain current state and federal permits for their operation. These will be monitored to assure compliance and to avoid costly delays that may occur in correcting unsatisfactory conditions.

Fire protection and prevention will be stressed in all operations and proper safeguads maintained. Camp units will be oriented with prevailing winds to minimize drifing of snow and wind blast effects. Units will be separated into three or four rows, depending upon topography and geographical features, to minimize fire danger. Units with noise, effluent, or fire potential will be located on the prevailing downwind end of the rows. Fire extinguishers and smoke alarms will be maintained in correct numbers, locations, and ratings to provided adequate protection to all personnel. Welding and cutting operations will be conducted in a designated safe location or otherwise protected. Field welding will be done in as safe a condition and location as possible, including prevention of fire that could occur through ignition of surrounding materials for sparks or cutting. Suitable fire extinguishing equipment will be provided.

7.0 Data Quality Assurance and Control

[50 CFR 37.21(d)(14)]

The quality of seismic data can be degraded by malfunctioning field equipment or by incorrectly implemented acquisition procedures. To assure this does not occur, a quality control program with established minimum standards for equipment and operator performance has been established. These are practical standards achievable under field conditions. They are based on hundreds of crew years of work and have been shown to be acceptable for acquisition of optimal quality data.

Implementation of several key tests and checks in the Petty-Ray quality control plan for ANWR will be enhanced through use of the satellite communication system. In addition to the daily transmission of seismic data via the satellite communications system the satellite system will greatly speed the flow of quality control information to senior quality control analysts in Houston and thus speed detection of any hardware or operational system malfunction that might go undetected in the field.

This QA/QC Plan will be used by all operational and supervisory personnel as the standard for all operations in the ANWR, unless changes are negotiated among participants to the data acquisition group or are directed by the USFWS. If changes do occur, this document will be amended and changes distributed to all personnel involved.

Prior to initiating production, field tests will be run to determine the optimum acquisition parameter. The results of these tests will be reviewed with the group's operational representative and selection of parameters made and distributed to all participants. If, at any time after starting production, data quality should deteriorate so as to be inferior to data previously obtained in the same area, Petty-Ray and the group's operational representative will review the data to determine the nature of the deterioration. The review will cover various tests and test results, acquisition parameters and processing parameters in use when the deterioration occurred.

Based on this review, a decision will be made on how to best restore optimum data quality. This decision may involve conducting further field tests and evaluations, reprocessing data, or changing acquisition parameters. All such changes will promptly be fowarded to all group participants and will be included in appropriate reports to USFWS.

The following are the technical standards, tests and test frequency requirements applicable to all Petty-Ray Geophysical work in the ANWR.

1.0 Surveying

1.1 *Distance*—Distance between optical survey instruments and stadia rods should not exceed 1500 feet. Backsight and foresight should balance; e.g. backsight measures 500 feet, foresight should measure 500 feet. They should not deviate by more than 1 percent of the distance. For electronic measuring equipment, the distance from instrument to reflector should not exceed one (1) mile.

1.2 *Elevation Closure (Vertical Control*—Lines shall be tied to primary control stations and each end of a line must be tied to a primary or secondary control station. (A primary control station is a tri-station, SATNAV station or bench marks. A secondary control station is a section corner, a line intersection that has confirmed control from previous surveys or a confirmed spot elevation, such as a road intersection, well, windmill, etc.)

When using an optical or electronic distance system, the vertical tie shall not exceed $+/-0.5\times$ the square root of M in feet. (M = Distance in miles.) All line intersections must tie with this specification. Where lines are greater than 36 miles, the maximum allowable error is $+/-3$ feet.

1.3 *Horizontal Closure*—Lines shall be tied to primary control stations and each end of a line must be tied to a primary or secondary control station. (A primary control station is a tri-station, SATNAV station or bench marks with horizontal control data. A secondary control station is a section corner, a line intersection that has confirmed control from previous surveys or a confirmed spot elevation, such as a road intersection, well, windmill, etc.)

1.4 *Survey Notes*—All survey notes must be signed by the surveyor and will have the instrument type(s) and serial number(s) used and record the declination checks. *No* erasures or writeovers are permissible on the field notes. See Field Note section of these guidelines. All survey note computations will be checked, dated, and initialed by a second crew member who is qualified to perform this function.

1.5 *Hanging Lines*—All hanging lines should be double run with a maximum between turning points on rerun of 1,250 feet for an optical instrument and 3,750 feet for a laser instrument. Normal loop closure standards (based on total distance) applies to double-run lines. Instrument set-up positions on rerun should not coincide with original positions

1.6 *Stadia Rods*—If the crew is operating in terrain where vertical angles are used, a small plumb bob or a rod level should be used to insure that the rod is maintained vertical during observations.

1.7 *Sun Observations*—Where control is scarce, sun observations should be taken and recorded in notes at the beginning and end of each line and every five (5) miles of seismic line. A minimum of three (3) observations shall be taken with a rejection limit of $+/-1$ minute from the average of three.

1.8 *Loop Maps*—Loop maps (traverse and elevation) on crew should be current at all times. Station location positions should be plotted on millimeter paper or base map in the field.

1.9 *Field Instrument Checks*—Instrument field checks will be performed on the instruments when they are first received by the field crews, and *at least* once a week or when the instrument has been subjected to an unusual shock

2.0 Geophones, Arrays, and Cables

2.1 *Arrays*—When the surface elevation change within a geophone array would exceed 20 meters, the length of the array should be reduced to keep elevation changes within the array to less than 20 meters.

2.2 *Polarity and Tap Test*—Polarity of connection between geophone and recorder should be such that first arrival or a tap on the underside of a geophone produces a negative number on tape and a down-going deflection on a paper monitor. Prior to a recording being made from any station, one geophone of the array is tapped and the resulting deflection on a paper monitor or oscilloscope screen is studied by the observer. Any polarity reversal is noted in the observer's report and must be rectified before the start of the next day's work.

2.3 *Leakage*—The impedence to ground on any channel should not be less than 50,000 ohms.

2.4 *Geophone Phase*—Phase difference between a geophone under test and a reference geophone should not be greater than 1 millisecond (7.2°) at 20 Hz. for geophones with less than 20 Hz. resonant frequency.

3.0 Dead or Faulty Channels

A crew should not operate with more than 1 dead or faulty channel for each 24, and should operate with dead or faulty channels only until the faulty channels can be repaired. A crew should not operate with more than 2 adjacent channels dead or faulty Traces that must be dropped due to natural obstacles or similar circumstances are not considered dead or faulty traces for the purpose of this specification.

4.0 Vibrators

4.1 *Number of Operational Vibrators*—It is intended that four vibrators be working at all times. However, operations can continue with only three vibrators working until the faulty vibrator can be repaired and returned to service.

4.2 *Phase Error*—The phase difference between vibrators or between a pilot sweep generated at the recorder and a vibrator control sweep should not exceed ±10° or ±1.0 millisecond, whichever is greater.

4.3 *Standard for Vibrator System Polarity*—Regardless of how the sweep is generated, an increasing positive output from the sweep generator will produce: A) increasing positive numbers on tape; B) an upward movement of all vibrator pads. Under NO circumstances will any exceptions to the standards be implemented without first contacting Houston field services

4.4 *Sample rates and Anti-Alias filters*—Listed below are sample rates and normal anti-alias filters to be used:

Sample rate	Normal anti-alias filters (hertz)
1 millisecond	250
2 milliseconds	125
4 milliseconds	62.5

4.5 *Anti-Alias Filters*—If frequencies above the normal anti-alias filters are requested, special anti-alias filters can be supplied and must be used. Listed below are the sample rates and upper limits of frequencies that can be used:

Sample rate	Upper limit
1 millisecond	320 Hz.
2 milliseconds	160 Mz
4 milliseconds	80.0 Hz.

4.6 *Sweep Frequency Range and Filters*—The sweep frequency range should fall within the 3 db points of the low and high cut filters of the recording system, unless otherwise specified; this usually means the resonant requency of geophone on the low end (but may be instrumental filtering) and the anti-alias filters on the high end.

4.7 *Sweep Frequency Counters*—Sweep frequency counters are to be operational at all times and the tone should never be turned down or off on the 310 electronics when recording data.

4.8 *Starting Vibrator Manually—No vibrator operator will be allowed to start his vibrator manually while in the production mode.*

5.0 Recorders

5.1 *Dynamic Range*—The average dynamic range of any channel should not be less than 76 db. The peak dynamic range of any channel should not be less than 65 db for a trace having only one peak noise value.

5.2 *Pulse error*—Total percent error on any channel should not exceed 10%. Percent difference between rms pulse amplitude and median amplitude should not exceed 3.5%.

5.3 *Notch Filter Error*—Notch filter rejection should not be less than 35 db at actual frequency. Separation between low and high notch filter 40 db rejection points should not be greater than 0.25 Hz.

5.4 *Equivalent Input Noise*—RMS equivalent input noise on any channel should not exceed 0.2 microvolts for 0.5 microvolt reference, 0.1 for 1 microvolt reference.

5.5 *Gain Accuracy*—with amplifier gain 54 db or less, the percentage error on any channel should not exceed 0.1% for any gain step. With amplifier gain between 54 db and 66 db, the percentage error on any channel should not exceed 0.8% on any gain step. With amplifier gain between 66 db and 90 db, the percentage error on anychannel should not exceed 3%. Gain difference from channel to channel should not exceed 3%.

5.6 *Harmonic Distortion*—Total distortion on any channel should not exceed 0.1% and phase should not exceed 1.0 millisecond.

5.7 *A/D Linearity*—Percent linearity error on any record should not exceed 0.1%.

6.0 Quality Control

6.1 *Frequency of Quality Control Monitor*—Once each day, the Houston processing center will display an equivalent monitor record and forward it to Quality Control. The purpose of these records shall be to spot instrumental malfunctions and to suggest field parameter changes when quality of the data deteriorates.

6.2 *Instrument Tests*—Each crew will record on tape a series of instrument tests which will be transmitted to Houston via satellite for computer analysis.

6.3 *Crew Start-up Checklist*—Each field crew will complete a crew start-up checklist at the beginning of each season.

6.4 *Daily Instrument Tests*—Each field crew will run the prescribed daily instrument test for the recording system. (All ones test, dynamic range determination, pulse test and equivalent input noise test.) This will be trasmitted daily to Houston with production tapes.

6.5 *Instrument Log Book*—All breadkowns are to be entered in the Instrument Log Book.

6.6 *Equipment Failure Report*—Equipment Failure Report (GEO–434B & 436B) cards will be filled out to indicate why time was lost and which portion of the equipment failed.

6.7 *Geophone Test Methods*—Periodic checking of crew geophones is mandatory. When any repair has been made to a geophone string, the whole string must be rechecked.

6.7.1 *Frequency and Type of Checks*—All geophones must be checked before the start of any operation, and rotation checks thereafter at intervals of 6 weeks. The shaker table method shall be used at least once during each season. At other times, any of the three methods listed below may be used.

Although there are really no hi or lo, or positive or negative sides to a geophone's output, one terminal is referred to as "hi". This is the terminal that goes negative during a first break (or when the underside of the phone is tapped). If all geophones are correctly connected on a string, the red (wide clip or the pin of the LPH–4M connector) goes negative on a first break and is therefore regarded as carrying the "hi" output of the string.

6.7.2 *Shaker Table Method*—The shaker table is a device containing a mechanical vibrator which shakes both a reference (standard) geophone and the geophone to be tested. Operation of this instrument is fully described in the instructional manual "Instructions for Model SM Geophone Tester."

The standard output controls the horizontal deflection of an oscilloscope. The output of the geophone under test controls the vertical deflection. The slope of the resulting oscilloscopte trace is the result of combining these two reflecting forces.

The standard geophone must be a good phone of the same type as those to be tested, and must have the same shunt as each geophone on a series string. If parallel strings are to be tested, one phone of a good parallel string should be used as the standard.

If the outputs of both geophones are absolutely identical, the trace is a straight line at 45°. Normally there is some small phase difference between the outputs of the standard and the test phones (normally due to damping differences). This causes the trace to assume the form of a narrow loop. A considerable phase difference, or a geophone of incorrect frequency will make the loop wider. It is possible to measure the phase difference (in milliseconds). The indicated phase difference should not exceed 2 divisions at 20 Hz. If the standard and test geophones are of opposite polarity (i.e., test geophone reversed-polarity), the oscilloscope trace is shifted through 90°. If the test geophone has a low output, vertical deflection will be less than horizontal deflection, and the oscilloscope trace will be less than 40° from the horizontal. If the test geophone has a high output (usually caused by missing or open-circuited shunt resistor), vertical deflection will be greater than horizontal, and the trace will be more than 45° from the horizontal. If the test geophone is dead, the oscilloscope trace will be horizontal.

6.7.3 *Oscilloscope Method*—This is probably the fastest method of checking geophones, as the phones do not have to be removed from their hangers.

The geophone string is hung by its hanger from two nails or hooks on the edge of a wooden table. The string is connected to the Y (vertical) axis terminals of any oscilloscope (red clip or pin of LPM–4M connector to red (hi) scope terminal). The oscilloscope is set for a slow horizontal sweep. Each geophone in turn is lifted by its D-ring in order to isolate it mechanically from the hanger and other phones. While the geophone is isolated in this manner, it is gently tapped underneath with the tip of one finger. A deflection should be seen on the scope. A deflection of opposite polarity means a reversed-polarity phone. No deflection means a dead phone. A geophone with damping resistor missing gives a bigger than normal deflection and a long wavetrain.

While this method gives a true measure of geophone output amplitude, it is possible, with a little practice in tapping, to detect any low-output phone. The main point is that the indication on the scope should look alike for all phones. Any obvious difference from the norm is an indication of a fault which must be corrected.

6.7.4 *Microampmeter Method*—This method can be used in any location, and requires only a suitable multirange meter of the type carried in all Geosource OB trucks. The meter must be set to a 50 μA or 100 μA range and be connected to the geophone string (red clip or connector pin to meter +). Each geophone in turn should be held in an upright position and then turned to a horizontal position. This will cause the meter needle to deflect upwards for a phone of correct polarity. If the geophone is turned rapidly, the meter needle should be deflected immediately. A delayed needle movement signifies a sticking coil. Any geophone with a sticking coil must be replaced. A reversed-polarity phone will cause the meter needle to deflect backwards. A dead phone will cause no deflection.

8.0 Records and Reporting

Petty-Ray will keep accurate and compete records relating to its exploratory activities and of all data and information, including, but not limited to, raw, processed, reprocessed, analyzed and interpreted data and information, obtained as a result thereof. Until September 2, 1989, the Secretary of the Interior shall have access to and the right to examine and reproduce any records, papers, or other documents relating to such activities, data and information in order to ascertain Petty-Ray's compliance with 50 CFR Part 37, ability to perform under any special use permit, and reliability and accuracy of all data, information and reports submitted to the USFWS Regional Director.

8.1 *Submission of Data and Information*

Petty-Ray will submit, free of charge, to the USFWS Regional Director all data and information obtained as a result of carrying out these exploratory activities. The data and information will include copies of all raw data and information and all processed, analyzed and interpreted data or information. Petty-Ray will, unless directed otherwise by the Regional Director, submit data and information within 30 days after the end of the annual quarter during which they become available at every level of data gathering or utilization; i.e., acquisition, processing, reprocessing, analysis, and interpretation.

Each submission of geophysical data or information will contain, unless otherwise specified by the Regional Director, the following:

(1) An accurate and complete record of each geophysical survey conducted under the Petty-Ray's permit, including digital navigational data, if obtained, and final location maps of all survey stations.

(2) All seismic data developed under the permit, presented in a format prescribed or approved by the Regional Director and of a quality suitable for processing.

Processed geophysical information shall be submitted with extraneous signals and interference removed as much as possible, and presented in a format and of a quality suitable for interpretive evaluation, refecting state-of-the-art processing techniques.

Processed, analyzed and interpreted data or information normally generated and required to be submitted will include, but not be limited to, seismic record sections and interpretations thereof, and maps of gravitational and magnetic fields and interpretations thereof.

When submitting processed, analyzed and interpreted data or information to the Regional Director, Petty-Ray will clearly identify them by marking the top of each page with the words "Processed, Analyzed and Interpreted Data or Information." All pages so marked will be physically separated from those not so marked, unless doing so will destroy the value or integrity of the data or information presented. In that event or in the event that an item is submitted which is not susceptible to marking by page, the document or item submitted will be accompanied by a summary identifying the location of all processed, analyzed and interpreted data or information which are not segregated or marked by page, and explaining the reason therefore.

If Petty-Ray proposes to transfer any data or information from ANWR to a third party, Petty-Ray will notify the Regional Director at least 10 days in advance and will require the receiving third party, in writing, to abide by the obligations as specified in 50 CFR Part 37 as a condition precedent to the transfer of the data or information.

Upon request by the Department of the Interior, Petty-Ray will identify each person to whom the ANWR data has been provided and provide a description of the area to which such data and information pertain.

8.2 *Reports*

Petty-Ray will submit reports every 2 weeks on the progress of exploratory activities in a manner and format approved or prescribed by the Regional Director. These shall include, but are not limited to, a daily log of operations, and a report on the discovery of any springs, hydrocarbon seeps, and other unusal phenomena.

Petty-Ray will submit to the Regional Director a semiannual report of exploratory activities conducted within the periods from December through May and June through November. These semiannual reports shall be submitted on August 1 and February 1, or as otherwise specified by the Regional Director, and shall contain the following:

(1) A description of the work performed.

(2) Charts, maps, or plats depicting the areas in which any exploratory activities were conducted, specifically identifying the seismic lines where exploratory activities were conducted, and the locations of campsites, airstrips and other support facilities utilized.

(3) The dates on which exploration was actually performed.

(4) A narrative summary of any (i) surface occurrences of hydrocarbon or environmental hazards, and (ii) adverse effects of the exploratory activities on the refuge's wildlife, its habitat, the environment, cultural resources, or other uses of the area in which the activities were conducted.

(5) Such other information as may be reasonably specified by the Regional Director.

9.0 *Applicant's Qualifications, Representatives, and Personnel*

(50 CFR 37.21(d) (1) and (3)

9.1 *Qualifications*

Petty-Ray Geophysical is an operating group within the Exploration Division of Geosource, Inc. Geosource is wholly owned by Aetna Life & Casualty Co. and is headquartered at 2700 Post Oak Road, Suite 2100, Houston, Texas 77056.

Geosource employs approximately 8,000 people and provides products and services to the petroleum industry in over 40 countries. The company's major customers are government agencies, oil companies, drilling contractors and pipeline companies. The company serves the major industry segments of exploration, development, production, processing and distribution. The company had revenues of just under $800 million in 1982.

The corporate officers are:

W.R. Laws, President and Chief Executive Officer

D.B. Sheffield, Executive Vice-President of Operations

B.W. Moore, Executive Vice-President of Administration

D.L. Frankel, Senior Vice-President of Finance

Petty-Ray Geophysical was founded in 1973, the result of the combining of several exploration companies over the past 50 years. Several of these companies date back to the pioneer days of exploration in the mid 1920s. A few of the more prominent company names and their founding years are: McCullum 1923, Petty 1925, Coastal 1929, General 1935 and Ray 1939.

Petty-Ray has in excess of 75 crews collecting seismic, gravity or magnetic data. Over 2,000 employees are employed worldwide. Petty-Ray's experience in the subArctic dates back to the late 1930s, when the McCollum and Ray Companies operated in Canada. A Petty-Ray company operated in Alaska as early as 1968 with crews in the Kavik River and Prudhoe Bay areas. Since then crews have worked for various companies both on the Alaska North Slope and in the Canadian Arctic as well as in the interior portions of both Alaska and Canada. The crews have operated in summer and winter, demonstrating versatility and durability in the harsh environments of the Arctic. The operations were conducted under state and federal permits; several of the more recent of these are: State of Alaska permit number MLUP 82-202 and MLUP 82-209, and BLM permit numbers AA-050395, AK-029-SPZ-001 and F81283. State-of-the-art seismic crew equipment owned by Petty-Ray is in Prudhoe Bay and Anchorage, Alaska. Additional equipment is available if required from other Petty-Ray operating centers in Houston, New Orleans, Denver and Calgary.

9.2 *Bonds*

Upon receiving notice of USFWS approval of this exploration plan, Petty-Ray will have a one million dollar bond issued in favor of the USFWS as required by 50 CFR Part 37.14.

9.3 *Designated Representatives*

The general representative for Petty-Ray and the person primarily accountable for managing the authorized activities is the Alaska Area Manager for Petty-Ray Geophysical, Mr. Ernest F. Eldredge, (907) 561-1521.

The names and 24-hour contact phone numbers for the Field Supervisors and their alternates will be supplied later in the required Plan of Operations.

9.4 *Field Personnel*

Field operations will be carried out by Petty-Ray and no designation of responsibilities is planned.

Basic Personnel Per Crew

One (1) Party Supervisor
One (1) Environmental Specialist
One (1) Assistant Party Mgr/Relief Obser.
One (1) Clerk/First Aid Attendant
Two (2) Senior Observers
Two (2) Junior Observers
One (1) Senior Surveyor
One (1) Junior Surveyor
Two (2) Chainmen/Rodmen
One (1) Senior Wireman
Three (3) Wiremen
Eight (8) Line Laborers
One (1) Cable/Geophone Repairman
One (1) Vibrator Mechanic
One (1) Mechanic
One (1) Mechanic Helper
Five (5) Vibrator Operators
Two (2) Gravity/Mag. Observers
Two (2) Delta 3 Operators
One (1) Attendant (snowmelter/incinerator/camp)
One (1) Cook
One (1) Cook's Helper
Six (6) Cat Operators

Literature Cited

Chapin, F.S. and M.C. Chapin, 1980. Revegetation of an arctic disturbed site by native tundra species. J. Applied Ecol., 71:499-456.

Reynolds, P., 1978. Effects of seismic activity on vegetation. U.S. Department of Interior, Bureau of Land Management, Nat. Petroleum Reserve—Alaska.

U.S. Fish & Wildlife Service, 1983. Final environmental impact statement and preliminary regulations, proposed oil and gas exploration within the coastal plain of the Arctic National Wildlife Refuge, Alaska. U.S. Dept. of Interior.

Van Cleve, K., 1977. Recovery of disturbed tundra and taiga surfaces in Alaska. *In* J. Cairns Jr., K.L. Dickson, E.E. Herricks (eds.), Recovery and Restoration of Damaged Ecosystems. Univ. Press of Virginia, Charlottesville.

Wien, R.W. and L.C. Bliss, 1973. Changes in arctic Eriophorum tussock communities following fire. Ecology, 54:845–852.

Fig. 1. Maps depicting proposed lines for vibroseis, magnetic, and gravity survey, 1983–84, Petty-Ray Geophysical.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

SEFEL GEOPHYSICAL LTD. PLAN FOR GEOPHYSICAL EXPLORATION

Application for Exploration Permit on Arctic National Wildlife Refuge, Alaska, U.S. Fish and Wildlife Service by SEFEL GEOPHYSICAL LTD., 201 SOUTH CHEROKEE STREET, DENVER, COLORADO 80223

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1. Corporate Information and Introduction
2. Technical and Financial Capabilities
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4. Method of Exploration, Type of Equipment to be Used, Personnel, and Communications
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Program Map 1:250,000
Corporate Brochure

1. Corporate Information and Introduction

Sefel Geophysical Ltd. is a privately owned oil and gas exploration contractor with land and processing operations in North and South America, Europe and the Far East. Marine operations are worldwide in scope. Annual sales are in the range of 100 million dollars. Key officers in the company are as follows:

F. G. Schweiger, President, 235 Varsity Estates Link N.W., Calgary, Alberta T3B 4E1.

K. MacDonald, Executive Vice President, 432 Ranchridge Bay N.W., Calgary, Alberta T3G 1V6.

L. Watt, Vice President, 6372 South geneva Circle, Englewood, Colorado 80111.

R. C. Gray, Vice President, 17017 East Davies Avenue, Aurora, Colorado 80016.

Operations on the Arctic National Wildlife Refuge will be the responsibility of Mr. L. Watt whose offices are located at: 201 South Cherokee Street, Denver, Colorado 80223. Phone: (303) 722–5793 Telex: 00450104.

Processing and interpretation operations will be the responsibility of Mr. R. C. Gray whose offices are located at: 201 South Cherokee Street, Denver, Colorado 80223. Phone: (303) 722–5793 Telex: 00450104.

Sefel Geophysical proposes to conduct a survey on a portion of the refuge as described herein and offer all results to industry at market rates. Currently no corporation has subscribed to these results and Sefel Geophysical Ltd. has no partners involved in this application.

2. Technical and Financial Capabilities

Sefel Geophysical Ltd. has conducted non-exclusive seismic surveys in all parts of the world which are offered for sale on a non-exclusive basis to the oil and gas industry. Some notable surveys in the U.S. are as follows:

(i) North Slope, Alaska, 100 miles, 1983.

(ii) Paradox Basin, Utah, 2200 miles, 1979–1982, 2500 miles, in progress.

(iii) Reagan Uplift, Texas, 500 miles, 1979–1980.

(iv) N.W. Colorado, 500 miles, 1977–1978.

Many other non-exclusive surveys have been carried out by Sefel Geophysical Ltd. in al parts of the world. All data is shot, processed and in some cases interpreted by Sefel Geophysical personnel and equipment. All software required is inhouse designed by our Research and Development Department and is exclusive to Sefel Geophysical. We believe our operational and technical ability to be the equal of our competition particularly our familiarity with Arctic operational and geophysical problems and techniques.

Major banker for Sefel Geophysical Ltd. is the Royal Bank of Canada.

We are most definitely financially capable of conducting this type of survey as can be seen from the above previous similar surveys. Should further information in this regard be necessary we would be pleased to supply the same upon request.

3. North Slope Work History

Sefel Geophysical Ltd. has operated successfully for the past two winter seasons on Alaska's North slope, both on land and on ice, for major oil companies. (References available.) Agencies that approved these programs were the BLM; State of Alaska and the OCS who have records of our compliance.

Key personnel proposed for this project consist of ten people who have a combined total of forty plus years of Arctic experience in geophysical exploration. These people are well known and named below.

The familiarity and concern of our corporation along with its employees with the environmental impact of oil and gas exploration and the operating methods, makes us particularly confident in our ability to conduct a technically and environmentally successful survey.

4. Method of Exploration, Personnel, Equipment and Communications

A. Method

(i) Winter Geophysical Vibroseis* Survey

(ii) Winter Gravity Survey

B. Personnel

1—Party Manager
1—Administrator
1—Medic
1—Observer
1—Assistant Observer
1—Gravity Meter Operator
2—Surveyors
4—Survey Helpers
4—Cable Unit Drivers
8—Line Helpers
1—Vibrator Technician
4—Vibrator Operators
1—Camp Mechanic
1—Cat Foreman
6—Cat Operators
1—Cook
1—Second Cook
1—Camp Attendant

Please note that in addition to the personnel listed above, Sefel Geophysical will support the operations with:

Expeditors located in Deadhorse and Anchorage. One Geophysical Supervisor, in Anchorage or on crew. One Field Service Technician in Anchorage or on crew. Additional supervisory and technical staff will be available from Sefel's Denver office.

Key personnel include but are not limited to:

Larry Watt—Manager, twenty eight years experience, twelve years Arctic.

Larry Parker—Supervisor, twenty five years experience, seven years Arctic.

Barney Stone—Supervisor, eighteen years experience, seven years Arctic.

Ted Herd—Party Manager, Twelve years experience, twelve years Arctic.

Keith Elder—Field Service Technician, twelve years experience, five years Arctic.

Chilton Alexander—Party Manager/Observer, ten years experience two years Arctic.

Arkie Trevino—Observer, six years experience, two years Arctic.

Terry Thomas—Survey Supervisor, ten years experience, two years Arctic.

Bob Bergin—Vibrator Technician, eight years experience, eight years Arctic.

C. Equipment

Instrumentation

96 trace—DFS V with Field TIMAP or MDS–10 recording system.

Pelton Model 5 Vibrator Electronic with non linear capability.

Vibrators: Mertz Model 12, track mounted, 30,000 lbs. peak force.

Vehicles

1—Chieftain track recording unit.
1—CF 110 track vibrator tender.
4—CD 110 track cable units.
1—CF 110 track P.M. unit.
1—CF 110 track camp unit.
2—CFD 110 track survey units.
1—Bombardier snowmobile gravity unit.
2—Bombardier snowmobile personnel units.

Cables: 32 sections of multi takeout @ 110 feet, 12 takeouts per cable.

Geophones: 420 strings, 10 Hz., 12 per string, 2 strings per group.

* Trademark Conoco

Camp

Basic Crew: 3 strings of 4 units each, sleigh mounted, diesel electric. 40 man capacity.

Cat Camp: 1 string of 4 units, sleigh mounted, diesel electric. 10 man capacity.

Fuel Haul: 1 unit, sleigh mounted, diesel electric, 4 man capacity.

Caterpillars: 6—D7 Caterpillars.

Aircraft: Chartered as required.

Fuel Storage: 20,000 gallon capacity, sleigh mounted, double walled tanks.

Survey: Electronic survey equipment.

Gravity: 2 gravity meters.

Other: All electronic and vehicle spares, tools, welders, heaters, traps and other equipment required.

Communications

Vehicles: All vehicles equipped with field radios.

Camps: Each independent camp will be equipped with SSB radios for communications with Deadhorse and each other and with air to ground radios for communications with aircraft.

Safety: All fire extinguishers, emergency food supplies in vehicles and necessary first aid supplies, qualified first aid medic on crew with authority to enforce strict and efficient safety procedures.

Waste Disposal: Incinerator of approved design and capability.

5. Schedule of Activities

Upon receipt of an exploration permit Sefel Geophysical proposes the following sequence of events.

Year I—January–April, 1984

Sefel Geophysical will mobilize the crew described herein, located at Deadhorse, Alaska to conduct approximately 517 line miles of seismic and gravity operations more fully described below. This data will be processed in Sefel's Denver, Colorado processing center, interpreted and forwarded to the U.S. Fish and Wildlife Service and made available to industry at market prices. The field crew will be returned to Deadhorse for the summer. Processing and interpretation is expected to be completed in the second quarter of 1984.

Year II—January–April, 1985

Sefel Geophysical will make available the equipment, personnel and technology described to conduct further detail work of up to 500 miles of seismic line as required and as determined from the results in Year I. This data will again be forwarded to the U.S. Fish and Wildlife Service as well as being made available to interested parties from the oil and gas industry.

Year III—January–April, 1986

Sefel Geophysical will again conduct an additional program of up to 500 miles of seismic line as required and determined from operations in Years I and II.

All Years—Reports

At the end of each operational season or no later than July 1st of 1984, 1985 and 1986 Sefel Geophysical will submit to the U.S. Fish and Wildlife Service a report outlining and containing the following:

(i) Description and daily logistical report of all field operations for seismic and gravity data acquisition.

(ii) Description and explanation of seismic data and gravity data processing techniques used and applied along with interpreted results in compliance with industry standards or as may be requested by the U.S. Fish and Wildlife Service.

(iii) A comprehensive section detailing daily wildlife sightings, habits, weather logs and general effect of operations or terrain. In this regard Sefel would welcome up to four representatives to be determined by the U.S. Fish and Wildlife Service to have a permanent presence on the crew.

(iv) All raw field data including statistical reports on magnetic tape and hard copy.

(v) All final stacked processed sections on tape and hard copy.

(iv) All contour maps outlining interpreted seismic and gravity results in hard copy.

(vii) Recommended courses of action for future activity.

6. Environmental Impact and Precautions Proposed

As outlined in section 5 above, Sefel Geophysical welcomes strict supervision of its operations and their impact on fish, wildlife and terrain and will agree to any changes in procedures recommended.

Sefel strongly recommends the use of tracked equipment as opposed to wheels in that our experience most definitely has indicated that the use of wheels often necessitates the use of dozers to plow line. Invariably no matter how careful our operators, tundra does get damaged when snowplowing. Tracked vehicles eliminate all need for snowplowing. Further as outlined herein we recommende and intend to use Vibroseis* as a source method thus eliminating all need for explosives and shot holes. Sefel will enforce strict adherence by its crew to U.S. Fish and Wildlife Service regulations and publications in regards to the Refuge's wildlife, its habitat, the environment subsistence uses and needs and cultural resources. Sefel plans to place on the crew in addition to regular personnel an environmental monitor to insure compliance. This person will be approved by the U.S. Fish and Wildlife Service.

Fuel will be stored in tanks on sleighs and will be transported in the same manner. Tanks will be double walled to insure against leakage and all refueling will be done in approved locations. Should accidental spillage occur each fuel train will be equipped with the following equipment and materials.

Transfer Pumps, Shovels, Hoes, Absorbent Materials, and Empty Containers.

A. Minor Spills

All minor spills will be cleaned up with absorbent materials which then will be burned. Any residue remaining will be disposed of at approved disposal sites.

B. Major Spills

In the unlikely event of a major spill our contingency plan will be as follows:

(i) A snow berm will be built around area with caterpillars for containment.

(ii) Fuel will be pumped into empty containers and disposed of at approved sites, or filtered and used, depending on the severity of contamination.

(iii) Remaining fuel will be treated as in "A" above.

(iv) Proper authorities will be advised immediately for notification and inspection of cleanup.

All refuse and human waste will be incinerated to the extent possible and remnants removed to approved disposal sites. Grey water will be filtered, disinfected and discharged as required.

All survey markers and other markings will be removed at the end of each operating season (July 1st of each year) and will be relocated in the subsequent years where necessary.

7. Proposed Program and Parameters

A. Proposed Program

Year I—1984, please see Attachment "A" and the enclosed map 1:250,000.

B. Access Routes

Please see Attachment "B".

C. Field Parameters

(i) Seismic: 48 Fold Vibroseis,* 96 Trace, 220' Group Interval, 220' Vibrator Point Interval, and 24 Geophones per Group.

Sweep lengths, sweep frequencies and number of sweeps per vibrator point will be determined after initial and subsequent field tests and will be continually monitored and changed if data quality indicates. We expect sweep lengths in the range of 6 to 12 seconds, 4 second records, 14–96 Hz. frequencies with 8–12 sweeps per pattern.

(ii) Gravity:

Field reading every 880 feet, along seismic lines traversed, common with every fourth vibrator point.

Continuous base loops to be carried and tied to acceptable industry standards.

One check station every two miles or as required.

8. General Information

Sefel Geophysical hereby agrees to abide by and comply with all regulations as published by the U.S. Fish and Wildlife Service, February 1983 as well as subsequent revisions. It is our intent as well to our advantage to conduct this survey in as professional and exemplary a manner as possible.

Detailed operating plans will be submitted as required by regulation further specifying and defining all aspects of this operations.

Sefel Geophysical expects that in all probability other proposals will outline program in the same area as described herein. In this regrard we are most willing to alter the location and approach to conducting this program as per suggestions from the U.S. Fish and Wildlife Service.

Enclosed is the initial required fee of $150.00 per page of this proposal.

Respectfully submitted,

*Trademark Conoco.

Sefel Geophysical Ltd.

L. Watt,

Vice President.

Attachment A. Map depicting proposed line locations, Sefel Geophysical LTD.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384).

WESTERN GEOPHYSICAL COMPANY OF AMERICA, PLAN FOR GEOPHYSICAL EXPLORATION

Western Geophysical Co. of America, Exploration Plan for Proposed Oil and Gas Exploration Within the Coastal Plain of the Arctic National Wildlife Refuge, Alaska, May, 1983

Western Geophysical Company of America (Western) hereby submits this Exploration Plan for Proposed Oil and Gas Exploration within the Coastal Plain of the Arctic National Wildlife refuge (ANWR) in Alaska. This plan is submitted in accordance with the requirements of 43 CFR 37.1 et seq. and sets forth the information required by § 37.21 of the Regulations.

I. Introduction

Section 1002 of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. 3142, requires the exploration of the ANWR with the objective of acquiring the best attainable data with which to evaluate the costs and benefits of developing the coastal plain's oil and gas reserves. In recognition of the fact that the area comprises a national wildlife refuge and contains unique natural attributes together with the potential for vast oil and gas reserves, ANILCA further requires that the necessary exploration be accomplished in a manner that avoids significant adverse effects on the environment and its fish and wildlife.

As set forth below, Western is eminently qualified to meet both of these objectives. Today Western is the acknowledged leader in the geophysical exploration industry. Since 1957, Western has been involved continuously (though seasonally) in geophysical exploration in Alaska and in other Arctic regions. We are thoroughly familiar with the area's terrain and with the technicalities and operational difficulties associated with work in the Arctic. In the process of acquiring this experience, Western has had numerous occasions to structure its exploration activities to conform with the environmental requirements mandated by the State of Alaska, local municipalities and Native groups, as well as by the Federal Government. Because the avoidance of significant adverse effects on the area's fish and wildlife and their habitat depends primarily on the permittee's working knowledge of those realities, Western is a highly qualified candidate for exploration of the ANWR within the environmental guidelines mandated by ANILCA and set forth in the Regulations. Equally important, data recorded and processed by Western is recognized by the Alaskan oil industry as being the highest quality to be obtained. Top quality data will be of major significance in aiding the Secretary to make his best evaluation of the area for his ultimate report to Congress.

In the half century that Western has been in existence, it has grown until now it is the largest geophysical company in the world. Such growth would not be possible without the confidence and support of satisfied clients. Western holds patents on over 150 items directly related to seismic exploration and has made sizeable contributions to the development of techniques that have brought the exploration for hydrocarbons to the advanced state it enjoys today.

Western's processing and interpretation of data has constantly kept pace with the tempo set by its field acquisition methods. This combination of scientific research/development and practical know-how should qualify Western for the important mission of fulfilling the provisions of § 1002 of ANILCA.

II. Responsible Personnel

Western's supervisory personnel who would be directly responsible for the ANWR project include Herman Semeliss, Area Manager; Supervisors Roy I. Morris and Ron Bakke; Shop Supervisor Oliver Krein; Survey Supervisor William Sands; and Administrative Supervisor John Bowers. The total tenure with Western of the key personnel now stationed in Alaska is over 130 years. More than 100 years of this time has been spent in the Arctic or sub-Arctic.

Mr. Semeliss will be in complete charge of all phases of the operation and will be assisted at the field level by Supervisors Morris and Bakke.

Mr. Krein will supervise all support functions related to mechanical equipment and will develop specialized gear as required to complete the project. Mr. Sands will oversee all phases of survey work, including layout, control, and map making, using the most modern, state-of-the-art computerized equipment. Mr. Bowers will act as liaison between all governmental agencies and private organizations.

In Washington, D.C., Western is represented by the law firm, Cotten, Day & Doyle.

III. Plan Requirements

This Plan sets forth the information specifically required by § 37.21 of the Regulations and in general describes the guidelines that Western will observe in order to discharge its obligations under the letter and spirit of 43 CFR 37.1 et seq. Upon acceptance of this Plan and subsequent grant of a Special Use Permit pursuant to § 37.23, a detailed Plan of Operation will be submitted in accordance with § 37.24.

Period of Plan

This Plan anticipates the active involvement of Western during all phases of the ANWR exploration process, through the 1984–85 and 1985–86 winter seasons, and, in the event of a Congressional extension of the time period within which to accomplish such exploration, we could possibly have additional program to add to our basic grid.

The seismic program we are submitting for consideration consists of 1,500 miles of line, in a 4 mile by 4 mile grid, with the orientation assuming the alignment that has proved optimal along the Beaufort Sea from Harrison Bay eastward. Departures, adjustments, and alterations from this basic grid pattern will be made as required to avoid significant impacts to the ecological, cultural, and archaeological resources of the area as further described in this plan. Based upon our estimate of the allowable working season, we compute that it would take two (2) crews working each season for two (2) seasons to complete the program. Since the opportunity to explore ANWR is limited, it is our opinion that data quality should not be sacrificed in order to achieve greater (faster) production. Hence, our program is based on acquiring 48-fold data. If during the survey, the processed grid orientation or a different multiplicity (fold) are required for parts of the area to optimize the geophysical data obtained, we are prepared to make the needed changes after we have received approval from all concerned authorities.

Therefore, our application consists of requesting permission to operate two (2) seismic crews for the winter season of 1983–84 and to duplicate this effort in the 1984–85 season.

IV. Response to Items in Regulations

The following information is intended to respond directly to specific items enumerated in the Regulations as § 37.21(d)(1) through (14).

(1) Permittee

The name of the applicant is Western Geophysical Company of America, a wholly owned subsidiary of Litton Industries. Our headquarters are at 10,001 Richmond Avenue, Houston, Texas 77042 (713) 789–9600. Western is organized and exists under the laws of the State of Delaware and was incorporated under its present name on May 23, 1955. Western is duly licensed and authorized to carry on business in the State of Alaska.

Western's principal officers include Mr. Howard Dingman (President) and Mr. Neal P. Cramer (Excutive Vice President and Manager of Operations), both of whom are located at Western's Houston headquarters and both of whom are familiar with operations in Alaska and the terms of this Plan. As indicated previously, Western's officer in charge of all Alaska operatons is Mr. Herman A. Semeliss, Area Manager for Alask, located in Western's Anchorage office at 351 East International Airport Road, Anchorage, Alaska 99502, (907) 563–3511.

In direct charge of Alaska field operations are Supervisors Roy I. Morris and Ron Bakke, domiciled at Western's Anachorage office or at Western's base camp in Deadhorse, Alaska, (907) 659–2509.

(2) Participants

Western's application is based on our being granted a permit to conduct a speculative survey. The speculative survey is the most common method in use by industry today to acquire quality seismic data which is then sold to a broad spectrum of purchasers thereby reducing the cost of the individual buyer to a point where only a

group with a very large number of participants can compete economically.

In the past decade, Western alone has conducted over 500,000 miles of speculative survey—over 100,000 miles have been acquired in Alaska alone. It is our evaluation, that, industry-wide, speculative coverage outpaces coverage acquired by group participation by a factor of about 10 to 1. Thus, it is quite apparent that speculative surveys provide a universally accepted source for low-cost seismic data.

Using the speculative approach, Western would undertake the proposed exploration program using our own risk capital in the expectation that our program and the qulity of our results would be such that the oil companies and other persons who would have interest in any lease sale would ultimately purchase our data.

There are several advantages to this approach:

(a) Companies do not have a commit fiscal resources in advance. They pay only upon delivery of data.

(b) Companies are not required to purchase all of our data. They are permitted to inspect the data before purchase and select only the data they wish to buy.

(c) A published price list will be available covering the price per mile for various quantities of data purchased.

(d) This price list is fixed with no penalty for late-comers. This factor, coupled with no requirements for up-front money, should encourage broader participation by industry and any other persons interested.

(e) The identification of Western as a single permittee makes us exclusively responsible for compliance with applicable environmental safeguards and eases the Government's role in monitoring the permittee's discharge of its regulatory responsibilities. This results from the fact that Western, the permittee, is the actual operator of the Plan rather than the supervisor of a contractor with derivative regulatory responsibilities. When the Regional Director or his authorized delegate indicates a need for immediate action or for the immediate cessation of activities to accommodate an unforeseen environmental contingency, Western can comply instantaneously with no need to induce compliances by others.

(f) With regard to the quality of data, Western commits itself to the acquisition of the highest quality data, free from the constraint of budgetary limitations resulting from the specific sums committed in advance by group paricipants. In the event of unforeseen obstacles that may arise from weather conditions, environmental contingencies or other hardships, Western will not be forced to halt its data acquisition if those budgetary resources have been exhausted. Instead, Western will continue its data acquisition until the program is completed.

We are confident that allowing Western to conduct a speculative survey as outlined will accomplish the mandated goals of providing quality data for the Secretary's ultimate analysis and, concurrently, will best protect the environment by placing the onous for compliance on a single reputalbe company. In addition, industry will be well served by having a good source of quality data at a competitive price.

(3) Technical and Financial Ability

Western Geophysical Company has been active in Arctic and sub-Arctic seismic exploration for twenty-six years. During this time, the company has amassed an abundance of technical knowledge, expertise, and experience in the unique features of the Artic environment.

In the geophysical arena, our record of technical capability and operational competence is well established and can easily be verified. With regard to our ability to operate effectively while still observing close permit and environmental constraints, we cite some recent examples. In April, 1981, Western conducted a program in the vicinity of Itkillik Lake in the Gates of the Arctic Natonal Park and Preserve. Western was advised that there were 49 archaeological sites in an area of less than 12 square miles and that all of the sites were vulnerable to damage from exploration activities. Because of the sensitive nature of the situation, a National Park Service Archaeologist was flown to the crew site and he, along with Western's Party Manager, spotted the sites on the ground. As a result of this coordination there was absolutely no damage reported by the Park Service after a check trip when the area was free of snow. During the course of his visit, the archaeologist was ble to instruct Western personnel as to what to look for in an area of suspected archaeological importance.

Western also obtained permits in the area at the west end of Harrison Bay and extending inland onto the National Petroleum Reserve-Alaska (NPR–A). For this particular prospect, permits were obtained from the State of Alaska, Department of Natural Resources (MLUP/NS 80–171), and the Bureau of Land Management (BLM) (TUP F72685) and the USDI, Geological Survey (OCS Permit No. 81–01). The portion of the prospect on NPR–A contained the withdrawal site of the Village of Nuiqsut Village Corporation, seven native allotments and 15 Cultural Resource Sites as indicated by the United States Bureau of Land Management (BLM). A small segment of one line crossed Nuiqsut lands, and a fee was paid to the Village upon completion of the survey. BLM maintained close surveillance during the progress of this program and found no objectionable conditions. Exhibits "B" and "C" hereto are the Permit Attachments indicating the Native withdrawals and Cultural Sites.

Regarding our financial capability to carry out the planned survey, we confirm that Western is the largest geophysical company in the world, and we are maintaining a strong balance sheet, even in today's depressed times. We are a subsidiary of Litton Industries, a 5-billion dollar company. Should the need arise, we can certainly provide fiscal proof of our financial ability to undertake this mission. In any event, the proposed program will represent less than one percent of our company-wide activity, thus we shall have adequate reserve capacity to cope with any foreseeable contingency.

In Alaska at the present time Western has equipment (all two years old or less) to operate six seismic crews. In addition, we have a cadre of experienced personnel to man these crews and provide excellent supervision of the activities. We own a large, well equipped facility in Deadhorse which is backed up by excellent logistic and technical support from our Alaskan Headquarters in Anchorage and our corporate facilities in Houston.

The Deadhorse base camp represents a unique attribute to the ANWR exploration program because the camp is equipped with a complete data processing center, including the recent addition of a Litton Resources Systems' LRS–3200 Seismic Data Processing System, that enables data from the field to be assimilated and processed within a matter of hours. The camp is capable of housing and feeding up to 40 people and has served as an excellant support facility for Western's operations in Alaska since 1974. There is a complete radio maintenance shop, warehouse with complete replacement parts, and an instrument repair facility manned 24 hours a day by experienced technicians. SSB radio, telephone and FM communications are maintained at all times to support the field crews.

(4) Geographic Area of Proposed Activities

The attached map (Exhibit "A") at 1:250,000 scale indicates the proposed program to be conducted under the provisions of the Special Use Permit. It consists of 1500 miles of seismic line in a 4 mile by 4 mile grid adjusted to any required modifications.

Basic Supply Routes

Basic supply routes within the Refuge will follow existing trail, established vibrator lines or traditional routes when safe and practical.

Routes to and from supply points outside the Refuge and routes to the actual survey area will be over traditional winter trails or ice roads, as available.

Principal Rule Coches

The primary source of fuel will be at a staging area outside of the Refuge and transport to the crew sites will be performed by rubber-tired buggies using existing trails.

Critical Areas

Critical areas have been tentatively identified by the FWS on 1:250,000 maps. However, Western will consult with the FWS, local residents, and our private consultant prior to activity. Western's efforts in this regard are described more fully in the section below addressing environmental impacts and the measures that will result in the prevention of significant adverse effects.

(5) General Description of Exploratory Activities

Western will conduct the survey using the Vibroseis technique. Crews will be placed in the field and coordinated to utilize the maximum amount of logistic support without undue traffic. The program will start at a point near the northwest corner of the Refuge and will work to the southeast along vibrator

shot lines. At the present time it is anticipated that vibrator energy will be introduced into the ground at 24 points within a given mile. The availability of the processing center located at the Deadhorse base camp referred to previously provides the ability to analyze the resulting data immediately and permits the readjustment of parameters. This enables Western to avoid any unnecessary duplication of seismic work that might otherwise result if the Deadhorse data processing facility were not available.

Western is proposing that no explosives will be used in the carrying out of this plan.

(6) Unnecessary Duplication

We recognize that FWS has the task of preventing over-laid effort by different permittees. However, apart from this, there are other potentials for duplication of effort. One of these would involve re-shooting caused by recording of unaccepatable data. With our capability for immediate instrument checks and processing in our Deadhorse Facility, any re-shoot duplication should certainly be minimized. As explained on page 21 and referenced on page 3, our unique processing computer capability enables Western to make any necessary technical adjustments within 24 hours of original data acquisition. This extremely quick turnaround will enable Western to avoid the necessity of reshooting and hence duplicating unnecessarily any substantial portion of its survey if unexpected geological or geophysical situations are encountered that mandate a change in exploration techniques or routing.

Another possibility exists in having a line (lines) laid out and then discovering that it encroaches on an environmental feature. To minimize this risk Western has retained the Alaska Biological Research Group (ABR) a member of which will be available to accompany Western's crews. ABR is a recognized leader in expertise concerning the area's enviroinmental features.

(7) Schedule

Western Geophysical Company will begin work on the prospect in the 1983–84 winter season as soon as permits are issued and weather conditions allow movement with ground contact vehicles. No attempt will be made to move any equipment over ground where there is not adequate protective cover within the meaning of these Regulations. These conditions will be basis for request for a clearance from the FWS, and moves will not be made until written notification is received from the Regional Director. Past experience has shown that these conditions usually occur in the time period between December 15 and January 1.

Western will perform an aerial reconnaissance of the area, using helicopters to check on stream crossings and other possible conditions, and then will send the surveyors to find the most suitable trail for the move to the prospect area. Maintaining constant radio contact, the main body of the crew wilil depart the staging area following the trail established by surveyors. Data acquisition will begin shortly after the arrival on site. The work plan will be scheduled so as to place all equipment in position near the staging area when breakup is imminent. This usually occurs between May 1 and May 15. In any case, the crews will plan their moves so as to be in position to clear the ANWR in minimum time after written notification by the Regional Director.

(8) Communication Techniques

Western's communication network is the result of many years of experience in the Arctic. It starts at Anchorage with a telephone link to the Deadhorse Base Camp and extends to the field crews via both single side band radio and FM radio. Each field crew has both types of radio equipment in camp at all times and all Western vehicles have some form of radio communications to allow constant contact with other vehicles and the base camp and/or the party headquarters. It is planned to establish direct radio links with all FWS field personnel to provide a constant line of communications with the Service for advice and progress reports.

The Deadhorse Base Camp has a completely equipped radio maintenance shop with a fully qualified technician available to service all types of radio gear.

Because of the crowded conditions on some FM channels it has become necessary to coordinate carefully the use of the band with other users. The Regional Director should be prepared to establish priorities for the use of the FM band in the event that multiple permits are issued to operate in contiguous areas.

(9) Equipment, Support Facilities, Methods of Access and Personnel

Western Geophysical Company will field two crews each consisting of 40 men. The camps for these men are portable, completely self contained and meet all existing standards for housing pursuant to state statutory and regulatory requirements. Depending on the terrain, the camps will be sled-mounted or tracked. The sled types are used on the flat areas and the tracked ones are used in rougher terrain to avoid damage to the vegetation mat and the stream banks. The camps are moved by towing with the Cat tractor and in almost all cases the move route is along an existing vibrator line. Gray water is filtered and sterilized before disposal and all solid waste is incinerated with residue, if any, backhauled to an approved disposal site. Personnel, supplies, and expendables will be delivered to camp sites either by aircraft or a Delta III all-terrain vehicle. If aircraft is used, it would maintain a minimum altitude of 1500' except during landing and takeoff. Vibrators can be either track or wheel mounted, depending on the terrain.

Fuel will be supplied to the crews by overland vehicles using program lines wherever possible to avoid duplicate tracks. Storage of fuel on the crew will be in metal tanks with all personnel involved in the transfer or storage of any fuel or hazardous materials thoroughly trained in the use of clean up procedures.

Travel to and from the program lines will be via the same routes, if possible, and operators will be instructed not to deviate from marked trails unless there is danger to human life.

Examples of all camp and vehicular equipment are available for immediate inspection at the Anchorage Headquarters of Western Geophysical Company located at 351 E. International Airport Road.

The Anchorage installation is also the base for logistic, mechanical, technical, and personnel support for all North Slope activities. A warehouse facility and a five-bay shop furnish all the needed supplies and repair facilities so as to avoid any down time. The base camp at Deadhorse maintains a complete inventory of replacement parts up to and including engine assemblies for all Western equipment. There is a complete radio and instrument repair and maintenance shop staffed by qualified technicians at the base camp and the technicians travel to remote camp sites for periodic testing to prevent breakdowns and to maintain quality standards in the industry.

(10) Hazardous Substance Control and Contingency Plan

The Western Geophysical Oil and Hazardous Substances Contingency Plan is appended as Exhibit "D" and is the basis for intensive training before and western personnel are assigned to units working on or near the Refuge.

In addition to the Plan, Western employs the services of specialists in oil control and clean up and constantly employs their expertise to further the scope of the Company's operators' knowledge. If, during the course of the exploration, new methods or standards are evolved, Western will immediately adopt them for field use.

(11) and (12) Anticipated Environmental Impacts and Procedures for Monitoring Same

The environmental impacts from the activities proposed in the Plan will be minimized due to the measures Western will undertake to avoid any adverse effects. As already indicated, Western has retained the services of the Alaska Biological (ABR) group to assist in identifying specific locations in advance that may be vulnerable to particular activities. This group consists of James Curatolo, Robert Ritchie, Martha Robus, and Steven Murphy, all of whom are experienced biologists with expertise in the Alaskan environment and are well known in the Alaskan environmental community. In addition, Western will cooperate fully with all agencies and private groups in the matter of environmental impacts. In this regard, it is anticipated that FWS will have monitors on site regularly. Any concerns expressed by the monitors will be accommodated by necessary and appropriate adjustment in Western's methods or schedule.

Copies of all Regulations special stipulations and the Special Use Permit will be posted in the following locations at each camp: in the Party Manager's Office: Mess Hall; Recrecation Room; and each individual sleeper unit. Each employee will be required to certify that he has read and understands the terms of each item listed above. This certificate will be retained in the employee's file and will be available for inspection by the Regional Director or his authorized representative. Employees will be encouraged to report any sightings of potential environmental damage, no matter what the cause.

The primary environmental impact of Western's proposed activities will result from the movement of Western's men and equipment over the terrain. However, because there will be an adequate protective cover as determined by the Regional Director and communicated to Western in writing, it is anticipated that Western's activities will result in little or no damage to the terrain, and certainly no significant adverse effect within the meaning of the Regulations.

The trail left by the movement of men and equipment in most cases is clearly visible for the duration of the winter season. Further, we believe that that upon certain infrequent occasions, the ground or vegetation may be reached by the plowing of snow. However, Western can and does hereby state on the basis of its own experience (which is in keeping with the common knowledge of those persons familar with these operations) that any effects of such a nature are reversible and will not be visible following the passage of a new season.

If, in the opinion of the Regional Director, any portion of the ground, vegetation, ecosystem or any aspect of the environment is affected in an adverse manner by Western's activities, Western hereby commits to expend such of its own resources as may be necessary and reasonable to ameliorate any such effects.

In addition to relying on the FWS Regional Archaeologist and appropriate local and Native representatives, Western will utilize the services of ABR in addition to its own survey team to identify areas of archaeological and cultural importance. Any such areas, in addition to all standing structures or substantial above-ground surface remains, will be avoided and will remain untouched and undisturbed.

As indicated at the pre-application conference on April 26 and 27, 1983, the location of most of all tent rings has now been identified. It is therefore possible to proceed with no significant possibility of disturbance to such structures.

Under the supervision of the FWS Regional Archaeologist and with the assistance of ABR, the Alaska State Historic Preservation Officer and the Advisory Council on Historic Preservation, all standing structures and substantial above-ground surface remains will be clearly identified. These sites will be marked in a clearly visible fashion that will prevent any possibility of disturbance. These and any other known archaeological, cultural, geological or environmentally sensitive areas will be thoroughly discussed before proceeding. Photographs of such areas will be available for each crew member for the purpose of assisting in the positive identification. Markers placed in the field to signify such areas will be removed by Western upon completion of operations, or at such other time as may be directed by the FWS.

Western will immediately report to the FWS any cultural resource site or material discovered during the course of its work and will avoid any further contact at such sites until they can be evaluated by the FWS.

In respect to the effect of Western's activities on fish and wildlife in the area, Western submits that the ability of the permittee to avoid any significant adverse effect on such fish and wildlife is primarily related to the permittee's working familiarity in the area. During the 26 years that Western has been operating in the Arctic and sub-Arctic environment (Alaska particularly), the Company has been at the forefront of efforts to study the effect of seismic activity on various forms of wildlife.

Following is a delineation of wildlife known by Western to occur in the subject area together with a description of the seasonal occurrence and other characteristics of such wildlife based on Western's studies and observations. Western, of course, will defer to the Regional Director or his authorized representative in the event of any uncertainty concerning the possibility of significant adverse effect to any wildlife. In general, Western's assessment of the impact, if any, of its activities on the area's wildlife is based on the seasonal occurrence of particular species, as indicated in the Yearly Cycle graph contained in the Initial Baseline Study. That graph is set out as Exhibit "E" hereto.

Fish

Twenty-nine species of fish are known to inbabit Arctic marine, estuarine and fresh-water environments on or adjacent to the proposed program area. Arctic char, grayling, cisco and whitefish seem to be the most important for subsistence use. All major streams are fished during the open water season. Lakes are uncommon in the proposed program area, with most of them being thaw lakes located along the coast. The coastal lakes less than 2 meters in depth usually freeze to the bottom or offer poor winter fish habitat because of the concentration of dissolved solids and low dissolved-oxygen levels. Coastal lakes may also be brackish due to saltwater intrusion of windblown spray from the ocean.

Several drainage areas originate in or transect the proposed program area. These streams range from small tundra streams with intermittent flow to the Canning River with an estimated 50-year flood discharge of 13,500 cubic feet per second (Childers and other 1977). Most of the water supply comes from precipitation, surface permafrost-thaw processes, deep lake drain, and spring or ground water. Peak flows occur with snowmelt in early summer or with rainfall during later summer of early fall. By October, must rivers cease to exhibit any measurable flow and as shallow areas freeze to the bottom, overwintering fish become islocated in deeper pools or spring areas. The ice accumulation usually reaches maximum thickness between late March and early May.

To mitigate any damage to overwintering sites, Western Geophysical Company will avoid introducing any energy into the ground within 660 feet of any stream or river that has been designated as a possible overwintering site. No water will be drawn from any lake or stream designated as having a fish population. In addition, all seismic lines will be oriented so as to cross the water courses at as sharp an angle as possible and not to run parallel to the stream or river. Crossing of rivers will be completed in one trail, if safety permits, with no alteration to existing river banks. Any snow used to create snow bridges will be removed upon completion of the line. Crossings will be oriented so as to avoid damage to willow stands at river banks.

Strict prohibitions regarding fishing or hunting during the proposed seismic exploration will be enforced with instant dismissal being the result of any violation by Western Geophysical Company employees.

Marine Mammals

In addition to the Polar Bear, the Bowhead and the Beluga whales utilize the waters of the Beaufort Sea along with ringed, bearded and spotted seals. All of these species inhabit the waters to the north of the ANWR, but there is some evidence that ringed seals may use the lagoon areas within the Refuge during the summer and fall. While this is outside the time frame of the proposed seismic activity, it is mentioned as a point of interest.

Western Geophysical Company has been active in the study of the effect of seismic activity on the ringed seal population for the past two years and is currently doing contractual work for the National Marine Fisheries Service in the vicinity of Reindeer Island in which ringed seal habitat and pupping is correlated with seismic activity using vibrator energy sources.

No impact on the whale population is anticipated because of the time frame. Bowhead whale migration to the east takes place in early spring, following leads in the ice. The summer feeding grounds extend from the Canadian waters to just east of the village of Kaktovik. This range is occupied from mid-May through September. Migration out of this area may begin as early as mid-August and is nearly completed by mid-October.

Polar Bears

Pregnant females form snow dens in October and November and give birth in December and January. Females and cubs emerge from dens in late March and April. Factors necessary for continued successful denning in an area include the ice movements which allow the bears to reach the area in the fall; occurrence of food (seals) in the area; topography, snowfall, wind and ambient temperatures, all of which provide for snowdrifts that do not thaw during the denning period. Dens consist of one or more chambers, connecting tunnels and exit-entrance tunnels. Alaska dens are found inland as far as 50 km from the coast, along the coast, on offshore islands, on shorefast ice and on drifting sea ice. In April 1957, a two-man team was hired from the village of Kaktovik to search the area in the Arctic National Wildlife Refuge between the Hulahula and Katakturuk Rivers and the Jago and Kongakut Rivers. No polar bear dens were found.

The number of bears coming to a specific coastal area may vary from year to year depending on the type of ice and the time it forms. Bears are more abundant along the coast in years when winds bring heavy ice to the coast early in the winter than in years when newly frozen ice drifts in or new ice is frozen in place for a considerable distance from shore.

The Beaufort Sea outer continental shelf and the coastal plain of Alaska has high potential for oil and gas. Extraction will likely be a major goal on State lands, on native lands, and may occur on the coastal plain on ANWR. A number of actions can be taken to protect bears and their habitat. For such protection, the ecosystem approach over large areas should be followed rather than a species by species approach in restricted zones. This will require the cooperation of federal, state and local governments with environmental groups, oil and gas lease holders and seismic exploration crews to create land and offshore management regulations. Specific development proposals, including plans to remove snow from drift areas for trails or the construction of airstrips, will be reviewed by the Regional Director to minimize negative impact on denning areas. "No Activity" zones will be created, by order of the Regional Director, around areas identified as polar bear dens as identified by the U.S. Fish & Wildlife Service.

Camps maintained to support seismic activities will be established inland rather than on or near routes bears normally travel along the coast. Garbage will be incinerated daily and state and federal regulations regarding the feeding of wild animals will be strictly enforced. All Western personnel will be advised that any violation of any wildlife laws or regulations, state or federal, will be sufficient cause for immediate dismissal. All fuel will be stored in suitable containers surrounded by dike areas lined with impermeable material.

Western Geophysical Company proposes that studies be initiated to delineate areas of critical polar bear habitat, especially denning areas. The relative importance of coastal areas as opposed to sea ice for denning is to be determined. Effects of disturbance on individual bears, particularly denning females will be quantified. This will require observations of disturbance effects, either artificial or actual, during the pre-denning, denning and post-denning periods. It is proposed that these studies be conducted, by personnel designated by the Regional Director, during the time actual seismic surveys are being conducted by Western Geophysical Company. By doing this, the FWS will enjoy the full logistic support offered by Western and can conduct the research under closely controlled conditions. Similar studies were conducted by Kelley and Burns in the winter season of 1981–82 relative to the effect of seismic activity on the ringed seal population. The data acquired in this proposed study will prove extremely useful to the U.S. Fish & Wildlife Service in future planning and habitat management and will afford Western Geophysical Company personnel the opportunity to become proficient in the recognition of critical signs in the Arctic Wildlife Refuge or any other sector of the Arctic.

Threatened and Endangered Species

Endangered species encountered in the proposed exploration area include the Bowhead and Gray whales and the Arctic peregrine falcon. The whales have been discussed in the paragraphs regarding marine mammals.

Peregrine falcons nesting habitat is not abundant north of the Brooks Range in ANWR. However, a limited number of peregrines have been reported nesting there in past years. The most recent survey of raptor habitat in ANWR found no nesting peregrines. This survey was conducted in August, however, and may have missed peregrines which attempted to nest but were unsuccessful. Among the eyries formerly or potentially occupied by peregrines within ANWR, only two are within the Arctic Coastal Plain study area—on bluffs or cliffs along the Sadlerochit and Jago Rivers.

Peregrine falcons are highly migratory and spend a relatively short period in Alaska. Arctic peregrines generally arrive at their North Slope eyries between April 21 and May 7; egg laying and incubation occur between May 15 and July 21; the young leave the nest during August.

There appears to be a significant movement of arctic peregrine falcons through the study area on the Arctic Coastal Plain from late August to mid-September. The number and timing of these observations suggest that at least some of the peregrines are following a coastal migration route.

The Office of Endangered Species of the FWS has provided a no jeopardy biological opinion, dated July 28, 1982 (see page C-4, Appendix C FEIS).

Birds

Review of Bird Studies: There are many bird populations within the proposed study area. Below is a summary of the important populations and species of birds:

Populations and Species

Seaducks—Oldsquaw (Clangula hyemalis), Eiders (Somateria spp., Polysticta stelleri), Scoters (Mellanita spp.), Merganser (Mergus serrator)
Dabbling Ducks—Pintail (Anas acuta)
Geese—Brant (Branta bernicla), Snow goose (Chen caerulescens), White-fronted goose (Anser albifrons), Canada goose (Branta canadensis)
Gulls—Glaucous gull (Larus hyperboreuos), Ross' gull (Rhodostethea rosea)
Tern—Arctic tern (Sterna paradisaea)
Shorebirds—Red phalarope (Phalaropus fulicarius), Northern phalarope (Lobipes lobatus), Plovers (Pluviolis spp.), Sandpipers (Calidris spp.)
Songbirds—Lapland longspur (Calcarius lapponicus), Snow bunting (Plectrophenax nivalis)

Several large multi-disciplinary studies, which have included birds, have been conducted in nearshore estuaries in the Harrison Bay/Simpson Lagoon area (Hall 1975; Johnson and Richardson 1980 report the results of coastal bird surveys from Harrison Bay eastward to, and in some cases, including the coast of the Arctic National Wildlife Refuge). Martin (1980) and Spindler (1978a) summarize terrestrial studies of birds by the U.S. Fish & Wildlife Service in Canning/Staines River delta region and in the Okilak River Delta, respectively. Spindler (1978b), Johnson and Richardson (1980), Schmidt (1973) and Gollop and Richardson (1974) conducted investigations in nearshore coastal waters along the coast of the Arctic National Wildlife Refuge.

In the east section of the coast, from the Canning/Staines River delta eastward to the Alaska-Yukon border, there are few large river deltas. The barrier islands are like long, semi-continuous spits, and the lagoons are generally narrower and shallower than those to the west.

A summary of the seasonal uses birds make of the proposed study area follows:

Seasons—Locations—Bird Use

Spring breakup-Hulahula/Okpilak River-Migrating waterfowl
Delta and shorebirds
Jago River Delta
Aichilik/Egaksrak River
Delta
Kongakut River delta
Summer-Barrier Island-Lagoon-Molting and feeding
System from Arey Island-seaducks, staging and
Eastward to Demarcation-feeding shorebirds
Bay
Fall freeze-up-NA-NA
Winter-NA-NA

The two time period, Fall freeze-up and Winter, are the periods when seismic activities will occur under the terms of the proposed permit and no negative impact is anticipated. During the course of the proposed program, extreme care will be exercised to prevent any damage to the areas that will be used by the bird population in the spring and summer months.

Terrestrial Mammals:

Terrestrial mammals may be affected both directly and indirectly by seismic activity in the coastal plain area of the Arctic National Wildlife Refuge. With the knowledge Western possesses concerning the occurrence and characteristics of these species, the Company will be able to avoid any significant adverse affect. Species which are ecologically and/or economically important are included in this discussion.

Arctic Fox

Although the arctic fox is economically important as a furbearer and biologically important as a predator of small mammals (Chesemore 1967), little demographic information is available for this species along most of the Beaufort Sea Coast. Based on fur harvest returns, however, population numbers show three to four year cycles (Chesemore 1967).

Arctic foxes appear to undergo distinct seasonal movements although some in the Prudhoe Bay Region are year-round residents (Fine 1980). During the fall and early winter, Arctic foxes generally move seaward toward the coast and sea ice, presumably in search of better food supplies (Chesemore 1967). By late winter to early spring most have returned inland to mate and pup. Hunting may be extensive; Underwood (1975) estimated that Arctic foxes may actively hunt areas as large as 500 sq. km.

Dens are usually constructed on sand dunes, eskers, hilltops and river banks, wherever frost-free soil is available (Chesemore 1967; Eberhardt 1977; Fine 1980).

Dens appear to be common along banks of most rivers on the coastal plain.

Adequate information on Arctic foxes is available only in areas. The location of large denning concentrations outside this area (if they exist), seasonal movements (particularly during the winter season), better estimates of population densities for the coastal plain are of ANWR, and demographic information on recruitment and natural mortality are the main data gaps that are necessary to fully evaluate the potential effect of exploration on the arctic fox population.

Experience (twenty-six years in the Arctic environment) has shown that Arctic foxes are attracted to man and studies indicate that the Prudhoe Bay area has the highest density of denning (1 den/15 sq. km.) recorded in contrast to other study areas. Foxes have been known to attach themselves to one of our camps and follow it for weeks before leaving.

The personnel who will be involved in the proposed exploration will be thoroughly briefed in the known data relative to Arctic foxes and will be warned as to the possibility of the foxes being rabid. The denning locations cited by Chesemore, Eberhardt and Fine all occur in terrain features that normally are avoided by seismic crews both because of the difficulty of operations and the special stipulations attached to Permits.

Musk Ox

In the 1800's muskox populations in the proposed study area were drastically reduced, and then exterminated (Bos 1967; Roseneau and Stern 1974a). Muskox were reintroduced to the Alaskan North Slope in 1969 as part of an Alaska Department of Fish and Game Program to re-establish muskox throughout their historical range (Jennings and Burris 1971; Alaska Department of Fish and Game 1977). In the spring of 1969, 52 muskox were transplanted from Nunivak Island to Barter Island. The following summer an additional 13 muskox were transplanted to the Kavik River.

The Arctic National Wildlife Refuge contains the only major concentration of muskox in the North Slope area. The size of the group was estimated to be 36 to 41 animals in 1972 (Roseneau and Stern 1974a) and had increased to an estimated 90 animals in 1977 (Bente 1977a). Presently, animals appear to be concentrated in three areas: the coastal area near the Canning River; the area between the Sadlerochit and Hulahula Rivers; and along the coast near Jago, Egaksrak and Aichilik Rivers (Roseneau and Stern 1974a; Bente 1977a). During the period of 1978 to 1979, the Sadkerochit herd appeared to have split into one main herd and two satellite (possibly bull) herds (M. Spindler, U.S. Fish and Wildlife Service, pers. comm.). These areas have been noted and will be given to field crews as an overlay drawn to the same scale as the program map. Any proposed lines nearing these areas will be cause for Western Geophysical Company to contact the Service for guidance and inspection before proceeding.

Muskox breed in late July and August, and give birth in late April to May (Tener 1965). Our seismic activity during this time frame will be non-existent with all movement in the muskox habitat ruled out because of weather and ground conditions. All crews will normally be stacked on summer storage sites outside the Refuge on or before May 15th of any given year.

Muskox appear to summer along the coastal plain and gradually move to upland areas to overwinter (Roseneau and Stern 1974a; Bente 1974a). Winter ranges appear to vary greatly between years (M. Spindler, U.S. Fish and Wildlife Service, pers. comm.). Within the muskox range, corridors along the major river drainages, particularly where the productivity of the riparian community is high, are presently considered critical habitat (M. Robus, Alaska Cooperative Wildlife Research Unit, pers. comm.; M. Spindler, U.S. Fish and Wildlife Service, pers. comm.). All Western Geophysical Company crews will be alerted to these critical areas before any work begins in the Refuge.

Information on muskox distribution along the Alaskan Beaufort Sea coast is sufficient to delineate the area between the Canning River and the Alaska/Yukon border as the most important muskox range in the North Slope region. However, information on critical habitats (calving grounds, wintering areas, foraging areas), seasonal movements, and herd dynamics (numbers, natality, recruitment, natural mortality) is not adequate to identify specific geographic areas. Seasonal movements and critical habitats are very poorly understood and the opportunity for FWS to collect some much needed data is present during the course of the proposed seismic exploration by utilizing Western Geophysical Company facilities and logistic support.

Caribou

Two caribou herds, the Porcupine and Central Arctic, are involved in the proposed study area. The Porcupine Herd (estimated at 110,000 animals in 1979) is one of the largest caribou herds in North America. The scope of its range covers some 250,000 square kilometers in northeastern Alaska and northwestern Canada. The spring migration usually begins in early April and arrival date of the pregnant cows on the traditional calving grounds seems to be dependent on the snow conditions and the location of the wintering site.

Caribou of the Porcupine Herd usually enter the calving area within the proposed study area during mid-late May (a time period when all seismic activity has been shut down). The first calves are born during the last week in May, with the peak of calving occurring between June 5 and 9. Although calving has been observed in a variety of terrains, most calves are born in snow-free areas of tussock uplands. Major calving concentrations of the Procupine Herd have occurrred in the study area between Camden Bay and the Sadlerochit Mountains (from the Canning River in the west to the Sadlerochit River). Concentrations of calving activity also occur within the ANWR study area along the foothills from the Sadlerochit River to the Aichilik River. Scattered reports of calving have been reported throughout the study area.

Following the calving period, maternal groups of the Porcupine Herd usually move northward and westward, gradually coalescing into aggregations. By late June it is common to find huge aggregations (80,000 or more animals) in the study area between Camden Bay and the Sadlerochit Mountains. In early July these great herds move to the east, usually reaching the Canadian border by mid-July.

The Central Arctic Caribou Herd currently numbers about 7,000 to 9,000 and has recently been increasing. It occupies a range which is entirely north of the Brooks Range continental divide, from the Itkilik and Colville Rivers on the west to slightly east of the Canning River. The Trans-Alaska Pipeline (TAPS)-Dalton Highway corridor and the Prudhoe Bay-Kuparik oilfields lie within the herd's range. These intensive man-made activities have done nothing to deter the herd's natural cycle. No calving has been observed in the TAPS-Prudhoe Bay oilfield area since about 1973, but the fact that the herd is on the increase indicates that the caribou have adjusted and flourished. Caribou of the Central Arctic Herd use the ANWR study area (Canning River Delta and coastal habitats along Camden Bay) for post-calving activities and insect relief. Residents of Kaktovik harvest Central Arctic Herd Caribou from coastal areas during the summer. During some winters, scattered groups of caribou, believed to be of the Central Arctic Herd, range through the proposed study area and adjacent uplands to the south.

Any contact Western Geophysical Company crews experienced with either the Procupine or Central Arctic Herds would be with strays and would not occur during critical calving or post-calving time periods.

(13) Certification

By its submission of this document and the affixation of its officers' signatures thereto, Western certifies that it will, if authorized to conduct exploratory activities, comply with all pertinent provisions of 50 CFR Part 37, its Approved Exploration Plan; its Plan of Operation, and all reasonable stipulations, demands, and orders issued by the Regional Representative or his authorized representative.

In addition, Western will comply with all existing federal, state, and local laws and regulations as well as those that may become effective during the course of the proposed exploration. A certification to this effect is appended hereto as Exhibit "F".

(14) Data Quality Assurance and Control

Of the numerous qualifications possessed by Western that render the Company suited to lead the exploration effort in the ANWR, one of the most distinctive is the integrated and sophisticated data processing center located at the Company's base camp in Deadhorse, Alaska. The capabilities of this system, which were already state-of-the-art prior to 1982, have now been increased by virtue of the recent addition of a Litton Resources System LRS–3200 Seismic Data Processing System. The LRS–3200 possesses a radically new structure with the capability of expanding many times over to accommodate the ever increasing volumes of data that result from advances by Western in

the technology of data acquisition. In its minimum configuration the LRS–3200 has twice the capacity of the most powerful mini-system on the market. Its maximum configuration competes with the largest "large" system available.

Because of recent expansions in the capabilities of seismic exploration, the quantity of data that must be processed is rapidly increasing to enormous levels. Thus, the concept of "data quality assurance and control" is one that is continually growing in sophistication. The seismic data processing system possessed by Western at its Deadhorse Base Camp is now capable of handling large computational and input/output loads.

Consequently, there are two compelling features that Western offers in terms of its data quality assurance and control. First, the sophistication of the processing system employed by the Company. Second, the proximity of the geographic location of the facility at Deadhorse. The combined result of these factors is that data that are collected in the field during the day are immediately processed at the Deadhorse facility with results obtained therefrom in a matter of hours. These results enable the crew operations to determine whether the parameter selected are achieving the desired data quality. As a direct result of the proximity of the Deadhorse facility and the sophistication of the seismic data processing system located there, Western is able to ascertain immediately whether deviations or corrections are necessary in the technical parameters of the field operations. This prevents unnecessary duplication of effort that could result if the field data had to be flown to a distant location or processed in a less sophisticated facility in order to determine the integrity of the results.

The survey data acquired during the course of a work day can be processed with the same speed and efficiency as the seismic data. In two hours basic field notes can be fed into a Hewlitt-Packard 85 computer located in the Deadhorse facility. A hard copy can be generated of a line map showing VP's, elevations, and the necessary reference points to indicate the accuracy of the survey. Any corrections can be applied immediately before further errors occur which could introduce an unnecessary duplication of the line.

In addition to the timely data processing that takes place at the Deadhorse processing facility following each day's collection of data, daily similarity tests are taken before the crew begins the day's program. This is a method of ensuring that the vibrators are in sync and will produce the maximum usable energy. This test also allows a check of instrument functions as well as a sure check of the mechanical condition of the vibrator units.

To supplement the daily routine tests, all instruments are subjected to both monthly and semi-monthly tests that are performed in the field with the tapes being sent to our Quality Control Section in the Houston Main Office. The test data are compared to specifications of new equipment. The results of the tests are telexed to the Anchorage Office immediately and this information is relayed to the field crews via telephone and radio lines.

There are also two qualified technicians available at the Deadhorse base camp who are on call should any problem occur. Test gear and spare units are available. In case an instrument should malfunction, it is a matter of hours before the replacement unit is on the crew and operating.

These technicians maintain a routine schedule of visits to the crews and consult with the Observer as to the condition of the equipment thereby assuring that the quality of the data is always up to Western's high standard.

V. Summary

Western hereby requests that we be named as a single permittee to conduct a speculative seismic survey in ANWR using two crews each for two seasons to collect some 1500 miles of data which would be available for sale to interested parties according to a published price list.

We have the equipment and manpower already in Alaska plus the fiscal capability to conduct this survey. Western's reputation in the geophysical industry worldwide and particularly in Alaska is unparalleled Our final processing of data from the North Slope is recognized as the industry standard. We will carry out a seismic survey of the highest quality which will be beneficial to the Secretary, to FWS, to the oil industry, and to any other interested parties.

We have demonstrated in the preceding pages our knowledge and appreciation for the environmental and wildlife aspects involved. You have our assurance of fullest cooperation in seeing that the goals of this project are met to the satisfaction of all concerned.

We further state that the proposed activity complies with the State of Alaska's approved Coastal Management Program and will be conducted in a manner consistent with that program.

Western will be pleased to furnish any additional information that may be required in connection with this submission. Inquiries should be addressed to Mr. Semeliss or Mr. Cramer.

We will appreciate your favorable consideration of this application.

Respectfully submitted,

Western Geophysical Company of America.

Exhibit A. Map depicting proposed seismic lines, Western Geophysical Company of America.

This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907–786–3381 or 3384)

Exhibit B.—Permit Attachment 2

Known Cultural Resources Within Project Area: Western Geophysical

Map Reference and Cultural Resource[1] Site in Apparent Conflict With Seismic Line

BLM 1—Native cemetery on Eskimo Island
BLM 2—Native grave on Atigaru Point
BLM 3—TLUI site NE of VABM "ceek"
BLM 4—TLUI site NW of VABM "Thomas"
BLM 5—TLUI Site NE of VABM "creek"
BLM 6—Niglik and sites in vicinity: sod house ruins and Native grave
BLM 7—TLUI site; structural remains
BLM 8—TLUI site; structural remains
BLM 9—TLUI site; structural remains
BLM 10—Numerous late prehistoric and historic sites, including sod house ruins and reindeer corral
BLM 11—TLUI site: sod houses
BLM 12—TLUI site; trading post, grave
BLM 13—TLUI site
BLM 14—TLUI site; cemetery
BLM 15—TLUI site; graves

Note.—These sites shall be avoided by all seismic equipment and field crews.

[1]Cultural resources include archaeological, historical, and traditional land use inventory (TLUI) sites.

EXHIBIT C.—PERMIT ATTACHMENT 3

[Native Allotments Located in the General Area of Proposed Seismic Programs, Western Program F–72685]

Map reference	Number	Name	Acres	Location
1	F–18134	Paul Ogroogak	160	Sec. 32, T9N, R4E, UM.
2	F–11943	Lydia Sovalik	80	Sec. 15, 16, 21, 22, T12N, R4E, UM.
3	F–11947	Narinie Woods	160	Sec. 15, 16, T12N, R4E, UM
4	F–14613	Edward Itta	160	Sec 16, T14N, R4W, UM.
5	F–14616A	Noah Itta	40	Sec. 29, T15N, R3W, UM.
6	F–14645	Dorcus Watson	160	Sec. 29, T15N, R3W, UM, Sec. 7, T17N, R1W, UM.
7	F–14611	Brenda Itta	160	Sec. 12, T17N, R2W, UM.

Exhibit D.—Oil and Hazardous Substances Contingency Plan

Table of Contents

Introduction
Objectives
Reporting
Prevention of Oil Spills
Storage of Fuel
Spill Cleanup
Annex "A"—Initial Pollution Report
Annex "B"—Report Communication Net
Annex "C"—Daily Check List
Annex "D"—Safety Rules

Introduction

Federal laws, State regulations and Western Geophysical Company's keen desire to protect the environment from the harmful effects of oil or other hazardous substances require a definite, meaningful plan.

The very nature of Western's work creates problems not found in other types of operations. The almost constant moving of

camps and supply points, the need for enormous quantities of fuel and the remote location of the prospects are all factors that create a high risk situation. We must therefore practice extreme care in the transportation, storage and ultimate use of any and all materials that, if allowed to escape containment, could upset the delicate balance of Alaska ecosystem.

The prevention of oil spills or loss of hazardous substances involves many factors. Common sense is the number one deterrent to unfortunate incidents. Checking the joint between the tank and the discharge valve, scheduled visual inspections of the tanks and placing fuel barrels bung up are all simple items but any one of them could spell the difference between a satisfactory, productive operation and a serious, costly spill. Double check every phase of the operation to which you are assigned and are responsible for. Think.

Should a spill occur it becomes your legal responsibility to report it to the proper agencies as soon as possible. The Plan, with the annexes, will explain in detail how to do this. No attempt to conceal any spill, no matter how small, should ever be made by Western employees or their contractual personnel. The reason for this are many and varied. What may appear to you as a minor, harmless spill could become serious if not properly contained or dispersed. State and/or Federal agencies have the expertise to accurately analyze the situation and make recommendations for remedial action. In addition, Federal agencies have the power, under the provisions of Pub. L. 92-500 (86 Stat. 816), to call on any other Federal agency for assistance in case of a serious threat to life or property. It is doubtful if Western's type of problem could ever reach that magnitude, but it is comforting to know that this type of back-up is available.

After the report has been made and the proper agencies have investigated the incident, the spill must be cleaned up to the best of our ability. What appears to be the most expedient method of getting rid of spilled fuel, burning, might not really do the complete job. In fact, there may be harmful after effects if hasty judgment dictates our initial approach. Generally speaking, the proper sequence should be:

(1) Stop the flow of oil or hazardous substance at the source, and while doing this you should exercise extreme caution using good safety habits. We do not want personal injury added to the problem.

(2) Make every effort to contain the spill in an area as small as possible. While doing this, care should be taken to prevent damage to the environment by other methods.

(3) Report the spill, using the procedures described in the Plan. If conditions permit, the reporting of the spill should precede the other steps but this assumes that sufficient manpower is available and the location is such that prompt reporting is possible.

In summary, we, as Western employees, must do everything in our power to prevent unfortunate incidents. Safe, careful work habits will do much to insure that we can continue to do our assigned jobs without the tremendous amount of extra labor involved in a spill. If one should occur we will do everything possible to minimize the harmful effects and promptly report to and cooperate with all regulatory agencies.

Objectives

(a) This plan, including the annexes, provides for a pattern of coordinated and integrated responses by Western Geophysical Company employees, Western's contractors and state and federal agencies to protect the environment from the damaging effects of pollution discharges. It promotes the coordination of all systems and encourages the development of the capabilities of all involved units.

(b) The objectives of this Plan are to provide for efficient, coordinated and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal and removal. The Plan, including annexes, provides for: (1) Assignment of duties and responsibilites among Western Geophysical Company employees, Western's contractors and state and federal agencies; (2) Identification, procurement, maintenance and storage of equipment and supplies; (3) Establishment or designation of response teams to provide the necessary services to carry out the Plan; (4) A system of surveillance and reporting designed to insure the earliest possible notice of discharge of oil and hazardous substances to appropriate agencies; (5) Procedures and techniques to be employed on identifying, containing, dispersing and removing oil and hazardous substances; (6) A schedule, prepared in cooperation with suitable agencies, identifying dispersants and other chemicals, if any, that may be used in carrying out the Plan.

Reporting

All reports of oil spills or discharge of hazardous substances should be completed as soon as possible after discovery. Prompt action is necessary to minimize the damage and relieves the problem of confusion that might arise if reports have to depend on memories for accurate facts after the incident is over. At this point, it might be well to mention that you are urged to report infractions by others as well as your own. There are recorded cases where Western has been blamed for spills simply because we were in or near the area. We are not in the police business but it is our legal and moral duty to report all sightings and our responsibility as Western employees to protect our Company's interest.

The United States Coast Guard is the prime agency for reporting all sightings. They then relay, depending on the location and type of spill, the pertinent information to the appropriate agency, such as the Department of Environmental Conservation, the Environmental Protection Agency or any other applicable group.

To insure a clear transfer of information you should familiarize yourself with Annex "A". It is a copy of the form that the Coast Guard uses to record all incoming reports. Plan your call so as to have the maximum information that would fill in the blank spaces. There is a 24 hour service at the CG office but, in some cases, you may get a tape service known as Autovon (Automated Voice Network) or the FAA duty officer. In any case, the traffic will be channeled to the proper agency for action. Be sure to record the time and date of your call in the Party Log and, if at all possible, the name and rank of the CG member who received your call.

When reporting the location of the spill try to be as definite as possible. If you have a map you should pin-point the spill by placing it in a certain part of a particular range and township and indicate the map you are referencing. Include ground features if any are available. River intersections, air strips or pipe line camps are very helpful. Remember, someone is going to try to find you and the point you are describing.

Annex "B" diagrams the normal channels for field crews to use in reporting in. Contact with Party Office, after initial sighting, should be done by radio or by messenger. All details should be as accurate as possible since the message will have to be relayed several times in most cases. From the Party Office, the information will be forwarded to the most convenient Western installation having telephone communications. At this point it is extremely important that the Supervisor be notified. From his office in Anchorage he will handle all further coordination with the CG and begin to take whatever steps are necessary to handle the situation. Field personnel will take any steps required to protect life and property and stand by for further instructions.

Any requests from the news media for information concerning the spill should be referred to the Supervisor. This is important so that there will not be any confusion or adverse publicity arising from distorted facts coming from sources that may not be aware of the entire picture. Inquiries from a governmental agency representative, after they have properly identified themselves, should be answered directly and honestly. Do not, repeat, do not try to give opinions, suggestions or theories about the cause or the effect of the spill to anyone until you have been briefed by the Supervisor or his agent.

Preventing Oil Spills

It shall be the direct responsibility of all Party Managers to do everything possible to prevent oil spills. All personnel under the Party Manager's supervision must be instructed in the basic fundamentals of fuel storage and transfer and crew members actually handling fuel will be required to read and be familiar with this Plan and all other applicable State and Federal regulations. This Plan will be the subject for discussion at a weekly Party Safety Meeting as soon as practical after the start-up crews.

The Party Manager, or his designated agent, shall supervise the erection of storage facilities, fuel transfer and on-site storage of fuel. In line with this surveillance, the Party Manager will maintain an accurate inventory of all petroleum products charged to his Party. This inventory will include quantity, type of fuel and its specific location. In the of fuel in transit, the inventory will include the above, plus the point of origin and the destination

Normally, the Pary Response Team will be composed of Party Manager, the Field Clerk and the Chief Mechanic. Within this framework, the Party Manager will assign certain specific duties and responsibilities in the event of a spill. Adequate back-up will be assured by naming alternates for each primary man on the Team. Names and duties of the Response Team will be supplied to all key party personnel concerned, to all base camps, other Party Offices and the Anchorage Office. This is important in the event of a spill during the transportation of fuel charged to a particular Party but occurring near the site of another Party's camp. In any case, the primary responsibility rests with the Party to which the fuel is charged. If fuel is to be handled by contractual personnel, it shall be the Party Manager's duties to be sure that they are familiar with this Plan and have the names and location of the Response Team.

All equipment used in the transfer and transportation of petroleum products will be inspected on a regular schedule. The time, date and location of these inspections will be recorded in the Party Manager's log. Any defects or malfunctions will be noted along with the steps taken to repair or replace the defective components.

Storage of Fuel

In line with the provisions of state regulations all tanks will be installed in a dike that will form a holding area with 115% of the capacity of the tank. The dike, or its liner, must be impervious to the liquid to be stored therein and should be constructed in a neat and workmanlike manner. In no case will tanks be manifolded. If possible, thought should be given to drainage, access, future cleanup and general suitability when erecting any tank. All installations should be inspected on a scheduled time interval, never to exceed twenty-four (24) hours. The tank with its associated plumbing, the dike and surrounding area should receive close scrutiny. Check the contents of the repair kit to see if anything has been removed, and any shortages should be reported for immediate replacement. If snow and/or trash has accumulated, it should be removed. All warning signs should be in their proper place and in a good state of repair. During this daily inspection, this amount of fuel in the tank, as determined by visual monitoring device, will be recorded. Strict adherence to this procedure will help prevent the possibility of pollution from small leaks that if left undetected could become major sources of spills.

Spill Cleanup

If the source of a spill is readily ascertained and can be terminated, it should be done immediately. Accidentally opened valves, faulty discharge lines or leaks in the tank itself should be repaired or corrected as quickly as possible. If assistance or extra equipment is needed it should be called for as soon as possible.

Make every effort to contain the spill to a small area but use good judgment by viewing the overall effect of the spill. It is extremely important that you report the spill, using the methods described earlier in this Plan. Major spills will, of course, require equipment and expertise not available in the field to affect the cleanup and recovery of the pollutant. Prompt, accurate reporting is the key to preventing further contamination.

Annex A.—Initial Pollution Report

No. _____
Date/Time Report Received _____
Time FAA Duty Office Received _____
Report Received From:
Name: _____
Company: _____
Address: _____
Phone: _____
Time of Occurance _____
Length of Time Spill Occured _____
Location: Initial _____
Other persons Involved in Sighting _____

Follow Up _____
Type and Quantity of Spill _____
Description of Slick (Ashore and Afloat) _____

Apparent Hazard to Life and Property _____

Damage _____

Injuries _____

WX (At Scene) Temp _____
Tide Condition _____
Wind Direction and Velocity _____
Next High/Low _____
Visibility _____
Initial Action Taken by Persons on Scene (To Stop Spill) _____
(To Clean Up) _____

Company Intended Action _____

Coast Guard Action _____

Annex B, Exhibit D. Western Geophysical Inc. Normal channels for field crew reporting. This map/figure could not be reproduced legibly in this notice. It is filed as part of the original document. Copies are available from: Regional Director (AWR/PSS: Oil, Gas and Minerals), Anchorage, Alaska 99503 (Phone 907-786-3381 or 3384).

Annex C.—Western Geophysical Co., of America

Fuel Storage Site Daily Check List

Location _____
Date _____ 19—
A—Overall site condition
Satisfactory ☐ Unsatisfactory ☐
Remarks _____

B—Fittings and connections
Satisfactory ☐ Unsatisfactory ☐
Remarks _____

C—Signs placement
Satisfactory ☐ Unsatisfactory ☐
Remarks _____

D—Dike and liner
Satisfactory ☐ Unsatisfactory ☐
Remarks _____

E—Tank
Satisfactory ☐ Unsatisfactory ☐
Remarks _____

Fuel withdrawn last 24 hours _____ gals
Fuel gained last 24 hours _____ gals
General Remarks _____

_____
_____
Time _____
Date _____
Signed _____

Western Geophysical Company Safety Rules for Fuel Storage and Transfer

1. Any and all personnel assigned to the operation of and Western Geophysical Company fuel supply and/or transfer will be familiar with the Contingency Plan as developed for the procedures in case of a spill.

2. During the storage and/or transfer of fuel there will be at least one employee with a valid First Aid card on site. An adequate First Aid kit will be available at the site.

3. There will be no smoking within 100 feet of any fuel storage area and visible signs will be posted in prominent locations to indicate this. During the transfer of fuel from any carrier to a tank or from the tank to a carrier, there is to be absolutly no smoking in the area. In addition, any specific rules imposed by carriers will be obeyed by all Western personnel.

4. Each vehicle involved in fuel handling will be equipped with a fire extinguisher of the proper size and type so as to comply with current State and Federal regulations. All men will be trained in the operation of the extinguishers.

5. All discharge lines from any tank, either fixed or mobile, will be tagged so as to indicate the contents of the tank. No Western personnel will use or allow the use of any fuel unless it comes from marked containers.

6. All installations will be kept in a state of good repair and any defects in the tank or fittings will be repaired as soon as possible. No trash or liter will be allowed to accumulate in the immediate storage area and excess snow will be removed from the tanks and dikes as soon as possible.

7. Emergency repair equipment and tools will be kept at the tank site and their location will be made known to all personnel involved in the fuel storage operation. Any shortages will be made known to the Party Manager as soon as possible. The use of any of this equipment for any use except emergency is strictly prohibited.

8. No fuel transfers will be made with any equipment that does not meet the requirements of the General Safety Code. If there is some question about compliance consult the Party Manager.

9. These regulations are for your safety and any infraction could be cause for disciplinary action or dismissal.

Summary

This Plan, with its Annexes, has been formulated to help Western Geophysical Company employees prevent oil spills and to assist them in the event a spill should occur.

The three key points to remember if an oil spill should become your problem are:

1—Stop the Flow as Soon as Possible

Use any safe, practical means at your disposal. Remember to locate and check the operation of all valves daily. Check your tank emergency repair kit and know how and when to use it. Remember that every gallon

you keep from leaking is one less to clean up later.

2—Contain the Spill in the Smallest Possible Area

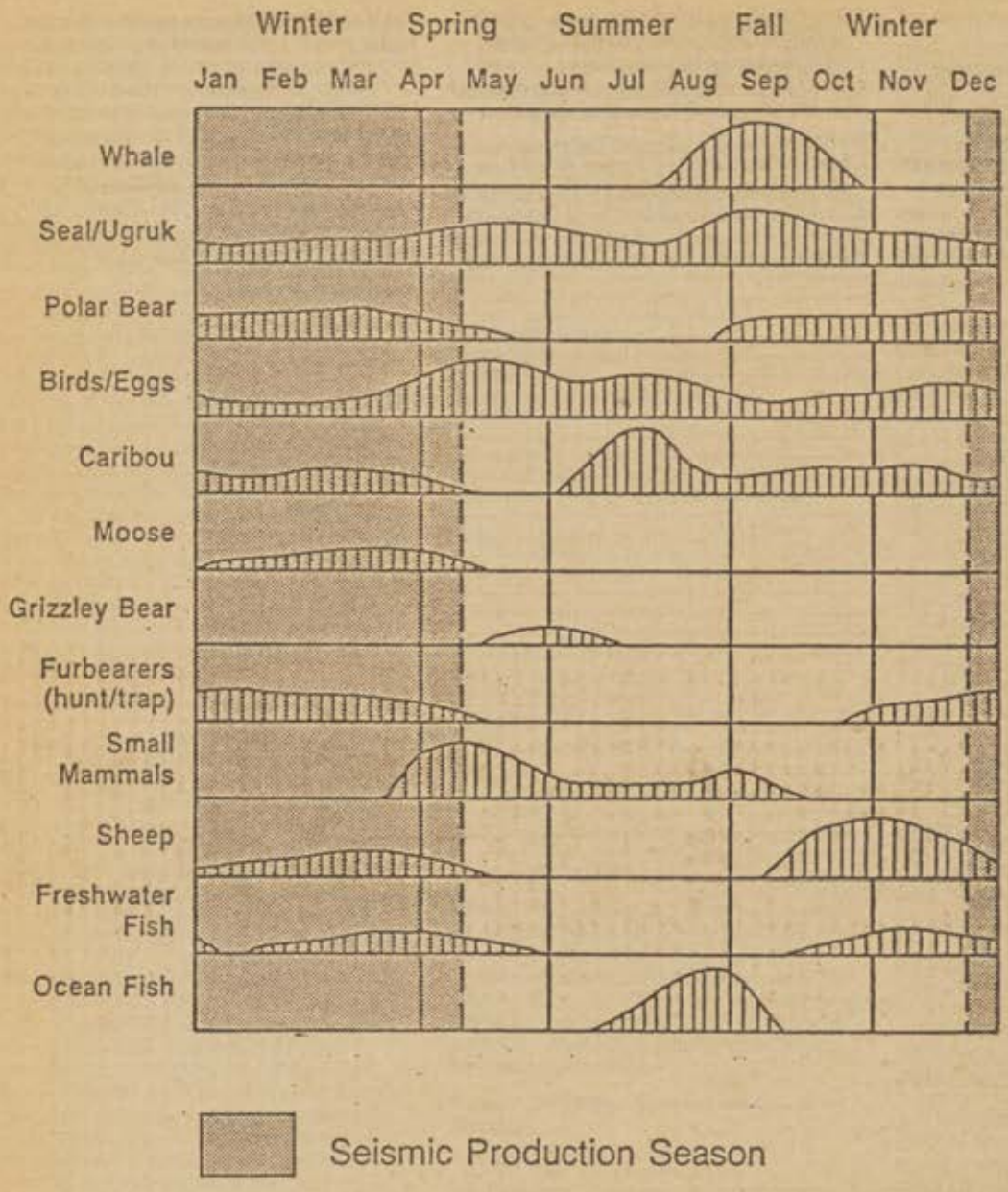
Sound judgment is the key to good containment. Keep in mind that other regulatory agencies have very definite ideas about what you can or cannot do with the natural resources areound the fuel site. If you use the material around the spill to create a secondary dike be sure that it can be restored to its original condition after clean up is completed. During tank installations you should always be thinking of the responsibility of a spill and note any material at or near the site that could be utilized.

3—Report the Spill Through the Proper Channels and Initiate Clean up Procudures

Prompt, accurate reporting is imperative and should be done as soon as possible after discovery of the spill. If the spill is minor and the clean up is obvious you should go ahead but if a major spill occurs you should stand by for detailed instructions. Remember that disposal of waste created by clean up has to be taken care of properly and not left to create another problem. In some cases, this may require evacuation of the waste to a suitable site designated by the authorities.

In conclusion, you must do everything possible to prevent a spill but if one does happen you should stop the flow, contain the material and report and clean up.

BILLING CODE 4310-55-M



Yearly cycle of subsistence use at Kaktovik, Alaska. Patterns indicate desired periods for pursuit of each species based upon the relationship between abundance, hunter access, seasonal needs, and desirability.

BILLING CODE 4310-55-C

Exhibit F.—Certificate

This is to certify that Western Geophysical Company of America will, if authorized to conduct exploratory activities, comply with 50 CFR, Part 37 Geological and Geophysical Exploration of the Coastal Plain, Arctic National Wildlife Refuge, Alaska, its Special Use Permit, its approved exploration Plan, Plan of Operation and all reasonable stipulations, demands and orders issued by the Regional Director or his authorized representatives.

In addition, Western Geophysical Company of America will comply with all existing Federal, State, and local laws and regulations as well as those that may become effective during the course of the proposed exploration.

I further certify that I am an officer of Western Geophysical Company of America with the title of Executive Vice President, Manager of Operations and as such I am authorized to affix my signature to this document.

Date 13, May 1983.

Witness:

Herman A. Semeliss.

Date 13 May 1983.

Signed:

Neal P. Cramer, Sr.,

Executive Vice President, Manager of Operations.

[FR Doc. 83-16007 Filed 6-16-83; 8:45 am]

BILLING CODE 4310-55-M

federal register

Friday
June 17, 1983

Part IV

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.

District of Columbia: DC82–3031	Nov. 12, 1982.
Maryland: MD83–3010	June 3, 1983.
Nebraska: NE83–4041	May 27, 1983.
Nevada:	
NV83–5103	Mar. 18, 1983.
NV82–5113	Aug. 6, 1982.
New Hampshire: NH83–3012	May 20, 1983.
New Mexico: NM83–4032	Apr. 15, 1983.
New York:	
NY83–3003	Mar. 25, 1983
NY81–3030	May 1, 1981.
Pennsylvania:	
PA81–3066	Oct. 23, 1981.
PA82–3007	Feb. 26, 1982.
Tennessee:	
TN82–2056	Nov. 19, 1982.
TN82–2057	Nov. 19, 1982.
Texas:	
TX81–4064	Aug. 7, 1981.
TX82–4045	Sept. 24, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

New Jersey:	
NJ81–3053 (NJ83–3015)	Oct. 9, 1981.
NJ81–3063 (NJ83–3016)	Dec. 28, 1981.

Signed at Washington, D.C., this 10th day of June 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

DECISION NO. DC82-3031-MOD. #7 (48 FR 51854-November 15,1983)	Basic Hourly Rates	Fringe Benefits
District of Columbia;Maryland-Montgomery & Prince Georges Counties; & DC Training School Virginia-Independent City of Alexandria;Arlington & Fairfax Counties.		
CHANGE:		
POWER EQUIPMENT OPERATORS: (BUILDING CONSTRUCTION & HEAVY CONSTRUCTION EXCLUDING SEWER & WATER LINE CONSTRUCTION PROJECTS)		
ADD:		f
FOOTNOTES:		
f-Paid holidays-Christmas Day;New Year's Day; Inaugural Day;Decoration Day;Independence Day; Labor Day;Veteran's Day;Thanksgiving Day;& the day after Thanksgiving		
TRUCK DRIVERS:		
ADD:		g
FOOTNOTES:		
g-Paid Holidays-New Year's Day;Labor Day; Thanksgiving Day;& Christmas Day provided the employee works the scheduled day before & the scheduled day after the holiday.		

DECISION NO. MD83-3010-MOD. #1 (48 FR 25100-JUNE 3,1983)	Basic Hourly Rates	Fringe Benefits
ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL) BALTIMORE & BALTIMORE CITY, MARYLAND, & FOR HEAVY CONSTRUCTION IN HARFORD & HOWARD COUNTIES, MARYLAND		
CHANGE:		
ROOFERS:		
ANNE ARUNDEL COUNTY: All areas south of the following line: From the point where Maryland Route 175 crosses into Anne Arundel County from Howard County, southeast on Highway No. 175 into Highway No. 178 into Highway No. 50, then to Highway No. 2 to West Street, east to Bay Bridge Road, and follow Bay Bridge Road to the bay.		
Mopmen	$15.44	1.69
Composition Roofers	14.72	1.69
Material Handlers	9.92	1.69
REMAINDER OF JURISDICTION:		
Roofers	11.35	1.45

DECISION #NE83-4041-MOD.#2 (48 FR 23996-May 27,1983)	Basic Hourly Rates	Fringe Benefits
Cedar,Coming,Pierce, Stanton & Wayne Counties, Nebraska		
CHANGE:		
Carpenters	7.64	
Cement Masons	6.15	
Laborers	5.59	

DECISION NO. NH83-3012 - MOD. #2 (48 FR 22867 - May 20, 1983) HILLSBORO & MERRIMACK COUNTIES, NEW HAMPSHIRE	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
BUILDING CONSTRUCTION:		
Group 2	10.34	2.35+d.

DECISION NO. NV83-5103 - Mod. #2 (48 FR 11629 - March 18, 1983) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada	Basic Hourly Rates	Fringe Benefits
Change:		
Carpenters:		
Area 2:		
Carpenters	$15.30	$5.12
Drywall Installer	15.55	5.12
Floor Layers; Patent Scaffold Erectors; Power Saw Operators; Shingler	15.45	5.12
Millwrights	15.90	5.12
Piledrivermen	15.55	5.12
Electricians:		
Area 1:		
Electricians; Technicians	21.93	3%+5.04
Cable Splicers	22.26	3%+5.04

DECISION NO. NV82-5113 - Mod. #7 (47 FR 34300 - August 6, 1982) Clark County (does not include the Nevada Test Site) Nevada	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Electricians; Technicians	$21.93	3%+5.04
Cable Splicers	22.26	3%+5.04

DECISION #NM83-4032-MOD.#5 48 FR 16415-April 15,1983 Statewide, New Mexico	Basic Hourly Rates	Fringe Benefits
ADD:		
Aluminum/vinyl facia & soffit installer (residential construction) Bernalillo County	8.75	
CHANGE:		
COMMERCIAL LINE WORK(AREA A)		
LINEMEN-TECHNICIANS		
Zone I	$16.45	P
Zone II	17.93	P
Zone III	18.92	P
Zone IV	20.73	P
Cable Splicers		
Zone I	18.10	P
Zone II	19.58	P
Zone III	20.57	P
Zone IV	22.38	P
Equipment Opr. (includes helicopter op.)		
Zone I	15.62	P
Zone II	17.10	P
Zone III	18.09	P
Zone IV	19.90	P
Equipment Mechanic (include helicopter mech.) and Powderman		
Zone I	14.31	P
Zone II	15.79	P
Zone III	16.78	P
Zone IV	18.59	P
Groundman-Jackhammer oprs.		
Zone I	11.68	P
Zone II	13.16	P
Zone III	14.15	P
Zone IV	15.96	P

DECISION NO. NY 83-3003 - MOD. #3 (48 FR 12647 - March 25, 1983) ONONDAGA, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS		
Building	14.15	3.62
DECISION NO. NY81-3033 - MOD. #8 (46 FR 23850 - May 1, 1981) CATTARAUGUS, CHAUTAUQUA & ERIE COUNTIES, NEW YORK		
CHANGE:		
CARPENTERS:		
Erie County & Cattaraugus County (the townships of Perrysburg & the Village of Gorvande in the Township of Persia		
Carpenters & Piledrivermen (Heavy & Highway)	10.59	4.305 +a
Chautauqua County & Cattaraugus (Remainder of County)		
Carpenters (Heavy & Highway)	12.31	2.585 +a
CEMENT MASON:		
Erie County		
Cement Masons	18.33	3.00
Swing Scaffold	18.60	3.00
Chautauqua & Cattaraugus Counties (Heavy & Highway)	12.58	2.98
IRONWORKERS:		
Chautauqua County (Townships of Cherry Creek, Ellington, Sheridan, Pomfret, Charlotte, Arkwright, Hanover, Villenova & Brockton) Erie County (except the northern half of Grand Island & Cattaraugus County		
Structural Ornamental, Rodman, Reinforcing, Riggers	14.96	5.56
IRONWORKERS (CONT'D):		
Sheeter	$15.36	5.56
Fence Erectors	13.06	4.16
Erie County (Northern half of Grand Island)		
Structural, Ornamental, Reinforcing, Riggers, Rodman, & Fence		
Erectors	16.03	2.62
Sheeter	19.78	2.62
Chautauqua County (Remainder of County)		
Structural, Ornamental, Rodman, Reinforcing, Welders, Riggers, Machinery Movers &		
Fence Erectors	17.95	3.52
Sheeter	19.45	3.52
LABORERS (Heavy & Highway):		
Class A	13.445	3.71+a
Class B	13.645	3.71+a
Class C	13.845	3.71+a
Class D	14.045	3.71+a
POWER EQUIPMENT OPERATORS (Heavy & Highway)		
Class A	15.55	5.36+a
Class B	15.25	5.36+a
Class C	14.75	5.36+a
Class D	13.79	5.36+a
Class E	12.24	5.36+a
Class F	11.90	5.36+a
Class G	11.14	5.36+a
Class H	11.71	5.36+a
Class I	11.54	5.36+a
Class J	16.30	5.36+a
Class K	16.55	5.36+a
Class L	17.05	5.36+a
Class M	16.27	5.36+a

DECISION NO. PA81-3066 MOD. NO. 7 (46 FR 51082 - October 23, 1981) Dauphin, Cumberland, Perry, Juniata, New Cumberland Depot in York County, Pa.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & Stonemasons	$14.22	1.73
Carpenters	14.40	2.25
Cement masons	13.47	2.20
Electricians	15.21	1.67+ 3-3/4%
Elevator Constructors	14.43	2.69+ a+b
Elevator Constructors Helpers	10.10	1.69+ a+b
Elevator Constructors Helpers (Prob.)	7.215	
Glaziers	13.51	1.66
Lathers	14.40	2.25
Laborers:		
Group 1	10.15	1.43
Group 2	10.62	1.43
Group 3	9.55	1.43
Group 4	11.12	1.33
LINE CONSTRUCTION:		
Linemen	15.18	.60+ 3-3/8%
Groundmen	9.11	.60+ 3-3/8%
Winch truck op.	10.63	.60+ 3-3/8%
Millwrights	16.57	1.25
Plumbers & Steamfitters	16.80	2.39
Sheet Metal Workers	15.01	4.13
Painters:		
Brush	11.57	1.15
Spray	12.31	1.15
Tank, Bridges & Stacks	12.82	1.15
Plasterers	11.90	2.21
Roofers:		
Composition	12.61	2.10
Painters:		
Structural Steel	12.02	1.15

DECISION NO. PA82-3007
MOD. # 11
(47 FR 8529 - February 26, 1982)
BUCKS, CHESTER, DELAWARE, MONTGOMERY & PHILADELPHIA COUNTIES, PENNSYLVANIA

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Cement Masons		
All Other Work		
Zone 1	$13.00	5.5%
Electricians		
Zone 1		
Commercial	19.06	17%
Millwrights	15.17	4.91
Roofers:		
All Other Work		
Zone 1		
Commercial		
Composition, damp & waterproofers	18.17	2.83+e
Roofers:		
All Other Work		
Zone 1		
Commercial (Mechanic II - Handle and transport all materials tools, and equipment: clean-up debris)	8.25	2.83+e
Steamfitters		
Zone 1	18.56	3.81
Carpenters:		
All Other Work	14.67	4.91

Decision No. TN82-2057
Mod # 2
(47 FR 52324 - November 19, 1982)
Shelby County, Tennessee

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.45	2.85

Decision No. TN82-2056
Mod # 4
(47 FR 51311 - November 19, 1982)
Hamilton, Marion, Polk & Rhea Counties, Tennessee

CHANGE:

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.69	2.11

DECISION NO. TX81-4064 - MOD. #10
(46 FR 40487 - 8/7/81)
El Paso County, Texas

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Plumbers & pipefitters	$13.57	1.77

DECISION NO. TX82-4045 - MOD. #2
(47 FR 42257 - 9/24/82)
Taylor County, Texas

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Carpenters	12.34	2.03

STATE: New Jersey

COUNTIES: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren

DECISON NUMBER: NJ83-3015
DATE: Date of Publication
Supersedes Decision No. NJ81-3053 dated October 9, 1981, in 46 FR 60243
DESCRIPTION OF WORK: Building (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
AIR CONDITION and REFRIGERATION MECHANIC:		
Group 1	$ 9.10	$4.15+a
ASBESTOS WORKERS:		
Zone 1	16.32	4.455
Zone 2	16.89	5.68
BOILERMAKERS	16.60	0.29+ 38%
BRICKLAYERS, STONEMASONS, CEMENT MASONS and PLASTERERS:		
Zone 1	14.61	2.65
Zone 2	16.99	2.07
Zone 3	14.87	4.48
Zone 4:		
Bricklayers and Stonemasons	15.55	3.00
Cement Masons and Plasterers	15.35	2.15
Zone 5	14.40	3.25
Zone 6	15.05	2.72
Zone 7	15.75	1.62
Zone 8	15.94	3.06
Zone 9	15.08	2.69
Zone 10	15.03	2.82
Zone 11	13.92	2.02
Zone 12	13.15	2.82
CARPENTERS, INSULATORS and MILLWRIGHTS:		
Zone 1	16.10	3.88
Zone 2	16.04	3.21
Zone 3:		
Carpenters & Insulators	16.01	20.5%
Millwrights	16.51	20.5%
Zone 4:		
Carpenters & Insulators	16.63	20.5%
Millwrights	17.13	20.5%
Zone 5:		
Carpenters & Insulators	16.01	20.5%
Millwrights	16.81	20.5%
Zone 6:		
Carpenters & Insulators	16.70	15.5%
Millwrights	17.20	15.5%
DIVERS and DIVER TENDERS:		
Zone 1:		
Divers	19.29	5.98
Diver Tenders	15.09	5.98
DOCK BUILDERS and PILEDRIVERMEN	$16.35	$5.90
DRYWALL TAPERS and FINISHERS	10.60	2.10
ELECTRICIANS and CABLE SPLICERS:		
Zone 1	18.10	26.5%
Zone 2	19.05	3.02+ 13.5%
Zone 3	20.11	2.53+ 10%
Zone 4	19.05	3.02+ 13.5%
Zone 5	18.72	1.00+ 21.5%
Zone 6:		
Wiremen	19.56	1.00+ 17%+ 100.00 P/YR.
Cable Splicers	20.87	1.00+ 17%+ 100.00 P/YR.
Zone 7	19.77	2.50+ 11%
Zone 8	19.77	2.52+ 10%
Zone 9	16.41	2.27+ 10%
Zone 10	20.05	2.53+ 10%
Zone 11	19.80	0.02+ 25%
Zone 12	16.00	1.02+ 10%
Zone 13	14.25	1.20+ 11%
ELECTRICIANS:		
Railroad Construction:		
Bergen & Hudson Cos.	18.72	0.58+ 21.75%
Commercial Telephone Installation:		
Bergen & Hudson Cos.	18.72	0.58+ 21.5%

DECISION NO. NJ83-3015	Basic Hourly Rates	Fringe Benefits
ELEVATOR CONSTRUCTORS:		
Construction:		
Mechanics	$13.21	$2.05+ b+c+d
Helpers	9.91	2.05+ b+c+d
Probationary Helpers	6.605	
Modernization:		
Mechanics	11.23	2.05+ b+c+d
Helpers	8.42	2.05+ b+c+d
Probationary Helpers	5.615	
Contract Repair:		
Mechanics	11.23	2.05+ b+c+d
Helpers	8.42	2.05+ b+c+d
Probationary Helpers	5.615	
GLAZIERS:		
Zone 1	11.17	4.08
Zone 2	15.90	3.96
Zone 3	15.70	3.30
IRONWORKERS:		
Structural; Reinforcing; and Ornamental:		
Zone 1	16.95	3.20
Zone 2	16.35	6.66
LATHERS	11.40	0.57
MARBLE SETTERS; TERRAZZO WORKERS; and TILE SETTERS:		
Zone 1	12.45	1.73
Zone 2:		
Marble Setters	10.25	2.92+e
Terrazzo Workers	11.18	2.71
Tile Setters	9.15	2.90
MARBLE SETTERS; TERRAZZO WORKERS; And TILE SETTERS FINISHERS:		
Zone 1:		
Marble Setters' Finishers	8.28	2.32+e
Terrazzo workers' Finishers	9.84	2.71
Zone 2:		
Tile Setters' Finishers	9.35	1.80
PAINTERS:		
Zone 1:		
Commercial and Industrial, Tapers (Commercial)	13.30	4.56
Steel (outside), Spray and Paperhangers	15.30	4.56

Page 2	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Zone 2:		
Special Rate	$13.00	$3.32
Regular Rate	14.00	3.32
Premium and Spray and Paperhangers	15.25	3.32
Zone 3:		
Group 1	13.30	1.88
Group 2	12.30	1.88
Group 3	12.90	1.88
Group 4	13.45	1.88
Group 5	12.45	1.88
Group 6	13.90	1.88
Zone 4:		
Group 1	13.60	4.83
Group 2	13.90	4.83
Group 3	14.40	4.83
Group 4	11.65	4.83
Group 5	12.65	4.83
PIPEFITTERS:		
Zone 1	16.25	6.18
Zone 2	16.12	3.69
Zone 3	17.17	3.76
PLUMBERS:		
Zone 1	17.88	4.55
Zone 2	16.93	5.20
Zone 3	16.48	2.95
ROOFERS:		
Zone 1:		
Composition	17.30	3.84
Zone 2:		
Composition, Damp and Waterproofers	16.92	2.43
Mechanic II (handle and transport all materials, tools, and equipment; Clean-up debris)	8.25	2.43
Zone 3:		
Composition, Damp and Waterproofing, Slate and Tile	17.72	2.00
Zone 4:		
Slate and Tile	16.70	4.75
Slate and Tile Helpers	8.85	4.75
Zone 5:		
Composition, Damp and Waterproofing	18.00	3.50
Slate and Tile	18.125	3.50
Zone 6:		
Composition, Damp and Waterproofing	13.25	6.14

DECISION NO. NJ83-3015	Basic Hourly Rates	Fringe Benefits
SHEET METAL WORKERS:		
Zone 1	$15.56	$0.21+ 23%
Zone 2	14.20	1.63+ 16%
Zone 3	12.80	3.56
Zone 4	15.51	2.58
Zone 5	14.61	3.45
Zone 6	13.86	3.61
SOFT FLOOR LAYERS	15.45	1.00+ 16%
SPRINKLER FITTERS:		
Zone 1	17.08	2.82
Zone 2	16.24	2.43
LABORERS:		
Zone 1:		
Group 1	12.05	3.10
Zone 2:		
Group 1	10.55	2.85
Zone 3:		
Group 1	12.35	2.95
Group 2	12.60	2.95
Zone 4:		
Laborers	11.50	1.90
Zone 5:		
Laborers	11.00	2.10
Zone 6:		
Group 1	10.65	2.75
Zone 7:		
Laborers	11.35	3.80
Zone 8:		
Group 1	12.05	3.10
Group 2	12.30	3.10
Zone 9:		
Group 1	11.30	1.80
Group 2	11.55	1.80
Zone 10:		
Group 1	11.25	1.80
Zone 11:		
Group 1	12.80	2.35
Zone 12:		
Group 1	12.75	2.40
Zone 13:		
Laborers	11.00	2.10
Zone 14:		
Laborers	12.60	2.40
Zone 15:		
Laborers	10.70	2.40
Zone 16:		
Group 1	11.80	2.10
Zone 17:		
Group 1	11.35	1.80
Zone 18	11.25	1.85

Page 3	Basic Hourly Rates	Fringe Benefits
LABORERS: (Cont'd)		
(Heavy and Highway Construction):		
Group 1	$11.80	$2.35+f
Group 2	12.00	2.35+f
Group 3	12.30	2.35+f
Group 4	12.50	2.35+f
Group 5	12.75	2.35+f
Group 6	13.80	2.35+f
(Free Air Tunnel Jobs):		
Group 1	13.25	2.35+f
Group 2	12.85	2.35+f
Group 3	12.70	2.35+f
Group 4	12.20	2.35+f
(Asphalt Construction):		
Zone 1:		
Street:		
Head Raker	11.30	2.35+f
Rakers and Screen Men	11.15	2.35+f
Tampers, Smoothers, Kettlemen, Painters, Top Shovelers and Roller Boys	10.90	2.35+f
Plant:		
Scale Mixers and Burner Men	11.15	2.35+f
Feeders and Dust Men	10.90	2.35+f
Zone 2:		
Street:		
Head Rakers	11.65	2.60+f
Rakers and Screed Men	11.50	2.60+f
Tampers, Smoothers, Kettlemen, Painters, Shovelers and Roller Boys	11.25	2.60+f
Plant:		
Scale Mixer and Burner Men	11.30	2.60+f
Feeders and Duct Men	11.05	2.60+f
LINE CONSTRUCTION:		
Zone 1:		
Linemen, Cable Splicers, Line Equipment Operators, Line Truck Operators, Groundmen and Welders	16.30	26.75%
Zone 2:		
Linemen and Equipment Operators	19.56	1.50+ 17%+ 100.00 P/YR.
Cable Splicers	20.87	1.50+ 17%+ 100.00 P/YR

DECISION NO. NJ83-3015	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Zone 2: (Cont'd)		
Groundmen	70%JR	
Zone 3:		
Linemen, Cable Splicers, Equipment Operators and Groundmen	17.00	0.58+ 21.75%
Zone 4:		
Linemen, Cable Splicers, Line Equipment Operators and Groundmen	16.18	2.00+ 14.25%
Zone 5:		
Linemen, Cable Splicers, Line Equipment Operators and Groundmen	19.05	3.00+ 14.25%
Zone 6:		
Linemen; Cable Splicers; Line Equipment Operators and Groundmen	13.84	0.80+ 10.75%
Zone 7:		
Linemen and Equipment Operators	19.77	2.30+ 11%
Groundmen and Line Truck Operators	15.10	2.30+ 11%
Zone 8:		
Linemen and Equipment Operators	16.45	1.90+ 10.75%
Groundmen	14.59	1.90+ 10.75%
Zone 9:		
Linemen and Equipment Operators	14.01	0.80+ 10.75%
Groundmen	12.15	0.80+ 10.75%
Zone 10:		
Linemen, Cable Splicers and Groundmen	16.73	1.90+ 10.75%
Zone 11:		
Linemen, Cable Splicers	16.41	2.25+ 10.75%
Groundmen	15.56	2.25+ 10.75%

Page 4	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
Zone 12:		
Linemen, Equipment Operators and Cable Splicers	$19.80	25%
Groundmen Winch Operators	18.90	25%
Zone 13:		
Linemen, Line Truck Operators, Equipment Operators and Cable Splicers	13.50	1.00+ 11.75%
Groundmen	7.434	1.00+ 11.75%
Zone 14:		
Linemen, Line Truck Operators, Equipment Operators, and Cable Splicers	16.00	1.20+ 11.75%
(Railroad Construction ONLY):		
Linemen	15.42	25%
Line Equipment Operators	14.73	25%
Groundmen Winch, Operators, Truck Operator	11.88	25%
Groundmen	10.05	25%
Dynamite Man	12.91	25%
Street Light Mechanic	12.51	25%
Line Equipment Mechanic	11.73	25%
POWER EQUIPMENT OPERATORS: (Excluding Steel Erection; Tank Erection and Oilostatic Mainlines and Transportation Pipe Lines):		
Class 1	19.37	4.60+g
Class 2	17.98	4.60+g
Class 3	16.37	4.60+g
Class 4	14.94	4.60+g
Class 5	13.63	4.60+g
Class 6	21.19	4.60+g
(Steel Erection):		
Class 1	21.19	4.60+g
Class 2	20.28	4.60+g
Class 3	19.14	4.60+g
Class 4	16.78	4.60+g
Class 5	14.09	4.60+g
Class 6	23.00	4.60+g
Class 7	15.45	4.60+g

DECISION NO. NJ83-3015	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
(Tank Erection):		
Class 1	$21.86	$4.60+g
Class 2	21.02	4.60+g
Class 3	23.00	4.60+g
Class 4	21.19	4.60+g
Class 5	20.13	4.60+g
Class 6	14.82	4.60+g
(Oilostatic Mainlines and Transportation Pipe Lines):		
Class 1	20.00	4.60+g
Class 2	18.75	4.60+g
Class 3	17.61	4.60+g
Class 4	15.41	4.60+g
Class 5	14.09	4.60+g
Class 6	21.39	4.60+g
TRUCK DRIVERS:		
Zone 1:		
Group 1	7.27	1.43+ h+i
Group 2	7.50	1.43+ h+i
Group 3	7.55	1.43+ h+i
Group 4	7.65	1.43+ h+i
Group 5	7.76	1.43+ h+i

Page 5	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS: (Cont'd)		
Zone 2:		
Group 1	$11.72	2.065+ h+i
Group 2	11.95	2.065+ h+i
Group 3	12.00	2.065+ h+i
Group 4	12.10	2.065+ h+i
Group 5	12.20	2.065+ h+i
Zone 3:		
Group 1	11.72	1.53+ i+j
Group 2	11.95	1.53+ i+j
Group 3	12.00	1.53+ i+j
Group 4	12.10	1.53+ i+j
Group 5	12.20	1.54+ i+j

WELDERS - Receive rate 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

FOOTNOTES:
a. Holidays: A through F, plus Armistic Day and Washington's Birthday
b. Employer contributes $8.00 per day per employee to an Annuity Fund
c. Holidays: A through F, plus Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day, and Armistic Day
d. Employees with 6 months of service but less than 5 years of service receive 2 weeks vacation; 5 or more years of service receive 3 weeks vacation
e. Holiday: A half day's pay for Labor Day
f. Holidays: A through F, plus Washington's Birthday, Veterans' Day and Presidential Election Day providing the employee works on 3 days for the same employer within a period of 10 working days, consisting of 5 working days before and 5 working days after the day upon which the holiday falls or is observed as such
g. Holidays: A through F, plus Washington's Birthday, Presidential Election Day and Veterans' Day providing the employee works any of the 3 days in the 5 days preceeding the holiday and the first work day after the recognized holiday
h. All Employees who are assigned to work on Sundays or the following holidays: New Year's Day, Martin Luther King's Birthday, Lincoln's Birthday, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, General Election Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day, and any new holiday proclaimed by the Federal Government (not days of mourning), shall be paid two and one half times the rates listed for all hours worked which includes the holiday pay
i. Employees working or receiving pay for 80 days within a year receive one week's vacation (40 hours); 125 days receive two weeks vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 hours)
j. Employer contribution of $124.00 per month per employee to Health and Welfare Funds

AREA, GROUP, and ZONE DESCRIPTOINS

AIR CONDITION and REFRIGERATION MECHANIC:
Group 1: Installation of refrigeration equipment for any type of building where the combined compressor tonage does not exceed 5 tons; Installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); Installation of air-cooled air conditioning that does not exceed 15 tons

ASBESTOS WORKERS:
Zone 1: Hunterdon (Alexander, Bethlehem, Bloomsburry, Clinton, Delaware, East Armwell, Flemington, Franklin, Frenchtown, Glen Garden, Hampton, High Bridge, Holland, Kingwood, Lambertville, Labanon, Milford, Raritan, Readington, Stockton, Union, and West Armwell Townships); Middlesex (Cranbury, East Brunswick, Helmatta, Jamesburg, Milltown, Monroe, North Brunswick, Plainsboro, South Brunswick and Spotswood Townships); Somerset (Branchburg, Franklin, Hillsborough, Manville, Millstone, Montgomery and Rocky Hill Townships); and Warren (Franklin, Greenwich, Hamony, Lopatcong, Oxford, Phillipsburg, Pohotcong, Washington and White Townships) Counties
Zone 2: Bergen, Essex, Hudson, Hunterdon (Remainder of County), Middlesex (Remainder of County), Morris, Passaic, Somerset (Remainder of County), Sussex, Union and Warren (Remainder of County) Counties

BRICKLAYERS; STONEMASONS, CEMENT MASONS; and PLASTERERS:
Zone 1: Bergen (North Arlington, Lyndhurst - east of Ridge Road and north to Rotherford Avenue and Barry's Creek, west to the Hackensack River); Essex (except Millburn Township); Hudson that portion west of the Jackensack River
Zone 2: Bergen (Wallington, part of East Patterson, Garfield, Lodi, North Arlington and part of Lyndhurst); Morris (Pompton Plains, Pequannock, Lincoln Part, Kinnelon, Butler and Riverdale); Passaic and Sussex (that portion north of a line along Route #521 from Dingmans Ferry to Tuttles Corner, along Route #206 to Lafayette, then along North Church Road to Route #23, then along Route #23 to Passaic County Line) Counties
Zone 3: Bergen (Remainder of County)
Zone 4: Hudson (Remainder of County)
Zone 5: Middlesex (except Dunellen, South Plainfield, New Market, Middlesex and Oak Tree) and Somerset (Franklin Park only) Counties
Zone 6: Essex (Millburn Township), Morris (Gillette and Sterling, Shore Hills Townships), Union (New Providence Springfield Summit and Union Townships)
Zone 7: Hunterdon (Califon, Oldwick, Annadalle, Lebanon, White House Station, Readington, Stantion and Three Bridges Townships) and Somerset (Remainder of County) Counties
Zone 8: Hunterdon (Remainder of County), Morris (Stephensburg, Pleasant Grove, Middle Valley and Parker Townships), Sussex (Branchville, Flatbrookville, Swartswood, Halsey, Newton and Stillwater Townships) and Warren Counties
Zone 9: Morris (Remainder of County) and Sussex (Remainder of County) Counties

AREA, GROUP, and ZONE DESCRIPTIONS (Cont'd)

BRICKLAYERS, STONEMASONS, CEMENT MASONS, and PLASTERERS: (Cont'd)
Zone 10: (Parts of Somerset, Morris and Hunterdon Counties. At Old Mill Inn Route #202 follow Passaic River to the Dean River from thense to Sunset Lake at Pluckemin; follow Chambers Brook to Oldwick to Fairmount, Hunterson County across the County Line to Long Valley in Morris County; thence across from Long Valley into Chester, 3 miles north of Chester to Muskrat, then back across into Ralston, Morris County, then follow Morris-Somerset County Line into Mendham Township; then we go across Morris County Line into Somerset, back to the Old Mill Inn in Bernardsville, Route #202, Somerset County.)
Zone 11: Union (Plainfield, Scotch Plains)
Zone 12: Union (Remainder of County)

CARPENTERS, INSULATORS and MILLWRIGHTS:
Zone 1: Bergen County (east of the Hackensack River including but not limited to Cliffside, Fort Lee, Grant Wood, Palisades Park, Ridgefield, Edgewater, Fairview, Leonia and Coytesville) and that part of Hudson County east of the Hackensack River
Zone 2: Hunterdon (starts at the south of the town of Frenchtown on the Delaware River, thence following the line in the center of the road to Baptistown to Croton to the City of Flemington to Flemington Junction to Three Bridges, thence following the Somerset County Line northward, all territory south of this line including the City of Flemington) and Somerset (all territory south of a line beginning at Armwell on the Coutny Line to Zion to Fairview to Dutchtown to Plainsville to Bell Mead to Griggstown to the Delaware and Raritan Canal) Counties
Zone 3: All of Union, Middlesex, Morris and Sussex; also the Township of Millburn; County of Essex, the following municipalities in Somerset County (Greenbrook, North Plainfield, Watchung and all of the following communities east of King George's Road; Warren Township Mt. Bethel
Zone 4: Essex County and that part of Hudson County west of the Hackensack River
Zone 5: Bergen (Remainder of County)
Zone 6: Passaic County and the City of Garfield and Borough of Lodi and Wallington in Bergen County

DIVERS and DIVER TENDERS:
Zone 1: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties

ELECTRICIANS and CABLE SPLICERS:
Zone 1: Essex County
Zone 2: Union County (that portion east and north of a line running in a southerly direction from Morris Avenue along Baltusrol Way, across Baltusrol County Club to Baltusrol Road, along Baltusrol Road and Summit Lane in Mountainside to and along New Providence Road, to and along the Mountainside Line, to and along Washington Valley Road, to and along Diamond Hill Road, to and along Park Avenue in Scotch Plains, and continuing along Martine Avenue, to and northeast along the Raritan Road, to and easterly along the Westfield-Scotch Plains Line, to the Lehigh Valley Railroad and southwest on the railroad to the County Line)

AREA, GROUP, and ZONE DESCRIPTIONS (Cont'd)

ELECTRICIANS and CABLE SPLICERS: (Cont'd)
Zone 3: Union County (that portion south and west of a line running east from Somerset County on Mountain Avenue, in New Providence Borough, to the Diamond Hill Road, south on that road to and along Park Avenue, in Scotch Plains and continuing along Martine Avenue, to and Northeast along the Raritan Road, to and easterly along the Westfield-Scotch Plains Line to the Lehigh Valley Railroad and southwest on the railroad to Middlesex County Line)
Zone 4: Union (Remainder of County)
Zone 5: Bergen and Hudson Counties
Zone 6: Passaic County
Zone 7: Morris and Sussex Counties
Zone 8: Hunterdon and Somerset Counties
Zone 9: Middlesex County (that portion south and west of a line extending east from the Raritan River along the Philadelphia and Reading Railroad to Stelton Road, south on Stelton Road to Lincoln Highway, along Lincoln Highway to Vineyard Road to Old Post Road, along Old Post Road to Mill Road, along Mill Road to the Raritan River along the Raritan River to the South River, along the South River to the southern boundary to the Borough of South River, along this boundary to the Cranbury South River Turnpike, along this road and continuing on the Washington Road and Maplewood Avenue in Cranbury to Scott Avenue, along Scott Avenue to Main Street, on Main Street and the Turnpike to the Millstone River)
Zone 10: Middlesex County (that portion north and west of a line following the Philadelphia and Reading Railroad east from the Raritan River to Dismal Road, northeast on Dismal Road to Park Avenue, north on Park Avenue to the Lehigh Valley Railroad, and northeast along that railroad to the Union County Line)
Zone 11: Middlesex (Remainder of County)
Zone 12: Warren County (from Pahaquarry, Blairstown, Knowlton, Hope, Liberty, White, Oxford, Washington, Hamony, Franklin, Lopatcong, Greenwich, Pohatcong Townships and that portion of Mainsfield Township west of Line following the Point Mt.-Port Murray Road to Independence Township)
Zone 13: Warren (Remainder of County)

GLAZIERS:
Zone 1: Bergen and Passaic Counties
Zone 2: Middlesex, Somerset (Bernardsville, Basking Ridge and Watchung) and Union (Carteret, Port Reading, Fords, and Woodbridge) Counties
Zone 3: Essex, Hudson, Morris, Somerset (Remainder of County), Sussex, Union (Remainder of County) and Warren Counties

IRONWORKERS:
Zone 1: Warren County
Zone 2: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex and Union Counties

AREA, GROUP, and ZONE DESCRIPTIONS (Cont'd)

MARBLE SETTERS; TERRAZZO WORKERS; and TILE SETTERS:
Zone 1: Hunterdon (Remainder of County), Morris (Stephensburg, Pleasant Grove, Middle Valley, and Parker Townships), Sussex (Branchville, Flatbrookville, Swartswood, Halsey, Newton, and Stillwater Townships), Warren Counties
Zone 2: Bergen, Essex, Hudson, Hunterdon (Wertsville, Reaville, Flemington, Hamden, Clinton, Penwell and Cities east thereof to the County Line), Middlesex, Morris (Remainder of County), Passaic, Somerset, Sussex (Remainder of County) and Union Counties

MARBLE SETTERS'; TERRAZZO WORKERS' and TILE SETTERS' FINISHERS:
Zone 1: Bergen, Essex, Hudson, Hunterdon (Wertsville, Reaville, Flemington, Hamden, Clinton, Penwell and Cities east thereof to the County Line), Middlesex, Morris, Passaic, Somerset, Sussex (Colesville, Beermerville, Mt. Pisah, Swartswood, Huntsburg and all Cities inclusive to the Morris and Passaic County Line) and Union Counties
Zone 2: Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, and Union Counties

PAINTERS:
Zone 1: Bergen, Passaic and Sussex Counties
Zone 2: Middlesex (Edison Township south of Metchen, Highland Park, New Brunswick, North Brunswick, East Brunswick and South Brunswick Townships and Monroe Township) and Somerset (Franklin Township) Counties
Zone 3: Essex, Hudson (west half of County), Hunterdon, Middlesex (Remainder of County), Morris, Somerset (Remainder of County), Union and Warren Counties:

Group 1: Painters on New Construction and Major Alterations
Group 2: Painters on Repaint Work
Group 3: Spraying or Application of hazardous or dangerous materials on Repaint Work
Group 4: Exterior Work exceeding 3 stories in height for painting of Open Structural Steel and Tanks under 3 stories in height except Flat Tanks on the ground and on interior work which requires painting higher than 20' above the ground or floor (this shall not be applicable to Machinery or Equipment located therein)
Group 5: Repaint Work as described in Group 4
Group 6: On Bridges, Television and Radio Towers, Structural Steel and Tanks above 3 stories in height (30' or over), Smoke Stacks, Water Towers, Sandblasting, Steam Cleaning, Spraying or application of Hazardous materials

Zone 4: Hudson (Remainder of County):

Group 1: Interior Industrial and Commercial work and interior of apartment houses; Paperhangers
Group 2: All extension Ladder work, 36 feet high and over, on all scaffold work except one and two family homes and all boatswains chair work; Structural Steel, Tanks, Bridges, Towers, Smokestacks, Radio Towers, Television Towers, Flag Poles (steel or wood construction), Fire Escapes from top to bottom, Cable Work, Hazardous Work
Group 3: Sandblasting; Spraying

AREA, GROUP and ZONE DESCRIPTIONS (Cont'd)

PAINTERS: (Cont'd)
Zone 4: (Cont'd)
Group 4: Repainting high rises and old warehouses with Scaffold or extension Ladders
Group 5: Rehab. Work - all closets below street level, basements, sub-basements, Boiler Rooms and Stairways, may be sprayed

PIPEFITTERS:
Zone 1: Bergen, Hudson, Morris (Remainder of County), Passaic, Sussex, and Warren (excluding area given in Zone 2 for the same County) Counties
Zone 2: Essex, Hunterdon (Alexandria, Alexandria Township, Alexauken, Allens Corner, Allertown, Amsterdam, Annandale, Anthony, Baptistown, Bellewood, Bethlehem Townships; Bissell, Bloomsbury, Bunnvale, Buttonwood Corners, Centerville, Charlestown, Cherryville, Clinton, Cokebury, Coles Mills, Croton, Delaware Townships, Dilts Corner, East Amwell Township, Evittstown, Fairmount, Farmersville, Franklin Township, Frenchtown, Glen Gardner, Grandin, Hamden, Hampton, Higginsville, High Bridge, Hoffmans, Holland Township, Hughesville, Johnsons, Jutland, King, Kingwood Township, Klinesville, Landsdowne, Lebanon, Lebanon Township, Little Brooke, Little Neck, Little York, Ludlow, McPherson, Milford, Mountainville, Mount Joy, Mount Pleasant, Mount Salem, Muirshead, New Germantown, New Hampton, Newport, Norton, Oak Grove, Oldwick, Palmyra, Palmyra Corners, Pattenburg, Perryville, Pittstown, Pleasent Run, Polktown, Potterstown, Quakertown, Raritan Township, Readington Townships) Counties
Zone 3: Hunterdon (excluding area given in Zone 2 for the same County), Mercer (excluding Hopewell and Hopewell Township), Middlesex (excluding Dunellen Borough, East Bound Brook, Middlesex, New Market, Oak Tree, Piscataway Township, and South Plainfield), and Somerset (excluding area given in Zone 2 for same County) County

PLUMBERS:
Zone 1: Hudson County (Bayonne, Guttenberg, Hoboken, Jersey City, North Bergen, Secaucus, Union City, Weehawken, West New York, Bergen County, Passaic County, Sussex County, Warren County (northern half), and Morris County (from Mount Olive straight across Randolph, down to the Essex Border)

AREA, GROUP, and ZONE DESCRIPTIONS (Cont'd)

PLUMBERS: (Cont'd)
Zone 2: Essex, Hudson (East Newark, Harrison and Kearney only), Hunterdon (Alexandria, Alexandria Township, Alexauken, Allens Corner, Allertown, Amsterdam, Annandale, Anthony, Baptistown, Bellewood, Bethlehem Township, Bissell, Bloomsbury, Bunnvale, Buttonwood Corners, Centerville, Charlestown, Cherryville, Clinton, Clinton Townships, Cokebury, Coles Mills, Croton, Delaware Township, Dilts Corner, East Amwell Township, Everittstown, Fairmount, Farmersville, Franklin Townships, Frenchtown, Glen Gardner, Grandin, Hamden, Hampton, Higginsville, High Bridge, Hoffmans, Holland Township, Hughesville, Johnsons, Jutland, King, Kingwood Township, Klinesville, Landsdowne, Lebanon, Lebanon Township, Little Brook, Little Neck, Little York, Lodlow, McPherson, Milford, Mountainville, Mt. Joy, Mt. Pleasent, Mt. Salem, Muirshead, New Germantown, New Hampton, Newport, Norton, Oak Grove, Oldwick, Palmyra, Palmyra Corners, Pattenburg, Perryville, Pittstown, Pleasent Run, Polktown, Potterstown, Quakertown, Raritan Township, Readington, Readington Township, Reaville, Rileyville, Riverside, Rockafellows, Rowland Mills Sidney, Snydertown, Spring Mills, Stanton, Stanton Station, Sunnyside, Sutton, Tewksbury, Tewksbury Township, The Point, Three Bridges, Treasure Island, Tumble, Union, Union Township, Unionville, Van Syckle, Warren Paper Mills, Wertsville, West End, West Portal, Whitehouse, Whitehouse Station, Woodglen), Mercer (Hopewell and Hopewell Township only), Middlesex (Dunellen Borough, East Bound Brook, Middlesex, New Market, Oak Tree, Piscataway Township, and South Plainfield only), Morris (Bartley, Bershire Valley, Bertland Island, Brookside, Chatham, Chatham Township, Chester, Chester Township, Cooks Bridge, Crestmoore, Gillette, Harding Township, Ironia, Logansville, Long Valley, Malapardis, Mendham, Mendham Township, Middle Valley, Millington, Milltown, Milton, Mt. Freedom, Mt. Oliver Township, Mt. Paul, Myerstown, Naughright, New Vernon, Parker, Passaic Township, Pleasent Grove, Ralston, Schooleys, Mt. Stanley, Stephensburg, Stirling, and Washington Township), Somerset (Amwell, Basking Ridge, Bedminister, Bedminister Township, Bernards Township, Bernardsville, Blaziers Corner, Bound Brook, Bradley Gardens, Branchburg Township, Bridgewater Township, Burnt Mill, Centerville, Chimney Rock, Claver Hill, Dutchtown, Far Hills Borough, Finderne, Flagtown, Frant Fort, Franklin Park, Franklin Township, Gallia, Gladstone, Greater Cross Roads, Hamilton, Harmony, Harmony Colony, Higgins Mills, Hillsborough Township, Lamington, Lanes Crossing, Liberty Corners, Lyons, Madisonville, Manville, Manville Borough, Martinsville, Mettler, Millstone, Mine Brook, Montgomery, Montgomery Township, Mt. Bethel, Mt. Horeb, Neshanic, Neshanic Station, North Branch, North Branch Depot, North Plainfield, Peapack, Peapack-Gladstone, Plainville, Pluckemin, Pottersville, Raritan, Ravine Lake, Rock Mill, Round Top, Roycefield, Royce Valley, Seeley Mills, Smalleytown, Somerset, Somerville, Stone House, Sunset Lake, Union Village, Vliettown, Watchung, West Millington, Weston, White Bridge, Woodfern, Zarepath, and Zion), Union and Warren (Anderson, Asbury, Beattystown, Brainards, Brass Castle, Broadway, Buttzville, Carpentersville, Changewater, Cornish, Finesville, Foul Rift, Franklin Township, Greenwich Township, Harmony, Harmony Station, Harmony Township, Hazen, Hope Township, Hutchinson, Karrville, Kennedy, Lopatcong, Lopatcong Township, Lower Harmony, Mansfield Township, Montana, New Village, Oxford, Oxford Township, Pequest, Pleasent Valley, Port Colden, Port Murray, Riegelsville, Rockport, Rocksbury, Roxburgh, Springtown, Stewartsville, Still Valley, Vulcanite, Warren Glen, Washington, Washington Township and White Top) Counties

AREA, GROUP, and ZONE DESCRIPTIONS (Cont'd)

PLUMBERS: (Cont'd)
Zone 3: Hunterdon (excluding area given in Zone 2 for the same County), Mercer (excluding Hopewell and Hopewell Township), Middlesex (excluding Dunellen Borough, East Bound Brook, Middlesex, New Market, Oak Tree, Piscataway Township, and South Plainfield) and Somerset (excluding area given in Zone 2 for the same County) Counties

ROOFERS:
Zone 1: Bergen and Passaic Counties
Zone 2: Hunterdon and Somerset (Rocky Hill, Harlingen, Belle Meade, Neshanic, Clover Hill, Montgomery, Zion, Skillman, Stoutsburg, Blawenburg, Centerville and Kingston) Counties
Zone 3: Essex, Hudson (west of the Hackensack River), Morris, Somerset (Pottersville, Peapack, Gladstone, Bernardsville, Basking Ridge, Bedminister, Far Hills, Mine Brook, Lyons, Liberty Corner, Pluckamin, Mt. Bethel and Watchung), Sussex, Union (remainder of County) and Warren Counties
Zone 4: Bergen, Passaic and Sussex Counties
Zone 5: Middlesex, Somerset (Remainder of County) and Union (Scotch Plains, Planfield, Clark, and Rahway) Counties
Zone 6: Hudson (Remainder of County)

SHEET METAL WORKERS:
Zone 1: Middlesex County
Zone 2: Essex and Passaic Counties
Zone 3: Bergen and Hudson Counties
Zone 4: Warren County
Zone 5: Morris, Somerset, Sussex, and Union Counties

SPRINKLER FITTERS:
Zone 1: Bergen, Essex, Hudson, Middlesex (New Brunswick, Milltown, Old Bridge, Browntown and North thereof), Morris, Passaic, Somerset (Bernardsville, Basking Ridge, Mine Brook, Far Hills, Lyons, Mt. Bethel, Watchung, North Plainfield, Martinville and Somerville) and Union Counties
Zone 2: Hunterdon, Middlesex (Remainder of County), Somerset (Remainder of County), Sussex and Warren Counties

LINE CONSTRUCTION:
Zone 1: Essex County
Zone 2: Passaic County
Zone 3: Bergen and Hudson Counties
Zone 4: Union (that portion east and north of a line running in a southerly direction from Morris Avenue along Baltusrol Way, across Baltusrol County Club to Baltusrol Road, along Baltusrol Road and Summit Lane in Mountainside to and along New Providence Road to and along the Mountainside Line, to and along Washington Valley Road, to and along Diamond Hill Road, to and along Park Avenue in Scott Plains, and continuing along Martine Avenue, to and northeast along the Raritan Road, to and easterly along the Westfield-Scotch Plains Line, to the Lehigh Valley Railroad and southwest on the railroad to the County Line) County

AREA, GROUP, and ZONE DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION: (Cont'd)
Zone 5: Union County (that portion south and west of a line running east from Somerset County on Mountain Avenue in New Providence Borough to the Diamond Hill Road south on that road to and along Park Avenue in Scotch Plains and continuing along Martine Avenue, to and northeast along the Raritan Road, to and easterly along the Westfield-Scotch Plains Line to the Lehigh Valley Railroad and Southwest on the railroad to the Middlesex County Line)
Zone 6: Remainder of Union County
Zone 7: Morris and Sussex Counties
Zone 8: Hunterdon (except Tewksbury Township and Califon Borough) and Somerset (that portion south of a line following Mountain Avenue, from the Union County Line west to Hillcrest Avenue in Union Village, north on Hillcrest Avenue to and west on the Passaic River, west on the Dead River, west on Allen Road, north on Somerville Road, west on Howell Road, southwest on Mt. Prospect Road, west on Martinsville-Pluckemin Road, west on Klines Mill Road, north on John Kane Road to Hunterdon County Line, and also that portion of Montgomery Township west and south of a line following U. S. Highway #206 north from Mercer County to the Harlingen Road, west along that road the Dutchtown - Zine Road to Hillsboro Township Line) Counties
Zone 9: Hunterson (Remainder of County) and Somerset (Remainder of County)
Zone 10: Middlesex County (that portion south and west of a line extending east from the Raritan River along the Philadelphia and Reading Railroad to Stelton Road, south on Stelton Road to Lincoln Highway to Vinyard Road to Old Post Road, along Old Post Road to Mill Road, along Mill Road to the Raritan River, along the Raritan River to the South River, along the South River to the southern boundary of the Borough of South River, along this boundary to the Cranbury South River Turnpike, along this road and continuing on to the Washington Road and Maplewood Avenue in Cranbury to Scott Avenue, along Scott Avenue to Main Street, on Main Street and the Turnpike to the Millstone River)
Zone 11: Middlesex County (that portion north and west of a line following the Philadelphia and Reading Railroad east from the Raritan River to Dismal Road, northeast on Dismal Road to Park Avenue, north on Park Avenue, to the Lehigh Valley Railroad, and northeast along that Railroad to the Union County Line)
Zone 12: Remainder of Middlesex County
Zone 13: Warren County (from Pahaquarry, Blairstown, Knowlton, Hope, Liberty, White, Oxford, Washington, Harmony, Franklin, Lopatoong, Greenwich, Pohatoong Townships and that portion of Mansfield Township west of line following the Point Mt. - Port Murray Road to Independence Township)
Zone 14: Remainder of Warren County

ZONE and GROUP DESCRIPTIONS (Cont'd)

LABORERS
BUILDING CONSTRUCTION

Zone 1: Passaic County (Townships of Boroughs Passaic, Garfield, Lodi, Wallington, Delawanna, Allwood, Athenia and Clifton to Piaget Avenue; Paterson, and the Boroughs and Townships of Albion Place, Little Fall, Totowa Borough, West Paterson, Wayne, Hawthorne, Pompton, Haledon, Clifton to Piaget Avenue, West Milford, Ringwood, Bloomingdale, New Jersey and East Paterson to the Garfield boundary Line):

Group 1: Laborers; Air Tool Operators (Jackhammers, Vibrators); Mason Tenders; Mortar Mixers; Pipelayers (concrete and clay); and Plasterer Tenders

Zone 2: Bergen County (Cliffside: Borough of Cliffside Park: Borough of Fort Lee, south of Central Boulevard; Borough of Palisades Park, south of Central Boulevard; Borough of Ridgefield; Borough of Edgewater, and Borough of Fairview; Hackensack: City of Hackensack; Hasbrouck Heights; Little Perry; South Hackensack; Ridgefield Park; Bogota; Teaneck Township, west of Teaneck Road and South of Fort Lee Road; Maywood; Saddle Brook Township; Borough of Paramus, east of Sproot Brook; and the Borough of River Edge; New Milford; Teterboro; Bendix; and Rochell Park; Englewood: City of Englewood; Borough of Dumont; Borough of Bergenfield; Borough of Palisades Park, north of Central Boulevard to Edgewater; Fort Lee, to the Hudson River; Borough of Fort Lee, north of Central Boulevard; Township of Teaneck, east of Teaneck Road and north of Fort Lee Road; Borough of Leonia; Borough of Englewood Cliffs; Borough of Tenafly; Borough of Cresskill; Borough of Demarest; Borough of Closter; Borough of Oradell; Borough of Montvale; Borough of Woodcliff Lake; Borough of Park Ridge; Borough of Hillsdale; Township of Wahsington; Borough of Westwood; Borough of Emerson; Borough of Haworth; Borough of Alpine; Borough of Rockleigh; Borough of Norwood; Borough of Harrington Park; Borough of Old Tappan; Borough of Northvale; and Township of Rivervale; Lyndhurst: Rutherford; East Rutherford; Wood-Ridge; Carlton; Carlstadt; North Arlington and Moonachie; Ridgewood: Village of Ridgewood; Borough of Fair Lawn; Borough of Glen Rock; Borough of HoHoKus; Borough of Saddle River; Borough of Upper Saddle River; Borough of Allendale; Borough of Ramsey; Borough of Waldwick; Borough of Midland Park; Borough of Oakland; Borough of Franklin Lakes; Township of Wykoof; Township of HoHoKus; and Borough of Paramus with the exception of portion of Paramus, east of Sprout Brook and Borough of Mahwah):

Group 1: Laborers; Air Tool Operator (Jackhammers, Vibrators); Mason Tenders; Mortar Mixers; Pipelayers (concrete and clay); Plasterer Tenders; Wrecking and Excavation

ZONE and GROUP DESCRIPTIONS (Cont'd)

LABORERS - BUILDING CONSTRUCTION (Cont'd)

Zone 3: Essex County (City of East Orange, Townships of South Orange and Maplewood):

Group 1: Laborers
Group 2: Mortar Mixers; Scaffold Men; Pneumatic Hammer Operators; Bell Men and Carpenter Tenders

Zone 4: Essex County (Orange and Montclair)
Zone 5: Essex (Millburn) and Union (Springfield and Union Townships) Counties
Zone 6: Essex (Remainder of County) and Hudson (Kearny, East Newark and Harrison) Counties:

Group 1: Laborers; Air Tool Operators; Mason Tenders; Mortar Mixers and Pipelayers (concrete and clay)

Zone 7: Remainder of Hudson County
Zone 8: Middlesex County (Perth Amboy, Carteret, Woodbridge and Metuchen Townships):

Group 1: Laborers
Group 2: Vibrator Handler; Power Hammer Handler; Tamper; Fork Lift Operator

Zone 9: Middlesex (Remainder of County) and Somerset (East Millstone and Franklin Townships) Counties:

Group 1: Laborers
Group 2: Vibrator Handler; Power Hammer; Tamper Handler; Fork Lift Operator

Zone 10: Morris (Boonton, Boonton Township, Montville, Lincoln Park Borough, Butler, Kinnelon Borough, Pin Brook, Towaco, Danville, Mountain Lakes, Pequannock, Pompton Plains and Riverdale Borough) County:

Group 1: Laborers, Wrecking, Demolition; Concrete Mixers without Hoppers; Drill Runners; Jackhammers; Mason Tenders; Mortar Mixers; Excavation and Foundations; Scaffold Builders; Carpenter Tenders and Grading for Concrete

Zone 11: Morris (Jefferson, Rocksway, Mt. Arlington, Rockaway Borough, Wharton, Mine Hill, Dover, Netcong, Roxbury, Mt. Oliver and Randolph Townships) and Sussex Counties:

Group 1: Laborers; Air Tool Operators (Jackhammer, Vibrator); Mason Tenders; Mortar Mixers Plasterer Tenders; Pipelayers, Wreckers and Excavation

ZONE and GROUP DESCRIPTIONS (Cont'd)
LABORERS - BUILDING CONSTRUCTION (Cont'd)

Zone 12: Morris County (Morristown, Morris Township, Morris Plains, Mendham, Ralston, Chester, Brookside, Flanders, Ironia, Mt. Freedom, Mt. Tabor, Parsippany, Troy Hills, Pine Brook, Ced Knools, Whippany, Hanover Township and Long Valley):

Group 1: Laborer; Tenders; Scaffolds; Excavation, Bituminous Concrete and Aggregates; Pipelayers; Underpinning; Lagging; Bracing and Wrecking

Zone 13: Remainder of Morris County
Zone 14: Somerset County (Townships of Bernardsville, Peapack, Gladstone, Far Hills, Bernards, and Bedminster)
Zone 15: Somerset County (Townships of Bridgewater, Branchburg, Raritan, Bound Brook, Somerville, Manville, Hillsboro, Millstone, Montgomery and Rocky Hill)
Zone 16: Somerset (Remainder of County) and Union (Remainder of County):

Group 1: Laborers; Air Tool Operators; Mason Tenders; Plasterer Tenders and Mortar Mixers

Zone 17: Hunterdon and Warren Counties:

Group 1: Laborers; Hod Carriers; Power Tool Operators and Plasterer Tenders

Zone 18: Middlesex County (South River, Say Reville, South Amboy, Madison, East Brunswick, Spotwood, Jamesburg, Helmetta, Cranbury, and Monroe)

HEAVY and HIGHWAY CONSTRUCTION

Group 1: Common Laborers; Landscape Laborers; Railroad Track Laborers; Pitmen and Dumpmen; Waterproofing; Rakers and Tampers on Cold Patch work and Wrapping and Coating all Pipe

Group 2: Wagon Drill Operator Helpers; Drill Master Helpers; Powder Carriers and Magazine Tenders; Signalman

Group 3: Sewer Pipe; Laser Men; Conduit and Duct Line Layers; Jackhammer; Chipping Hammers; Pavement Breakers; Power Buggies; Concrete Cutters, Asphalt Cutters; Sheet Hammer and Tree Cutter Operators; Sandblasting, Cutting, Burning, and such other Power Tools used to perform work usually done manually by Laborers

Group 4: Wagon Drill Operator; Timberman; Drill Master

Group 5: Finisher; Form Setter; Rammer; Paver; Gunite Nozzle Man and Stone Cutter

Group 6: Blaster

LABORERS (Cont'd)
FREE AIR TUNNEL JOBS

Group 1: Blasters

Group 2: Skilled Men (including Miners; Drill Runners; Iron Men; Maintenance Men; Conveyor Men; Safety Miners; Riggers; Block Layers; Cement Finishers; Rodmen; Caulkers; Powder Carriers; all other skilled men)

Group 3: Semi-skilled Men (including Miner's Helpers; Chuck Tenders; Trackmen; Nippers; Brakemen; Derail Men; Cable Men; Hose Men; Grout Men; Gravel Men; Form Men; Bell or Signal Men (top or bottom); Form Workers and Movers; Concrete Workers; Shaft Men; Tunnel Laborers; Caulkers' Helpers, all other Semi-skilled Men)

Group 4: All other (including Power Watchmen; Changehouse Attendents; Top Laborers)

ZONE DESCRIPTIONS

LABORERS - Asphalt Construction:
Zone 1: Bergen, Essex, Hudson, Hunterdon, Middlesex (northern half of County), Morris, Passaic, Somerset, Sussex, Union and Warren Counties
Zone 2: Remainder of Middlesex County

POWER EQUIPMENT OPERATORS
(Excluding Steel Erection, Tank Erection and Oilostatic Mainlines and Transportation Pipe Lines)

Class 1: Autograde - Combination Subgrader; Base Metal Spreader and Base Trimmer (CMI and similar types); Autograde Placer, Trimmer, Spreader Combination (CMI and similar types); Autograde Slipform Paver (CMI and similar types); Backhoe; Central Power Plants (all types); Concrete Paving Machines; Cranes (all types, including Overhead and Straddle Travelling type); Cranes; Gantry; Derricks (Land or Floating); Drillmaster, Quarrymaster (down the Hole Drill) Rotary Drill; Self Propelled Hydraulic Drill; Self-powered Drill; Dragline; Elevator Graders; Front End Loaders (5 yds. and over); Gradalls; Grader; Raygo; Helicopter, Co-Pilot; Helicopters, Communications Engineer; Locomotive (large); Mucking Machines; Pavement and Concrete Breaker, i.e.; Superhammer and Hoe Ram; Pile Driver; Length of Boom including Length of Leads, shall determine premium rate applicable; Roadway Surface Grinder; Scooper (Loader and Shovel); Shovels; Tree Chopper with Boom; Trench Machines

POWER EQUIPMENT OPERATORS (Cont'd)
(Excluding Steel Erection, Tank Erection and Oilostatic Mainlines and Transportation Pile Lines) (Cont'd)

Class 2: "A" Frame; Backhoe (combination); Boom Attachment on Loaders (rate based on size of Bucket) not applicable to Pipeboo, Boring and Drilling Machines; Brush Chopper; Shredder and Tree Shredder; Cableways; Carryalls; Concrete Pump; Concrete Pumping System; Pumpcrete and similar types; Conveyors, 125 ft. and over; Drill Doctor (duties include Dust Collector, Maintenance); Front End Loaders (2 yds. but less than 5 yds.); Graders (Finisher); Groove Cutting Machine (ride on type); Header Planer; Hoists: (all types hoists, shall also include Steam, Gas, Diesel, Electric, Air Hydraulic, Single and Double Drum, Concrete Brick Shaft Caisson, Snorkel Roof, and/or any other similar type Hoisting Machines, portable or stationary, except Chicago Boom type); Long Boom Rate to be applied if Hoist is "Outside Material Tower Hoist"., Hoists (Chicago Boom type); Hydraulic Cranes, 10 tons and under; Hydro-axle; Jacks Screw Air Hydraulic power operated unit or Console type (not Hand Jack or Pile Load Test type); Log Skidder; Pans; Pavers (all Concrete; Pumpcrete Machines; Squeezecrete and Concrete Pumping (regardless of size); Scrapers; Side Booms; Straddle Carrier; Ross and similar types; Winch Truck (hoisting)

Class 4: Asphalt Curbing Machine; Asphalt Plant Engineer; Asphalt Spreader; Autograde Tube Finisher and Texturing Machine (CMI and similar types); Autograde Curercrete Machine (CMI and similar types); Autograde Curb Trimmer and Sidewalk; Stoulder; Slipform (CMI and similar types); Bar Bending Machines (power); Batchers; Batching Plant and Crusher on Site; Belt Conveyor Systems; Boom type Skimmer Machines, Bridge Deck Finisher; Bulldozers (all); Car Dumpers (railroad); Chief of Party; Compressor and Blower type units (used independently or mounted on Dual Purpose Trucks, on job site or in conjuction with job site, in loading and unloading of Concrete, Cement, Fly Ash, Instancrete, or similar type materials); Compressor (2 or 3)(Battery); Concrete Breaking Machines; Concrete Finishing Machines; Concrete Saws and Cutters (ride on type); Concrete Spreaders; Hetzel; Rexomatic and similar types; Concrete Vibrators; Conveyors; under 125 ft.; Crushing Machines; Ditching Machine; Small (Ditchwitch or similar type); Dope Pots (Mechanical with or without Pump); Dumpsters; Elevator; Fireman; Fork Lifts (Economobile; Lull and similar types of equipment); Front End Loaders (1 yd. and over but less than 2 yds.); Generators (2 or 3) in Battery; Giraffe Grinders; Graders and Motor Patrols; Gunnite Machines (excluding Nozzle); Hammer Vibratocy (in conjunction with Generator); Hoist (Roof, Tugger, Aerial Platform Hoist and House Cars); Hoppers; Hopper Doors (power operated); Ladders (motorized); Laddervator; Locomotive; Dinky type; Maintenance; Utility Man; Mechanics; Mixers (except Paving Mixers); Motor Patrols and Graders; Pavement Breakers, small; Self-propelled Ride on type (all maintains Compressor or Hydraulic unit); Pavement Breaker; Truck mounted; Pipe Bending Machine (power); Pitch Pump; Plaster Pump (regardless of size); Post Hole Digger (Post Pounder and Auger); Rod Bending Machines (power); Roller; Black Top; Scales; Power; Seaman Pulverizing Mixer; Shoulder Widener; Silos; Skimmer Machines (boom type); Steel Cutting Machine; Services and Maintans; Tractors; Tug Captain; Vibrating Plants (used in conjunction with unloading); Welder and Repair Mechanics

POWER EQUIPMENT OPERATORS (Cont'd)
(excluding Steel Erection, Tank Erection and Oilostatic Mainlines and Transportation Pipe lines) (Cont'd)

Class 5: Brooms and Sweepers, Chippers, Compressor (single), Concrete Spreaders (small type), Conveyors (under 125 ft.), Conveyor Loaders (not including Elevator Graders), Engines, Large Diesel (1620 H.P.) and Staging Pump, Farm Tractors; Fertilizing Equipment (operation and maintenance of); Fine Grader Machine (small type); Form Line Graders (small type); Front Loader (under 1 yd.); Generator (single); Grease, Gas, Fuel and Oil Supply Trucks; Heaters (Nelson or other type including Propane, Natural Gas or Flow-type units); Lights; Portable Generating Light Plants; Mixers; Concrete small; Mulching Equipment (operation and maintenance of); Pumps (4 inch suction and over including Submersible Pumps); Pumps (2 or less than 4" suction and over including submersible pumps); Pumps (Diesel engine and Hydraulic) immaterial of power Road Finishing Machines (small type); Rollers; Grade; Fill or Stone Base; Seeding Equipment (operation and maintenance of); Sprinkler and Water Pump Trucks (used on job site or in conjunction with job site); Steam Jennies and Boilers, Irrespective of use; Stone Spreader; Tamping Machines; Vibrating Ride-on; Temporary Heating Plant (Nelson or other type, including Propane, Natrual Gas or Flow type units); Welding Machines (gas, diesel, and/or electric Converters on any type, single; two or three in a Battery); Welding System, Multiple (Rectifier Transformer type); Wellpoint Syatems (including Installation by Bull Gang and Maintenance of)

Class 6: Assistant Engineer/Oiler; Tire Repair and Maintenance and Transit/Instrument Man

Class 7: Helicopter Pilot and Helicopter Engineer

STEEL ERECTION

Class 1: Cranes (all cranes, land or floating with booms including jib, 140 ft. and over, above ground); Derricks (all Derricks, land or floating with booms including jib, 140 ft. and over, above ground); Helicopter, Co-pilot and Helicopter - Communications Engineer

Class 2: Cranes (all Cranes, land or floating with booms including jib, less than 140 ft. above ground); Derricks (all Derricks, land or floating with booms including jib, less than 140 ft. above ground)

Class 3: "A" Frame; Cherry Pickers 10 tons and under; Hoists: all type Hoists shall also include Steam, Gas, Diesel, Electric, Air Hydraulic, single and double drum, Concrete, Brick Shaft Caleson, or any other similar type Hoisting Machines, Portable or stationary, except Chicago Boom type, Jacks - Screw Air Hydraulic power operited unit or console type (not Hand Jack or Pile Load test type) and Side Booms

POWER EQUIPMENT OPERATORS (Cont'd)
STEEL ERECTION (Cont'd)

Class 4: Aerial Platform used as Hoist, Compressors, 2 or 3 in Battery, Elevators or Hoose Cars; Conveyors and Tugger Hoists; Chief or Party; Fireman; Forklift; Generators; 2 or 3; Maintenance, Utility Man; Rod Bending Machine (power); Welding Machines (gas or electric, 2 or 3 in Battery, including Diesels); Captain, Power Boats; Tug Master, power boats; Compressor, single; Welding Machines, single gas, electric Converters of any type, diesel; Welding System Multiple (Rectifier Transformer type) and Generator, single

Class 5: Assistant Engineer/Oiler and Straddle Carrier

Class 6: Helicopter Pilot and Helicopter Engineer

Class 7: Compressor, single; Welding Machine, single; Gas, Electric Converters of any type, diesel; Welding System Multiple (Rectifier Transformer type); Generator, single

TANK ERECTION

Class 1: Operating Engineers on all Cranes, Derricks, etc. with Booms including jib, 140 ft. or more above the ground

Class 2: Operating Engineers on all equipment including Cranes, Derricks, etc. with Booms including jib, less than 140 ft. above the ground; (See Article IV-1. of Agreement)

Class 3: Helicopter Pilot Engineer

Class 4: Helicopter Co-pilot and Helicopter Communications Engineer

Class 5: Air Compressors; Welding Machines and Generators are defined as and cover; Gas, Diesel or Electric driven equipment and sources of power from a permanent plant, i.e.: Steam, Compressed air; Hydraulic or other power, from the operating of any machine or automatic tools used in the erection, alteration, repair and dismantleing of tanks and any and all "dual purposes" Trucks used on the construction job site, or in conjunction with the job site. Employees covered hereunder shall man and operate such permanent plant from which source of power is supplied. In the event that the Employer is unable to arrange this, Engineers shall man all valves or other outlets of such sourse of power as is used by the Employer and shall be paid the rate of wages applicable to the classification of work in which he is employed

Class 6: Oiler/Assistant Engineer

POWER EQUIPMENT OPERATORS (Cont'd)
Oilostatic Mainlines and Transportation Pipe Lines

Class 1: Backhoe; Cranes (all types); Draglines; Front-end Loaders (5 yds. and over); Gradalls; Helicopters, Co-pilot and Communications Engineer; Scooper (Loader and Shovel); Koehring and Trench Machines

Class 2: "A" Frame; Backhoe (combination Hoe Loader); Boring and Drilling Machines; Ditching Machine, small; Ditchwitch or similar type; Fork Lifts; Front End Loaders (2 yds. and over but less than 5 yds.); Graders, finish (fine); Hydraulic Cranes, 10 tons and under (over 10 tons - Crane rate applies); Side Booms; Winch Trucks (hoisting)

Class 3: Backfiller; Brooms and Sweepers; Bulldozees; Compressocs (2 or 3 in battery); Chief of Party; Front-end Loaders (1 yd. and over but less than 2 yds.); Front-end Loaders (under 2 yds.); Front-end Loaders (under 1 yd.); Generators; Giraffe Grinders; Graders and Motor Patrols; Mechanic; Pipe Bending Machine (power); Tractors; Water and Sprinkler Trucks, used on job site or in conjunction with job site; Welder and Repair Mechanic; Captain (power boats); Tug Master (power boats)

Class 4: Compressor (single); Dope Pots (Mechanical with or without pump); Dust Collectors; Farm Tractors; Pumps (4 in. suction and over); Pumps (2 or less than 4 in. suction); Pumps; Diseel Engine and Hydraulic (Immaterial of power); Welding Machines; Gas or Electric Converters of any type, single; Welding Machines, gas or electric converters of any type, 2 or 3 in Battery multiple Welders; Wellpoint Systems (including installation and maintenance)

Class 5: Assistant Engineer/Oiler and Grease, gas, fuel and oil Supply Trucks and Tire Repair and Maintenance

Class 6: Helicopter, Pilot/Engineer

TRUCK DRIVERS

Group 1: Mechanic Helper

Group 2: Drivers on the following type vehicles: Straight Dumps, Flats, Floats, Pickups, Container Haulers, Fuel, Water Sprinkler, road Oil, Stringer, Bead, Hot Pass, Bus Dumpcrete, Transit Mixers, Agitator Mixer, Half Truck, Winch Truck, Side-O-Matic, Dynamite, Powder, X-ray, Welding, Skid, Jeep, Station Wagon, Stringer, A-frame, All Dual Purpose Trucks, Trucks with mechanical tailgates, Asphalt Distributor, Batch Trucks, Seeding, Mulching, Fertilizer, Air Compressor Trucks (intransit), Parts Chaser, Escort, Scissor, Hi-lift, Telescope, Concrete Breaker, Gin Pole, Stone, Sand, Asphalt Distributor and Spreader, Nipper, Fuel Trucks (drivers on Fuel Trucks including handling of hose and nozzle-entire unit), Team Drivers, Vacuum or Vac-all Trucks (entire unit), Skid Truck (debris container - entire unit), Concrete Mobile Trucks (entire unit), Expediter (parts chaser), Beltcrete Trucks, Pumpcrete Trucks, Line Truck, Reel Truck, Wreckers, Utility Trucks, Tack Trucks, Warehousemen, Warehouse Parts-men, Yardmen, Lift Truck in Warehouse, Helper when required on Lift Truck in Warehouse, Warehouse Clerk, Parts Man, Material Checker, Receivers, Shippers, Binning Men (materials), Cardex Man, Helper when required on Broyhill Coal Tar Epoxy Trock and Asphalt and Bituminous Distributor Truck, Drivers on the following type vehicles: Broyhill Coal Tar Epoxy Trucks, Little Ford Bituminous Distributor, Slurry Seal Truck or vehicle, Thiokol Track Master Pickup (Swamp Cat Pickup); Bucket Loader Dump Truck and any rubbertired Tractor used in pulling and towing Farm Wagons and Trailers of any discription, similar type vehicles, Off-site and On-site Repair Shop

Group 3: Drivers on straight 3-axle materials: Trucks and Floats

Group 4: Drivers on all Euclid type vehicles: Euclids, International Harvesters, Wabcos, Caterpillar, Koehring, Tractors and Wagons, Dumpsters, Straight, Bottom, Rear and Side Dumps, Carry-alls and Scarpers (not self loading, loading over the top); Water Sprinkler Trailers; Water Pulls and similar types of vehicles; Drivers on Tractors and Trailer type vehicles: Flat, Floats, I-Beams, Low Beds, Water Sprinkler, Bituminous Transit Mix, Road Oil, Fuel, Bottom Dump Hopper, Rear Dump, Office, Shanty, Epoxy, Asphalt, Agitator Mixer, Mulching, Stringer, Seeding, Fertilizing Pole, Spread, Bituminous Distributor, Water Pulls (entire unit)(Tractor Trailer), Reel Trailer, and similar types of vehicles

Group 5: Winch Trailers Drivers

Unlisted classifications needed for work not included within the scope of the classifications lsited may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: New Jersey

COUNTIES: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem

DECISION NUMBER: NJ83-3016

DATE: Date of Publication

Supersedes Decision No. NJ81-3063 dated December 28, 1981, in 46 FR 62746

DESCRIPTION OF WORK: Building (excluding single family homes and apartments up to and including 4 stories), Heavy and Highway Construction Projects

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING and REFRIGERATION MECHANICS:		
Group 1	$ 9.10	$ .415+ a
ASBESTOS WORKERS:		
Zone 1	15.92	2.51
Zone 2	14.78	2.875
Zone 3	10.25	3.73
Zone 4	17.99	3.69
Zone 5	13.21	2.43
BOILERMAKERS	16.60	0.29+ 38%
BRICKLAYERS, STONEMASONS, MARBLE MASONS, CEMENT MASONS, PLASTERERS, TILE LAYERS, and TERRAZZO WORKERS:		
Zone 1	14.40	3.29
Zone 2:		
Bricklayers, Stonemasons, Marble Masons, Tile Layers, and Terrazzo Workers	14.76	3.17
Cement Masons	9.27	
Plasterers	13.45	2.00
Zone 3	13.95	3.00
Zone 4	15.55	2.08
Zone 5	14.71	2.90
CARPENTERS, MILLWRIGHTS and INSULATORS:		
Zone 1	14.75	15.5%
Zone 2:		
Carpenters & Insulators	17.36	15.5%
Millwrights	17.61	15.5%
Zone 3:		
Carpenters & Insulators	16.01	20.5%
Millwrights	16.26	20.5%
Zone 4:		
Carpenters & Insulators	16.05	15.5%
Millwrights	16.30	15.5%
Zone 5:		
Carpenters & Insulators	16.01	15.5%
Millwrights	16.26	15.5%
Zone 6:		
Carpenters & Insulators	16.70	15.5%
Millwrights	16.95	15.5%
DIVERS and DIVER TENDERS:		
Zone 1:		
Divers	$19.29	$5.98
Diver Tenders	15.09	5.98
DOCK BUILDERS and PILEDRIVERMEN:		
Zone 1	13.67	5+5.3
Zone 2	13.25	4.69
DRYWALL TAPERS & FINISHERS:		
Zone 1	10.60	2.10
Zone 2	9.75	2.57
ELECTRICIANS and CABLE SPLICERS:		
Zone 1	17.71	10%+.96
Zone 2	18.82	3%+3.60
Zone 3	17.84	10%+ 1.60
Zone 4	17.50	10%+ 1.89
Zone 5	16.83	10%+ 2.38
ELEVATOR CONSTRUCTORS:		
Mechanics	14.62	2.474+ c+d
Helpers	10.30	2.474+ c+d
Probationary Helper	7.36	2.474+ c+d
GLAZIERS:		
Zone 1	15.90	3.96
Zone 2	7.80	.50
Zone 3	11.93	2.76
Zone 4	9.41	.87
IRONWORKERS:		
Structural, Ornamental, and Reinforcing:		
Zone 1	15.00	6.80
Zone 2	13.68	6.45
Zone 3	16.90	3.25
Zone 4	15.00	6.90
LATHERS:		
Zone 1	11.40	.57
Zone 2	12.95	
MARBLE FINISHERS:		
Zone 1	7.84	2.75

DECISION NO. NJ83-3016 — Page 2

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Zone 1:		
New Construction and Major Alterations	$13.30	$3.13
Repaint-New Construction and Major Alterations	12.30	3.13
Repaint - Spray Exterior over 3 stories and Steel	12.90	3.13
Repaint - Steel Bridges, TV Towers	13.45	3.13
Zone 2:	12.45	3.13
Painters on New Construction and Major Alterations	13.90	3.13
Painters on Repaint Work	9.40	1.40
Spraying or application of hazardous or dangerous materials on repaint work	8.90	1.40
Exterior work exceeding 3 stories in height for painting of open structual steel and tanks under 3 stories in height except Flat Tanks on the ground and on interior work which requires painting higher than 20' above the ground or floor (this shall not be applicable to machinery or equipment located therein)	9.50	1.40
Repaint Work as described above On Bridges, Television and Radio Towers, Structural Steel and Tanks above 3 stories in height (30' or over), Smoke Stacks, Water Towers, Sandblasting, Steamcleaning, Spraying or application of hazardous materials	9.55	1.40
	9.05	1.40
	10.00	1.40

	Basic Hourly Rates	Fringe Benefits
PAINTERS: (Cont'd)		
Zone 3:		
Commercial Brush, Roller and Paperhanging	$14.25	$2.05
Commercial Spray or dipping, or the use of any special material, Brushing or Rolling on Steel or Tanks, or Working Swing or Chair	15.00	2.05
Sandblasting or Power Tools; Spraying or the use of any special material on steel or Tanks	15.75	2.05
Zone 4:		
New Construction:		
Brush or Roller; Paperhanging and Vinyl-wall covering	15.00	2.25
Working on all Structural Steel and Iron, Steeples, Stacks, Tanks, Flagpoles, all Swing Work and Window Jack Work above 2 stories, Spray Painting and Sandblasting and Line Striping by machinery, all Power Tools and Hazardous materials (i.e. Creosote, Epoxy, Acid, Pitchmaster and Urethanes	16.00	2.25
Zone 5:		
General Painting	10.75	1.35
Spray, Special material and Blasting	12.90	1.35
Repainting Work except Bridges, Tanks, Towers, all other Open Structural Steel, and Power Plants	8.75	1.35
PLUMBERS and PIPEFITTERS:		
Zone 1	16.72	4.15
Zone 2	16.48	2.95

DECISION NO. NJ83-3016	Basic Hourly Rates	Fringe Benefits
ROOFERS:		
Zone 1:		
Composition, Damp and Waterproofers	$16.92	$2.43
Mechanic II (Handle and transport all materials tools, and equipment; clean-up debris)	8.25	2.43
Zone 2:		
Composition	16.50	3.50
Slate and Tile	16.625	3.50
SHEET METAL WORKERS:		
Zone 1	17.60	3.49+ 3%
Zone 2	15.56	0.21+ 32%
Zone 3	13.86	3.61+ 3%
Zone 4	18.28	2.94
SOFT FLOOR LAYERS:		
Zone 1	10.65	15.2%
Zone 2	12.73	16%
SPRINKLER FITTERS:		
Zone 1	15.62	2.50
Zone 2	17.67	2.83
TERRAZZO FINISHERS:		
Zone 1	7.82	2.75
TILE SETTERS FINISHERS:		
Zone 1	8.45	13%
Zone 2	7.61	2.75
LABORERS:		
BUILDING CONSTRUCTION:		
Zone 1:		
Group 1	10.90	1.95
Group 2	11.05	1.95
Group 3	11.30	1.95
Zone 2:		
Group 1	11.00	1.85
Group 2	11.10	1.85
Group 3	11.225	1.85
Group 4	11.35	1.85
Group 5	11.50	1.85
Zone 3:		
Group 1	11.00	2.10
Group 2	11.25	2.10
Zone 4	12.15	.95
Zone 5:		
Laborers	9.90	2.70
Jackhammers	10.15	2.70
Zone 6:		
Laborers	10.40	2.20
Hod Carriers and Plasterers Tenders	10.50	2.20

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DECISION NO. NJ83-3016	Basic Hourly Rates	Fringe Benefits
LABORERS: (Cont'd)		
HEAVY & HIGHWAY CONSTRUCTION:		
Zone 1:		
Group 1	$11.60	$2.35
Group 2	11.80	2.35
Group 3	12.10	2.35
Group 4	12.30	2.35
Group 5	12.55	2.35
Group 6	13.60	2.35
Zone 2:		
Group 1	11.80	2.35
Group 2	12.00	2.35
Group 3	12.30	2.35
Group 4	12.50	2.35
Group 5	12.75	2.35
Group 6	13.80	2.35
FREE AIR TUNNEL JOBS:		
Group 1	13.75	2.35
Group 2	12.85	2.35
Group 3	12.70	2.35
Group 4	12.20	2.35
ASPHALT CONSTRUCTION:		
Street:		
Head Rakers	11.65	2.60
Rakers and Screed Men	11.50	2.60
Tampers, Smoothers, Kettlemen, Painters, Shovelers and Roller Boys	11.25	2.60
Plant:		
Scale Mixers and Burner Men	11.50	2.60
Feeders and Dust Men	11.25	2.60
LINE CONSTRUCTION:		
(Excluding Railroad Construction):		
Zone 1:		
Linemen, Cable Splicers and Equipment Operators	17.71	2.45+ 10.75%
Groundmen	15.96	2.45+ 10.75%
Zone 2:		
Linemen, Cable Splicers, Truck Drivers, Equipment Operators and Technicians	19.27	0.80+ 10.75%
Groundmen and Winch Operators	12.22	0.80+ 10.75%

DECISION NO. NJ83-3016	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (Cont'd)		
(Except Railroad Construction): (Cont'd)		
Zone 3:		
Linemen	$13.55	$1.50+ 10.75%
Groundmen and Winch Operators	11.10	1.50+ 10.75%
Zone 4:		
Linemen	17.95	1.10+ 10.75%
Line Digger Truck Drivers	13.48	1.10+ 10.75%
Groundmen	14.63	1.10+ 10.75%
Zone 5:		
Linemen, Equipment Operators, Technicians and Certified Linemen		
Welder	14.71	1.35+ 3.75%
Truck Drivers	10.08	1.35+ 3.75%
Groundmen	9.39	1.35+ 3.75%
(Railroad ONLY):		
Zone 1:		
Linemen	15.42	25%
Line Equipment Operators	14.73	25%
Groundman Winch Operators	11.88	25%
Groundman	10.05	25%
Dynamite Man	12.91	25%
Street Light Mechanic	12.51	25%
Line Equipment Mechanic	11.73	25%
POWER EQUIPMENT OPERATORS:		
(Excluding Steel Erection; Tank Erection and Oilostatic Mainlines and Tansportation Pipe Lines):		
Class 1	19.37	4.60+e
Class 2	17.98	4.60+e
Class 3	16.37	4.60+e
Class 4	14.94	4.60+e
Class 5	13.63	4.60+e
Class 6	21.19	4.60+e

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DECISION NO. NJ83-3016	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (Cont'd)		
(Tank Erection):		
Group 1	$21.86	$4.60+e
Group 2	21.02	4.60+e
Group 3	23.00	4.60+e
Group 4	21.19	4.60+e
Group 5	20.13	4.60+e
Group 6	14.82	4.60+e
(Oilostatic Mainlines and Tansportation Pipe Lines):		
Class 1	20.00	4.60+e
Class 2	18.75	4.60+e
Class 3	17.61	4.60+e
Class 4	15.41	4.60+e
Class 5	14.09	4.60+e
Class 6	21.93	4.60+e
(Steel Erection):		
Class 1	21.19	4.60+e
Class 2	20.28	4.60+e
Class 3	19.14	4.60+e
Class 4	16.78	4.60+e
Class 5	14.09	4.60+e
Class 6	23.00	4.60+e
Class 7	15.45	4.60+e
TRUCK DRIVERS:		
Zone 1:		
Group 1	8.55	f+g+h+i
Group 2	8.65	f+g+h+i
Group 3	8.80	f+g+h+i
Group 4	8.95	f+g+h+i
Zone 2:		
Group 1	11.15	j+k+l+m
Group 2	11.85	j+k+l+m
Group 3	12.00	j+k+l+m
Group 4	12.05	j+k+l+m
Group 5	12.20	j+k+l+m
Group 6	12.40	j+k+l+m
Group 7	12.55	j+k+l+m
Zone 3:		
Group 1	9.12	1.855+ n+o
Group 2	9.35	1.855+ n+o
Group 3	9.40	1.855+ n+o
Group 4	9.50	1.855+ n+o
Group 5	9.60	1.855+ n+o

WELDERS - Receive rate 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

FOOTNOTES:
a. Paid Holidays: A through F plus Armistic Day and Washington's Birthday
b. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day; Independence Day; Presidential Election Day; Veteran's Day; and Thanksgiving Day
c. Paid Holidays: A through F
d. Employer contributes 4% of basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
e. Paid Holidays: A through F, plus Washington's Birthday, Presidential Election Day and Veteran's Day provided the employee works any of the 3 days in the 5 work days preceeding the Holiday and the first work day after the recognized Holiday
f. Employer contributes $6.30 per day per employee to Health and Welfare Funds
g. Employer contributes $4.00 per day per employee to Pension Funds
h. One week vacation after one year's work; Two weeks vacation after three year's work
i. Paid Holidays: A through F, plus Washington's Birthday, Veteran's Day and Presidential Election Day provided the employee works 3 days in the week in which the Holiday falls
j. Employer contributes $48.50 per week per employee to Health and Welfare Funds
k. Employer contributes $53.00 per week per employee to Pension Funds
l. Employee who has worked or receive pay for 90 days within a year prior to his anniversary date shall receive 56 hours straight time vacation pay; for 3 years but less than 8 years of service he will receive 100 hours of straight time vacation pay; 15 years or more he will receive 165 hours of straight time vacation pay
m. Paid Holidays: A through F, plus Washington's Birthday, Presidential Election Day, Armistic Day, 2 Personal Holidays, Good Friday, and Christmas Eve afternoon (provided the employee works that morning) on the condition that the employee works or is available for work on at least 2 days in the week in which the Holiday occurs
n. Employees working or receiving pay for 80 days within a year receive one week's paid vacation(48 hours); 125 days receive two weeks' vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 hours)
o. Paid Holidays: A through F, plus Lincoln's Birthday, Washington's Birthday, Good Friday, General Election Day, Columbia Day and Veteran's Day provided the employee has been assigned to work or "shapes" one day of the calendar week during which the Holiday Falls

GROUP and ZONE DESCRIPTIONS

AIR CONDITIONING and REFRIGERATION MECHANICS:
Group 1: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; Installation of water-cooled air-conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); Installation of air-colled air conditioning that does not exceed 15 tons

ASBESTOS WORKERS:
Zone 1: Atlantic, Burlington (Bass River and Washington Townships); Cape May, Cumberland and Ocean (Eaglewood, Lacy, Little Egg Harbor, Long Beach, Ocean, Stafford, Tuckerton, and Union Townships) Counties
Zone 2: Burlington (Bordentown, Burlington, Chesterfield, Easthampton, Florence, Mansfield, Mount Holly, New Hanover, North Hanover, Pemberton, Roebling, Springfield, Wrightstown, and Woodlawn Townships); Mercer, Monmouth (Allentown, Blainsinburg, Brielle, Englishtown, Farmingdale, Freehold, Howell, Manalapan, Manasquan, Millstone, Roosevelt, Sea Girt, South Belmar, Spring Lake Heights, Upper Freehold, Wall, and West Belmar Townships) and Ocean (Remainder of County) Counties
Zone 3: Monmouth (Remainder of County)
Zone 4: Salem County
Zone 5: Burlington (Remainder of County); Camden and Gloucester Counties

BRICKLAYERS, STONEMASONS, MARBLE MASONS, CEMENT MASONS, PLASTERERS, TILE-LAYERS, and TERRAZZO WORKERS:
Zone 1: Atlantic and Cape May Counties
Zone 2: Camden, Gloucester, and Salem Counties
Zone 3: Cumberland County
Zone 4: Burlington and Mercer Counties
Zone 5: Monmouth and Ocean Counties

CARPENTERS, MILLWRIGHTS and INSULATORS:
Zone 1: Atlantic, Camden, Cape May, Cumberland, Gloucester and Salem Counties
Zone 2: Burlington County (except the City of Bordentown)
Zone 3: Mercer County (beginning from the present Post Office in Lawrenceville to a point northward through the present "Radio Site" to the junction of Rosedale Road and Read's Mill Road to the junction of Pennington and Mount Rose Road to the Somerset County Line; again starting at the present Post Office in Lawrenceville and eastward to the junction of Brunswick Pike and Delaware and Raritan Canal Bridge taking the center of the road to Clarksville then south on Providence Line Road to the Pennsylvania Railroad then east on Dutch Neck North to Grover's Mills to the Middlesex County Line
Zone 4: Burlington County (City of Bordentown only) and Remainder of Mercer County
Zone 5: Ocean County
Zone 6: Monmouth County

DIVER and DIVER TENDERS:
Zone 1: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties

GROUP and ZONE DESCRIPTIONS (Cont'd)

DOCKBUILDERS and PILEDRIVERMEN
Zone 1: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer (Trenton Area), Ocean and Salem Counties
Zone 2: Mercer (Princeton Area) and Monmouth Counties

DRYWALL TAPERS and FINISHERS:
Zone 1: Atlantic, Burlington, Cape May, Cumberland, Mercer, Monmouth and Ocean Counties
Zone 2: Camden, Gloucester and Salem Counties

ELECTRICIANS and CABLE SPLICERS:
Zone 1: Monmouth and Ocean Counties
Zone 2: Burlington (that portion north of a line following the west and south limits of Burlington Borough from the Delaware River in a southeasterly direction to the Burlington - Mt. Holly Road, south-southeast along this road to and including the Town of Mt. Holly, east along the Pennsylvania Railroad to and including New Lisbon and continuing along the Pennsylvania Railroad to the Ocean County Line) and Mercer Counties
Zone 3: Burlington (Edgewater Park, Delanco, Delran, Cinnaminson, Moorestown, Mount Laurel, Willingsboro, Hainesport, Lumberton, Medford, Evesham Townships in the County and that portion of Shamong, Tabernacle, Woodland Townships north of the Central Railroad of New Jersey Line and that portion of Burlington, Westhampton, Easthampton, South Hampton and Pemberton Townships in the County south of a line starting at the Delaware River and following the southern boundary of Burlington Borough to the Burlington, Mount Solly Road, along this road to Mount Solly around but excluding Mount Holly to the Pennsylvania Railroad along the Pennsylvania Line through, but excluding Pemberton, through but excluding New Lisbon to the Ocean County Line), Camden, Gloucester (Washington, Deptford, West Deptford, Greenwich, East Greenwich, Manuta, Harrison, South Harrison, Woolwich and Logan Townships and Pitman Borough) and Salem (from Lower Penns Neck, Upper Pens Neck, Oldmans Townships and that portion of Mannington and Pilesgrove Townships north of a line following State Highway #45 northeast from Fenswick Creek to the Borough of Woodstown, around and including Woodstown to U. S. Highway #40 and east on #40 to Upper Pittsgrove Townships Line) Counties
Zone 4: Atlantic (that portion south and west of a line following the White Horse Pike (U. S. Highway #30) in a southeasterly direction from Camden County to the Mays Landing-DaCosta Road, continuing south along that road to the Great Egg Harbour River near Weymouth along that river to the Harding Highway to the Mays Landing - Tuckahoe Road, south on that road to the north limits of Corbin City to the Tuckahoe River), Cumberland, Gloucester (remainder of County) and Salem (Remainder of County) Counties
Zone 5: Atlantic (Remainder of County), Burlington (Remainder of County) and Cape May Counties

GROUP and ZONE DESCRIPTIONS (Cont'd)

GLAZIERS:
Zone 1: Monmouth and Ocean Counties
Zone 2: Atlantic and Cape May Counties
Zone 3: Camden, Gloucester and Salem Counties
Zone 4: Burlington (that portion north of a line that begins at Florence-Roebling and that extends in a southeasterly direction that includes Fort Dix to the Ocean County Line) and Mercer Counties

IRONWORKERS:
Zone 1: Monmouth and Ocean (northern half of County) Counties
Zone 2: Atlantic, Cape May, Cumberland (that portion east of a line drawn from the Delaware Bay through the Town of Cedarville and upwards to the point where the County Lines of Gloucester, Cumberland and Atlantic meet) and Ocean (Remainder of County) Counties
Zone 3: Burlington (southern portion of County up to but not including Lumberton and Chatsworth Townships), Camden, Cumberland (Remainder of County), Gloucester and Salem Counties
Zone 4: Burlington (Remainder of County) and Mercer Counties

MARBLE FINISHERS:
Zone 1: Camden, Gloucester, and Salem Counties

PAINTERS:
Zone 1: Monmouth and Ocean (except Townships of Ocean, Union, Stafford, Eaglewood and Little Egg Harbor) Counties
Zone 2: Mercer County
Zone 3: Burlington, Camden, Gloucester and Salem (the portion of County north of Salem Bridges) Counties
Zone 4: Atlantic, Cape May and Ocean (Remainder of County) Counties
Zone 5: Cumberland and Salem (Remainder of County) Counties

PLUMBERS and PIPEFITTERS:
Zone 1: Atlantic, Burlington (that portion of the County including Atsion, Bass River Township, Batsto, Chatsworth, Green Bank, Herman, Jenkins, New Gretna, Quaker Bridge, Wading River, Washington and Woodland Township), Cape May, Cumberland, Gloucester, Ocean (southern half of the County to and including Whiting, Bamber, Waretown and Barnegat Light) and Salem (that portion of the County including Aldine, Alliance, Alloway, Brotmansville, Canton, Centerton, Friesburg, Hancock's Bridge, Lower Alloways Creek Townships, Moore's Corner, Norman, Oakwood Beach, Olivet, Pen (Beach), Pittsgrove Township, Quinton and Shirley), Burlington (that portion of the County starting on the west by the Delaware River, on the north by a line following the center of High Street to the Pennsylvania Railroad running from Camden to Mount Holly, Birmingham, Seaside Park and Shore Points on the Jersey Coast and along afore-said Railroad to the Town of Whitings; thence diagonally across Burlington County to the junction of Burlington, Camden and Atlantic Counties), Samedn, and Salem Counties
Zone 2: Burlington (Remainder of County), Mercer (Excluding Hopewell and Hopewell Township), Monmouth, and Ocean (Remainder of County) Cos.

GROUP and ZONE DESCRIPTIONS (Cont'd)

ROOFERS:
Zone 1: Atlantic, Cape May, Cumberland, Burlington, Camden, Gloucester, Salem, Mercer, Monmouth (Remainder of County) and Ocean (Remainder of County) Counties
Zone 2: Monmouth (the entire County except the southwest corner which includes Perrineville and the towns west thereof) and Ocean (from the County Line southward to Cassville, Lakehurst, Whitings, Wheatland and Cedar Bridge inclusive) Counties

SHEET METAL WORKERS:
Zone 1: Atlantic, Cape May and Cumberland Counties
Zone 2: Monmouth and Ocean Counties
Zone 3: Burlington and Mercer Counties
Zone 4: Camden, Gloucester and Salem Counties

SOFT FLOOR LAYERS:
Zone 1: Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem Counties
Zone 2: Burlington, Mercer, Monmouth and Ocean Counties

SPRINKLER FITTERS:
Zone 1: Camden, Gloucester, Mercer (Town of Trenton) and Salem (Penns Grove excluding Penns Grove Airport) Counties
Zone 2: Atlantic, Burlington, Cape May, Cumberland, Mercer (Remainder of County), Monmouth, Ocean and Salem (Remainder of County) Counties

TERRAZZO FINISHERS:
Zone 1: Camden, Gloucester, and Salem Counties

TILE SETTERS FINISHERS:
Zone 1: Atlantic and Monmouth Counties
Zone 2: Camden, Gloucester, and Salem Counties

ZONE and GROUP DESCRIPTIONS (Cont'd)

LABORERS
BUILDING CONSTRUCTION

Zone 1: Atlantic, Burlington (Townships of Washington and Bass River), Cape May, Cumberland (Townships of Fairfield, Millville, Maurice River, Lawrence, Dawne and Commercial) and Ocean (that portion of the County up to and including Lacy Township) Counties:

Group 1: Laborers, Mason' and Plasterers' Tenders, and Concrete Workers
Group 2: Tool Operators (except small hand tools) including operation of motorized buggies
Group 3:Gunnite Men and Gun Nozzle Operators for Gunnite and Asbestos Sandblasting

Zone 2: Burlington (Townships of Edgewater Park, Delance, Willingsboro, West Hampton, East Hampton, Pemberton, Delran, Cinnaminson, Morrestown, Mt. Laurel, Hainesport, Lumberton, South Hampton, Evesham, Medford, Shamong, Tabernacle and Woodland), Camden, Gloucester and Salem Counties:

Group 1: Construction Laborers
Group 2: Brick Tenders, Mortar Tenders, Scaffold Builders (brick), Hod Carriers (brick), and Power Tool Operators
Group 3: Motorized Buggy Operators, Burners, Nozzlemen (Gunnite Work)
Group 4: Jackhammer Operators, Barko Tamper Operators and Concrete Vibrator Operators (over 27 lbs.)
Group 5: Plasterers' and Lathers' Tenders

Zone 3: Mercer (Townships of Princetown, Lawrence, West Windsor, and Borough of Princeton) County:

Group 1: Laborers
Group 2: Hod Carriers, Mason Tenders, Operators of Jackhammers, Tampers and Electric Hammers

Zone 4: Monmouth (Townships of Matawan, Union Beach, Raritan, Keansburg, Highlands, Holmdel, Middletown, Fair Haven, Red Bank, Mattawa Borough and Marlboro) Counties
Zone 5: Mercer (Townships of Washington, Highstown and East Windsor), Monmouth (Remainder of County), and Ocean (Remainder of County) Cos.
Zone 6: Burlington (Remainder of County) and Mercer (Remainder of County) Counties

ZONE and GROUP DESCRIPTIONS (Cont'd)

LABORERS (Cont'd)
HEAVY and HIGHWAY CONSTRUCTION

Zone 1: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean and Salem Counties:
Zone 2: Monmouth County:

Group 1: Common Laborers, Landscape Laborers, Railroad Track Laborers, Traffic Directors, Salamander Tenders, Pitman, Dumpman, Waterproofing Laborers, Rakers and Tampers on Cold Patch Work, and Wrapping and Coating of all Pipes
Group 2: Powder Carrier, Magazine Tender, Wagon Drill Operator Helpers, Drill Master Helper, and Signalman
Group 3: Sewer Pipe, Laser Men, Conduit and Duct Line Layer, Power Tool Operator, Jack Hammer, Chipping Hammer, Pavement Breaker, Power Buggy, Cutter, Concrete Cutter, Asphalt Cutter, Sheet Hammer and Tree Cutter Operators, Sandblasting Cutting, Burning and such other power tools used to perform work usually done manually by Laborers
Group 4: Wagon Drill Operator, Timberman and Drill Master
Group 5: Finisher, Form Setter, Rammer, Paver, Gunite Nozzleman and Stonecutter
Group 6: Blaster

FREE AIR TUNNEL JOBS

Group 1: Blasterers

Group 2: Skilled Men (including Miners, Drill Runners, Iron Men, Maintenance Men, Conveyor Men, Safety Miners, Riggers, Block Layers, Cement Finishers, Rod Men, Caulkers, Powder Carriers, All other Skilled Men)

Group 3: Semi-skilled Men (including Miner's Helpers, Chuck Tenders, Track Men, Nippers, Brakemen, Derail Men, Cable Men, Hose Men, Grout Men, Gravel Men, Form Men, Bell or Signal Men (top or bottom), Form Workers and Movers, Concrete Workers, Shaft Men, Tunnel Laborers, Caulkers' Helpers, all other Semi-skilled)

Group 4: All others (including Powder Watchmen, Change House Attendants, Top Laborers)

ZONE DESCRIPTIONS (Cont'd)

LINE CONSTRUCTION:
Zone 1: Monmouth and Ocean Counties
Zone 2: Burlington (that portion north of a line following the west and south limits of Burlington Borough from the Delaware River in a southeasterly direction to the Burlington - Mt. Holly Road, south-southeast along this road to and including the Town of Mt. Holly, east along the Pennsylvania Railroad to and including New Lisbon and continuing along the Pennsylvania Railroad to the Ocean County Line) and Mercer Counties
Zone 3: Burlington (Edgewater Park, Delanco, Delran, Cinnaminson, Moorestown, Mount Laurel, Willingsboro, Hainesport, Lumberton, Medford, Evesham Townships in the County and that portion of Shamong, Tabernacle, Woodland Townships north of the Central Railroad of New Jersey Line and that portion of Burlington, Westhampton, Easthampton, South Hampton and Pemberton Townships in the County south of a line starting at the Delaware River and following the southern boundary of Burlington Borough to the Burlington - Mount Holly Road, along this road to Mount Holly around but excluding Mount Holly to the Pennsylvania Railroad along the Pennsylvania Line through, but excluding Pemberton, through but excluding New Lisbon to the Ocean County Line), Camden, Gloucester (Washington, Deptford, West Deptford, Greenwich, East Greenwich, Manuta, Harrison, South Harrison, Woolwich and Logan Townships and Pitman Borough) and Salem (from Lower Penns Neck, Upper Penns Neck, Oldmans Townships and that portion of Mannington and Pilesgrove Townships north of a line following State Highway #45 northeast from Penswick Creek to the Borough of Woodstown, around and including Woodstown to U. S. Highway #40 and east on #40 to Upper Pittsgrove Townships Line) Counties
Zone 4: Atlantic (that portion south and west of a line following the White Horse Pike (U. S. Highway #30) in a southeasterly direction from Camden County to the Hays Landing-DaCosta Road, continuing south along that road to the Great Egg Harbour River near Weymouth along that river to the Harding Highway to the Hays Landing - Tuckahoe Road, south on that road to the north limits of Corbin City to the Tuckahoe River), Cumberland, Gloucester (Remainder of County) and Salem (Remainder of County) Counties
Zone 5: Atlantic (Remainder of County), Burlington (Remainder of County) and Cape May Counties

LINE CONSTRUCTION - Railroad ONLY:
Zone 1: Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean and Salem Counties

POWER EQUIPMENT OPERATORS
(Excluding Steel Erection; Tank Erection and Oilostatic Mainlines and Transportation Pipe Lines)

Class 1: Combination Subgrader, Base Metal Spreader and Base Trimmer (CMI and similar types, Autograde Placer-Trimmer-Spreader - Combination (CMI and similar types), Autograde Slipform Paver (CMI and similar types), Backhoe, Central Power Plants (all types), Concrete Paving Machines, Cranes (all types, including Overhead and Straddle traveling type), Cranes, Gantry, Derricks (land or floating), Drillmaster, Quarrymaster (down the hole drill) Rotary Drill, Self-propelled Hydraulic Drill, Self-powered Drill, Draglines, Elevator Graders, Front End Loaders (5 yds. and over), Gradalls, Grader, Rago, Helicopters, Communications Engineer, Locomotive (large), Mocking Machines, Pavement and Concrete Breaker, i.e., Superhammer and Hoe Ram, Pile Driver, length of boom including length of leads, shall determine premium rate applicable, Roadway Surface Grinder, Scooper (Loader and Shovel), Shovels, Tree Chopper with boom and Trench Machines

Class 2: "A" Frame, Backhoe (combination), boom attachment on Loaders (rate based on size of bucket) not applicable to Pipehook, Boring and Drilling Machines, Brush Chopper, Shredder, and Tree Shredder, Cableways, Carryalls, Concrete Pump, Concrete Pumping System, Pumpcrete and similar types, Conveyors, 125 ft. and over, Drill Doctor (duties include dust collector maintenance), Front End Loaders (2 yds. but less than 5 yds.), Grades (finish), Groove Cutting Machine (ride on type), Heater Planer, Hoists: (All type Hoists, shall also include steam, gas, diesel, electric, air hydraulic, single and double drum, concrete brick shaft caisson, snorkel roof, and/or any other similar type Hoisting Machines, Portable or Stationary, except Chicago Boom type) Long Boom rate to be applied if Hoist is "outside material tower Hoist", Hoists (Chicago Boom type), Hydraulic Cranes - 10 tons and under, Hydro-axle, Jacks, Screw Air Hydaulic power operated unit or Console type (not hand jack or pile load test type), Log Skidder, Pans, Pavers (all) Concrete, Pumpcrete Machines, Squeezecrete and Concrete Pumping (regardless of size), Scrapers, Side Booms, "Straddle Carrier, Ross and similar types and Winch Truck (hoisting)

POWER EQUIPMENT OPERATORS (Cont'd)
(Excluding Steel Erection; Tank Erection and Oilostatic Mainlines and Transportation Pipe Lines) (Cont'd)

Class 3: Asphalt Curbing Machine, Asphalt Plant Engineer, Asphalt Spreader, Autograde Tube Finisher and Texturing Machine (CMI and similar types), Autograde Curecrete Machine (CMI and similar types), Autograde Curb Trimmer and Sidewalk, Shoulder, Slipform (CMI and similar types), Bar Bending Machines (power), Batchers, Batching Plant and Crusher on site, Belt Conveyor Systems, Boom type Skimmer Machines, Bridge Deck Finisher, Bulldozers (all), Car Dumpers (railroad), Chief of Party, Compressor andBlower type units (used independently or mounted on Dual Purpose Trucks, on job site or in conjunction with job site, in loading and unloading of concrete, cement fly ash, instantcrete, or similar type materials), *Compressor (2 or 3) - battery, Concrete Breaking Machines-Concrete Finishing Machines, Concrete Saw and Cutters (ride on type), Concrete Spreaders, Hetzel, Rexomatic and similar types-Concrete Vibrators *Within 100 ft. Conveyors, under 125 ft., Crushing Machines, Ditching Machine, Small (Ditchwitch or similar type), Dope Pots (mechanical with or without Pump), Dumpsters, Elevator, Fireman, Fork Lifts (Economobile, Lull and similar types of equipment), Front End Loaders (1 yd. and over but less than 2 yds.), Generators (2 or 3 in battery, Giraffe Grinders, Graders and Motor Patrols, Gunnite Machines (excluding Nozzle), Hammer Vibratory (in conjunction with Generator), Hoists (roof, tugger, aerial platform hoist and house cars), Hoppers, Hopper Doors (power operated), Ladders (motorized), Ladderator, Locomotive, Dinky type, Maintenance, Utility Man, Mechanics, Mixers (excepting Paving Mixers), Motor Patrols and Graders, Pavement Breakers, Small, Self-propelled ride on type (also maintains Compressor or Hydraulic unit), Pavement Breakers, truck mounted, Pipe Bending Machine (power), Pitch Pump, Plaster Pump (regardless of size), Post Hole Digger (Post Pounder and Auger), Rod Bending Machines (power), Roller, Back Top, Scales, Power, Seaman Pulverizing Mixer, Shoulder Wideners, Silos, Skimmer Machine (Boom type), Steel Cutting Machine, Services and Maintenance, Tractors, Tug Captain, Vibrating Plants (used in conjunction with unloading), Welder and Repair Mechanics

Class 4: Brooms and Sweepers, Chippers, Compressor (single), Concrete Spreaders (small type), Conveyors (under 125 ft.), Conveyor Loaders (not including Elevator Graders), Engines, Large Diesel (1620 H.P.), and Staging Pump, Farm Tractors, Fertilizing Equipment (operation and Maintenance of) Fine Grade Machine (small type), Form Line Graders (small type), Front Loader (under 1 yd.), Generator (single), Grease, gas, fuel and oil Supply Trucks, Heaters (Nelson or other type including Propane, natural gas or flow-type units), Lights, Portable Generating Ligth Plants, Mixers, Concrete small, Mulching equipment (operation and Maintenance of), Pumps (4 inch Suction and over including Submersible Pumps) - Pumps (Diesel engine and Hydraulic), immaterial of power road Finishing Machines (small type), Rollers, Grade, Fill or Stone base, Seeding equipment (operation and maintenance of), Sprinkler and Water Pump Trucks (used on job site or in conjunction with job site), Steam Jennies and Boilers, Irrespective of use, Stone Spreader, Tamping Machines, Vibrating ride on, Temporary Heating Plant (Nelson or other type, including propane, natural gas or flow type units), Water and Sprinkler (trucks used on job site or in conjunction with job site), Welding Machines (gas, diesel, and/or electric Converters of any type, single; Two or three in a battery), Welding System, multiple (rectified Transformer type) and Wellpoint Systems (including installation by Dull Gang and Maintance of)

POWER EQUIPMENT OPERTORS (Cont'd)
(Except Steel Erection; Tank Erection and Oilostatic Mainlines and Transportation Pipe Lines) (Cont'd)

Class 5: Assistant Engineer/Oiler and Tire Repair and Maintenance

Class 6: Helicopters - Pilot and Helicopters - Engineer

Tank Erection

Class 1: Operating Engineers, on all Cranes, Derricks, etc. with Booms including jib, 140 ft. or more above the fround

Class 2: Operating Engineers, on all equipment including Cranes, Derricks, etc. with booms including jib, less than 140 ft. above the ground

Class 3: Helicopter, Pilot Engineer

Class 4: Helicopter, Co-pilot and Helicopter, Communications Engineer

Class 5: Air Compressors, Welding Machines and Generators are defined as and cover; gas, diesel, or electric driven equipment and sources of power from a permanent plant, i.e., steam, compressed air, Hydraulic or other power, for the operating of any machine or automatic tools used in the Erection, Alteration, Repair and Dismantling of Tanks and any and all "Dual Purpose" Trucks used on the construction job site, or in conjunction with the job site

Class 6: Oiler/Assistant Engineer

Oilostatic Mainlines and Transportation Pipe Lines

Class 1: Backhoe, Cranes (all types), Drag Lines, Front End Loaders (5 yds. and over), Gradalls, Helicopter, Co-pilot, Helicopters, Communications Engineers, Scooper (Loader and Shovel) Koehring and Trench Machines

Class 2: "A" Frame, Backhoe (combination Hoe Loader), Boring and Drilling Machines, Ditching Machine, small, Ditchwitch or similar type, Fork Lifts, Front End Loaders (2 yds. and over but less than 5 yds.), Graders, Finish (fine), Hydraulic Cranes, 10 tons and under (over 10 tons crane rate applies), Side Booms and Winch Trucks (hoisting)

Class 3: Backfiller, Brooms and Sweepers, Bulldozers, Compressors (2 or 3 in battery), Chief of Party, Front End Loaders (1 yd. and over but less than 2 yds.), Front Loaders (under 2 yds.), Front Len Loaders (under 1 yd.), Generators, Giraffe Grinders, Graders and Motor Patrols, Mechanic, Pipe Bending Machine (power), Tractors, Water and Sprinkler Trucks, used on job site or in conjunction with job site, Welder and Repair Mechanic, Captain (power boats) and Tug Master (power boats)

POWER EQUIPMENT OPERATORS (Cont'd)
Oilostatic Mainlines and Transportation Pipe Lines (Cont'd)

Class 4: Compressor (single), Dope Pots (mechanical with or without Pump), Dust Collectors, Farm Tractors, Pumps (4 inch Suction and over), Pumps (2 or less than 4 inch suction), Pumps, Diesel Engine and Hydraulic (immaterial of power), Welding Machines, gas or electric - Converters of any type, single, Welding Machines, gas or electric Converters of any type, 2 or 3 in Battery Multiple Welders and Wellpoint Systems (including installation and maintenance)

Class 5: Assistant Engineer/Oiler, grease, gas, fuel and oil Supply Trucks and Tire Repair and Maintenance

Class 6: Helicopter, Pilot and Engineer

Steel Erection

Class 1: Cranes (all Cranes, land or floating with booms including jib, 140 ft. and over, above ground), Derricks (all Derricks, land or floating with booms including jib, 140 ft. and over, above ground), Helicopter, Co-pilot and Helicopter, Communications Engineer

Class 2: Cranes (all Cranes, land or floating with booms including jib, less than 140 ft. above ground), Derricks (all Derricks, land or floating with booms including jib, less than 140 ft. above ground)

Class 3: "A" Frame, Cherry Pickers 10 tons and under, Hoists: all type Hoists shall also include steam, gas, diesel, electric, air hydraulic, single and double drum, Concrete, Brick Shaft Caisson, or any other similar type hoisting Machines, portable or stationary, except Chicago Boom type, Jacks - Screw Air Hydraulic power operated unit or Console type (not Hand Jack or Pile Load Test type) and Side Booms

Class 4: Aerial Platform used as Hoist, Compressors, 2 or 4 in Battery, Elevators or House Cars, Conveyors and Tugger Hoists, Fireman, Forklift, Generators, 2 or 3, Maintenance - Utility Man, Rod Bending Machine (power), Welding Machines, (gas or electric, 2 or 3 Battery, including diesels), Captain, power boats, Tug Master, power boats, Compressor, single, Welding Machines, Single, gas, electric Converters of any type, Diesel, Welding System Multiple (Rectifier Transformer type) and Generator, single

Class 5: Assistant Engineer/Oiler and Straddle Carrier

Class 6: Helicopter, Pilot and Engineer

Class 7: Compressor, single; Welding Machine, single, gas, electric Converters of any type, diesel; Welding System Multiple (Rectifier Transformer type); Generator, single

TRUCK DRIVERS

Zone 1: Atlantic and Cape May Counties

Group 1: Warehousemen and Helpers

Group 2: Teamsters and Chauffeurs

Group 3: Drivers on Tractors, Trailers, 10 wheel Flats and Dumps

Group 4: Drivers on Euclids, 10 wheel Tractors and Tractor Trailer Trucks, Low Beds and Pole Trailers

Zone 2: Burlington (that portion west of the Jersey Turnpike to the Delaware River), Camden, Cumberland, Gloucester and Salem Counties.:

Group 1: Ten wheel Dump Truck Driver and Trailer Dump Driver off site

Group 2: Straight Truck Driver (helper)

Group 3: Warehousemen, Fork Lift Truck and Parts Men

Group 4: Straight Truck Driver including all "Dual Purpose" Trucks, (straight), Transit Mix Trucks, Fuel Trucks, Seeding Trucks, Fertilizing Trucks, Dumpcrete Trucks, Mulching Trucks, "A" Frame (when transporting material), Water Sprinkler Trucks, Tanks, Straight Trucks with mechanical Tailgates, Asphalt Distributor Trucks, Batch Trucks and similar type of equipment and Mechanics (Helper), Pick-up Trucks (only when transporting material), and Flat Bed Trucks

Group 5: All Truck Towing

Group 6: Winch Straight Tractor and Trailer Truck Driver and Euclid Trailer Dump (not self-loading), Fuel Truck Drivers and Asphalt Oil Distributors on Dumpcrete Trucks, Transit-Mixers, Flat Bed Trucks, Low Bed Trucks, Tanks, Water Tanks, Fuel Tanks, Euclid Water Sprinkler, Asphalt Distributor, Pole Trailer, Winch Trailer, I Beam Trucks, Euclids (all), and type equipment

Group 7: Mechanics

TRUCK DRIVERS (Cont'd)

Zone 3: Burlington (Remainder of County), Mercer, Monmouth and Ocean Counties:

Group 1: Mechanic Helper

Group 2: Drivers on the following type vehicles: Straight Dumps, Flats, Floats, Pick-ups, Container Haulers, Fuel, Water Sprinkler, road Oil, Stringer, Bead, Hot Pass, Bus, Dumpcrete, Transit Mixers, Agitator Mixer, Half Truck, Winch Truck, Side-o-matic, Dynamite, Power, X-ray, Welding, Skid, Jeep, Station Wagon, Stringer, A-Frame, all Dual Purpose Trucks, Truck with mechanical tailgate, Asphalt Distributor, Batch Trucks, Seeding, Mulching, Fertilizer, Air Compressor Trucks (in transit), Parts Chaser, Escort, Scissor, Hi-lift, Telescope, Concrete Breaker, Gin Pole, Stone, Sand, Asphalt Distributor and Spreader, Nipper, Fuel Trucks (Drivers on Fuel Trucks, including handling of unit), Skid Truck (Debris Container - entire unit), Concrete Mobile Trucks (entire unit), Expediter (parts chaser), Beltcrete Trucks, Pumpcrete Trucks, Line Truck, Reel Truck, Wreckers, Utility Trucks, Tank Trucks, Warehousenen, Warehouse Partsmen, Yardmen, Lift Truck in Warehouse, Helper when required on Lift Truck in Warehouse, Warehouse Clerk, Parts Man, Material Checkers, Receivers, Shippers, Binning Men (materials Cardex Man); Helper when required on Broyhill Coal Tar Epoxy Truck and Asphalt and Bituminous Distributor Truck; Drivers on the following type vehicles: Broyhill Coal Tar Epoxy Trucks, Little-Ford Bituminous Distributor, Slurry Seal Truck or Vehicle, Thiokol Trackmaster Pick-up (Swamp Cat Pickup), Bucket Loader Dump Truck and any Rubber Tired Tractor used in pulling and towing farm wagons and trailers of any description, similar type vehicles; Off-site and On-site Repair Shop, Team Drivers, Vacuum or Vac-all Trucks (entire unit)

Group 3: Drivers on straight 3-axle materials; Truck and Floats

Group 4: Drivers on all Euclid-type Vehicle: Euclids, International Harvesters, Wabcos, Caterpillar, Koehring, Tractors, and Wagons, Dumptors, Straight, Bottom, Rear and Side Dumps, Carryalls and Scrapers (not self-loading - loading over the top), Water Sprinkler, Trailers, Water Pulls and similar types of Vehicles; Drivers on Tractors and Trailer type Vehicles: Flat, Floats, I-beam, Low Beds, Water Sprinkler, Bituminous Transit Mix, Road Oil, Fuel Bottom, Dump Hopper, Rear Dump, Office Shanty, Epoxy, Asphalt, Agitator Mixer, Mulching, Stringer, Seeding, Fertilizing Pole Spread, Bituminous Distributor, Water Pulls (entire unit)(tractor Trailer), Reel Trailer and similar types of vehicles

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))

[FR Doc. 83-16004 Filed 6-17-83; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
June 17, 1983

Part V

Department of Energy

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Test Procedures for Furnaces, Vented Home Heating Equipment, and Unvented Home Heating Equipment; Public Hearing

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-79-104]

Energy Conservation Program for Consumer Products; Test Procedures for Furnaces, Vented Home Heating Equipment, and Unvented Home Heating Equipment; Public Hearing

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Proposed rule.

SUMMARY: Department of Energy (DOE) hereby proposes amendments to its test procedures for furnaces, vented home heating equipment, and unvented home heating equipment. These test procedures are one part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act as amended by the National Energy Conservation Policy Act.

DOE is today proposing to incorporate, by reference, the American Society of Heating, Refrigerating, and Air/Conditioning Engineers (ASHRAE) Standard 103–82 into the furnace test procedure. Other amendments proposed for furnaces include test procedures for modulating furnaces and boilers, condensing furnaces and boilers, and thermal stack dampers, and other technical revisions. Amendments proposed for vented home heating equipment include test procedures for vented heaters with thermal stack dampers and/or manual controls and a simplified test procedure which covers modulating vented heaters. Amendments proposed for unvented home heating equipment include test procedures for unvented heaters that use natural gas, propane, or kerosene. DOE is also proposing to include an estimated cost per million Btu output as a measure of energy use for vented and unvented heaters.

DATES: Written comments in response to this notice by September 15, 1983; requests to speak at the public hearing by June 23, 1983; speakers to be notified by June 24, 1983, statements by June 27, 1983; public hearing to be held on June 29, 1983, at 9:00 a.m.

ADDRESSES: Written comments, requests to speak at the public hearing, and eight copies of statements to: U.S. Department of Energy, Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Furnace, Vented Heater, and Unvented Heater Test Procedures, Docket No. CAS-RM-79-104, Room 6B-025, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9319.

Copies of the nine technical support documents listed below, transcripts of public hearings, and public comments received may be read in the DOE Freedom of Information Reading: U.S. Department of Energy, Freedom of Information, Public Reading Room, Forrestal Building, Room 1E-190, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Public hearing to be held at: GE-086, Auditorium, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Forrestal Building, Mail Station CE-113.1, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-9127;

U.S. Department of Energy,Office of Conservation and Renewable Energy, Office of Hearings and Dockets, Forrestal Building, Room 6B-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-9319; and

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC-33,, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-9513; and

SUPPLEMENTARY INFORMATION:

Technical Support Documents

The following is a list of the nine technical support documents mentioned in the proposed rule listed in order of appearance in the notice.

1. ASHRAE Standard 103–82, *"Methods of Testing for Heating Seasonal Efficiency of Central Furnaces and Boilers."*

2. NBSIR 82-2497, *A Test Method and Calculation Procedure for Determining Annual Efficiency for Vented Household Heaters and Furnaces Equipped with Modulating-Type Controls."* May 1982.

3. NBSIR 80-2110, *"Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers."* April 1981.

4. NBS Letter Report, *"An Analysis of Burner On and Off Periods and Their Effect on Part-Load Efficiency for Furnaces and Boilers Equipped with Modulating Controls."* January 1983.

5. *Proposed Framework for Furnace and Boiler Test Procedure Modifications* a report to U.S. DOE Office of Buildings Energy Research and Development by Arthur D. Little, Inc., November 1982.

6. NBSIR 83-2648 *Experimental and Analytical Investigation of a Residential Hot Water Boiler with Finned Copper Tube Heat Exchangers* September 1982 issued April 1983.

7. NBS Report *"Recommendations to DOE on Modifications of Assigned Factors for Test Procedure for Vented Gas and Oil Fueled Heaters"* May 1980.

8. NBS Letter Report, *Evaluation of an AGA-GAMA Proposed Short Cut Test Procedure for Determining Annual Efficiency of Vented Household Heaters"* June 1981.

9. *"Determination of Annual Efficiency of Venter Heaters Equipped with Thermally Activated Vent Dampers"* ASHRAE Transactions CH-81-9 No. 1 pages 753 to 768.

I. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for consumer products, under Section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91,). The energy conservation program for consumer products was established by FEA pursuant to Title III, Part B of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163). Subsequently, EPCA was amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619). References in this notice to the Act, or to sections of the Act, refer to EPCA as amended by NECPA. Among other program elements, Section 323, of the Act requires that standard methods of testing be prescribed for covered products. Test procedures appear at 10 CFR Part 430, Subpart B.

II. Discussion

a. *Furnace Test Procedure.* The furnace test procedure was prescribed by DOE by notice issued May 2, 1978 (43 FR 20155, May 10, 1978). DOE amended the furnace test procedures by notice issued August 4, 1980 (45 FR 53720, August 12, 1980). The amendment included provisions for pulse combustion and condensing furnaces and technical revisions. Subsequently, DOE has become aware of additional areas of concern through cooperative efforts with the furnace industry and by the test procedure waiver process. Specifically, manufacturers of condensing furnaces and boilers felt an improved method of testing was warranted to determine the amount of beneficial condensation produced in

their designs; manufacturers of boilers felt the test procedure needed further clarification in the area of advanced controls (modulating controls and pump delay controls); utilities and research groups identified the need for improving the test procedure with regard to stack dampers and draft hood designs; and the furnace industry expressed the need for the test procedure to specifically outline the method of test for units installed in "isolated combustion systems." On the basis of the information submitted under the waiver process, research done by the National Bureau of Standards (NBS), and other available information, DOE today is proposing to amend the furnace test procedure to address all these concerns.

1. *Incorporation By Reference of ASHRAE Standard 103–82.* When the test procedures were initially developed in 1976 and 1977, existing commercial standards were incorporated whenever possible. The final test procedures prescribed by DOE incorporated by reference, sections from many commercial standards developed by various consensus standard organizations, such as ASHRAE, Air-Conditioning and Refrigeration Institute, American National Standards Institute, Association of Home Appliance Manufacturers, and Underwriters Laboratory. However, at the time when DOE was developing test procedures for residential furnaces and boilers, no commercial standard existed from ASHRAE, or any other organization, that could meet the needs of the Act. Specifically, no commercial standard was available for referencing by DOE that could be used to determine the annual energy consumption of a furnace as outlined in EPCA. Thus, DOE and NBS set out to develop a test procedure methodology that would satisfy the legislative requirements. This effort included incorporation of certain commercial standards for the purposes of including test set up and instrumentation provisions that were already established in the test methods used by the furnace industry at that time.

Final test procedures for residential furnaces were prescribed by DOE, pursuant to the Act, on May 10, 1978. In 1980, an amendment to include some new designs and to make some technical revisions was prescribed August 12, 1980. At that time, DOE and NBS encouraged ASHRAE to initiate development of a standard method of measurement and test for residential furnaces and boilers that could be referenced by DOE in its test procedures. ASHRAE has established a Standards Project Committee, with representation from Industry, Government, and Research, for the purpose of developing a consensus standard for testing furnaces and boilers. The resulting commercial standard is now available entitled "Methods of Testing for Heating Seasonal Efficiency of Central Furnaces and Boilers ASHRAE 103–82." DOE believes the referencing of the ASHRAE Standard will not result in a difference in efficiency ratings since the Project Committee has essentially adopted the existing DOE test methods.

In consideration of the amendments to the Office of Management and Budget Circular 119, which encourage the use of consensus standards in U.S. Government regulatory programs, DOE is today proposing to incorporate by reference, the ASHRAE Standard 103–82 into the furnace test procedure.

In addition, today's proposal initiates the regulatory review process necessary prior to incorporation of a commercial standard into a DOE test procedure.

Pursuant to Section 301 of the Department of Energy Organization Act (Pub. L. 95–91), DOE is required to comply with Section 32 of the Federal Energy Administration Act of 1974 (FEA Act) (Pub. L. 93–275), as amended by Section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70).

Sections 32(a) and (b) of the FEA Act provide that:

(a) If any proposed rule by the Administrator contains any commercial standards, or specifically authorizes or requires the use of any such standards, then any general notice of the proposed rulemaking shall—

(1) Identify, by name, the organization which promulgated such standards; and

(2) State whether or not, in the judgment of the Administrator, such organization complied with the requirements of subsection (b) in the promulgation of such standards.

(b) An organization complied with the requirements of this subsection in promulgating any commercial standards if—

(1) It gives interested persons adequate notice of the proposed promulgation of the standards and an opportunity to participate in the promulgation process through the presentation of their views in hearings or meetings which are open to the public;

(2) The membership of the organization at the time of the promulgation of the standards is sufficiently balanced so as to allow for the effective representation of all interested persons;

(3) Before promulgating such standard, it makes available to the public any records or proceedings of the organization, and any documents, letters, memorandums, and materials relating to such standards; and

(4) It has procedures allowing interested persons to—

(A) Obtain a reconsideration of any action taken by the organization relating to the promulgation of such standards, and

(B) Obtain a review of the standards (including a review of the basis or adequacy of such standards).

The findings required of DOE by Section 32 of the FEA Act serve to alert the public and DOE to the use and background of commercial standards in a proposed rulemaking and, through the comment and hearing process, allow interested persons to make known their views regarding the appropriateness of the use of particular commercial standards in any proposed rulemaking.

DOE has evaluated this commercial standard with regard to compliance with Section 32(b). It is the judgment of DOE that ASHRAE Standard 103–82 does not comply with the requirements of Section 32(b), in that the standard was not developed in a manner which provided for public participation, comment, and review.

As required by Section 32(c) of FEA Act, DOE will consult with the Attorney General and the Chairman of the Federal Trade Commission prior to prescribing any final rule incorporating the commercial standard.

2. *Modulating Furnaces and Boilers.* The existing furnace and vented heater test procedures were developed on the basis that furnaces, boilers and vented heaters either operate at the maximum firing rate or are off. This is called single step control. For heating equipment that is designed to operate at various firing rates, both the vented heater and furnace test procedures require that the testing is to be based only on the maximum firing rate. It was thought that the results of such testing were reasonably accurate and further complication of an already complicated test procedure was not warranted. However, since that time, vented heater and furnace manufacturers have been excepted from the existing test procedure on the grounds that such procedures are not appropriate for their units that have modulating controls (Applications for Exception Case Nos. DEE–2128, 2316, 2322, 2399, 2228, 2798, 3140, 3440, 3441, 2400, 3439, and 3950). These petitioners felt that modified test

procedures are necessary to account for operation with fuel modulation. A revised procedure which accommodates two types of fuel modulating controls has been developed by NBS.

The two types of modulating controls are:

1. "Step-modulating thermostat control" means a control that reduces burner fuel input rate if the heating load is light, or gradually increases the heat input to meet any higher heating load that cannot be met with the low firing rate.

2. "Two stage thermostat control" means a control that either cycles a burner at the reduced heat input rate and off or cycles a burner at the maximum heat input rate and off.

A. *Proposed Amendment*—Today's proposed amendment includes methods for measuring the annual fuel utilization efficiency (AFUE) for modulating furnaces and boilers by devising two new measures, weighted average steady state efficiency and weighted average part load efficiency. The methods are more fully described in the technical support document, *A Test Method and Calculation Procedure for Determining Annual Efficiency for Vented Household Heaters and Furnaces Equipped with Modulating-Type Controls*, NBSIR 82-2497, May 1982.

First, for furnaces and boilers with step-modulating controls, a weighted AFUE is determined by the following method:

(1) The maximum and reduced heat output rates are calculated from the steady-state efficiencies measured at the maximum and reduced firing rates.

(2) The heating season is partitioned into two fractions: one representing the heating load that occurs during the reduced input cycling mode; and the other representing the heating load that occurs during the modulating mode. These fractions are determined by the oversize factor and by the ratio of the reduced to maximum heat output rates.

(3) The average steady-state efficiency in the modulating mode is the weighted average of the steady-state efficiencies at the maximum and reduced firing rates.

(4) The average on-cycle infiltration loss in the modulating mode is the average of the ones measured at the maximum and reduced firing rates.

(5) The part-load utilization efficiency of the modulating mode is the average steady-state efficiency in the modulating mode minus the average on-cycle infiltration loss in the modulating mode. Off-cycle losses are not deducted since the unit does not normally cycle off in the modulating mode.

(6) The part-load utilization efficiency in either mode is mathematically determined in a manner identical to one for the part-load utilization efficiency in the existing furnace test procedure.

(7) The weighted average part-load utilization efficiency is the weighted average of the part-load utilization efficiencies in each mode, weighted by the fraction of the heating load that occurs during each mode.

(8) The weighted-average steady-state efficiency is the weighted-average of the steady-state efficiencies in each mode.

(9) The annual fuel utilization efficiency is based on the weighted-average part-load utilization efficiency, and the weighted-average steady-state efficiency. It is mathematically determined in a manner similar to the one in the existing furnace test procedure.

For furnaces and boilers with two-stage controls, a weighted AFUE is determined by the following method:

(1) The maximum and reduced heat output rates are calculated from steady-state efficiencies measured at the maximum and reduced firing rates.

(2) The heating season is partitioned into two fractions: one representing the heating load that occurs during the reduced input and the other representing the heating load that occurs during the maximum input rate. These fractions are determined by the oversize factor and by the ratio of the reduced to maximum heat output rates.

(3) The weighted-average steady-state efficiency is the weighted average of the steady-state efficiencies at the maximum and reduced firing rates.

(4) The weighted average part-load utilization efficiency is the weighted-average of the part-load utilization efficiencies at the maximum and reducted firing rates.

(5) The annual fuel utilization efficiency is based on the weighted-average part load utilization efficiency and the weighted average steady-state efficiency. It is mathematically determined in a manner similar to the one in the existing furnace test procedure.

DOE invites comments, and statements, in regard to the proposed procedures for modulating furnaces and boilers.

B. *Oversize Factor of Furnaces and Boilers*—In the existing furnace test procedure, the value of efficiency used to determine the estimated annual operating cost is prescribed to be constant for all design heating loads regardless of the extent of the capacity of the installed furnace exceeds the design heating load, i.e. the extent of oversizing. Consequently, where the Federal Trade Commission (FTC) labeling rule for furnaces and boilers requires annual operating costs for various design heating loads to be determined, these costs are based on a single value of efficiency. NBS has found that oversizing has little effect on the efficiency of furnaces and boilers equipped with single step controls. For these units, the single value of efficiency for all degrees of oversizing minimizes the complication of the test procedures. DOE believes that any error resulting from this method for furnaces and boilers with single stage controls is likely to be insignificant.

However, the efficiency of modulating furnaces and boilers depends on the fraction of the heating load that occurs during each mode of operation. In turn, the fraction is dependent on the extent of oversizing. Consequently, for modulating units, DOE believes the test procedure should reflect the change in efficiency due to the differences in oversizing. This would thereby allow the FTC labeling program to present the consumer with a valid evaluation of modulating furnaces and boilers.[1] Specifically, the labeled operating costs under each design heating load that appears on the "Energy Guide Fact Sheet," will be based on the appropriate value of efficiency for the degree of oversizing that each design heating load represents. DOE believes this increase in complication of the test procedure is warranted because the change in efficiency due to the extent of oversizing can be substantial for modulating furnaces and boilers.

Today's proposed amendment for modulating furnaces and boilers provides for a separate efficiency and annual cost calculation be made for each oversizing factor, corresponding to each typical design heating load listed in Table 1 of today's proposal. DOE is interested in comments concerning the efficiency and annual cost calculations for modulating furnaces and boilers.

C. *Modulating Boilers*—Today's proposed amendment for modulating boilers is based on the fact that the fraction of the heating load that occurs during each mode is related to the oversize factor and to the ratio of the minimum to maximum heat output rates. This determines a balance point outdoor air temperature which (T_c) allows for partitioning of the annual heating load within each mode of operation. Some boiler manufacturers believe this

[1] FTC labeling program for furnaces consist of a requirement to produce "Energy Guide Fact Sheets" that report estimates of annual operating costs for several different design heating loads (degrees of oversizing).

approach is inappropriate for modulating boilers.

Furnaces supply heated air to a household and the temperature of the room air sent to these furnaces is directly affected by the outdoor air temperature. On the other hand, boilers supply hot water and do not immediately sense a changing load caused by changing outdoor air temperatures. A time delay can occur before a change in the outdoor air temperature results in a change in the boiler return water temperature. Therefore, these boiler manufacturers believe that a method appropriate for modulating boilers must be independent of the outdoor air temperature. Also, the setting of the boiler water temperature control and the use of zone control could have an effect on which operating mode the boiler is to operate.

DOE believes that the development of a test procedure for modulating boilers that more accurately describes their actual mode of operation is not warranted. Such a procedure would likely be more burdensome than today's proposed method. DOE also has no data indicating that the proposed procedure would not determine valid estimates of energy efficiency and energy consumption for modulating boilers.

The NBS developed procedure for modulating boilers determines the efficiency of these units in each mode of operation and then determines an overall efficiency by weighting the two efficiencies by the estimated percent of time in each mode. Today's notice is not implying that these products must operate only under the exact control strategies described in the proposed amendment. Rather, today's proposal can be used to obtain reasonable estimates of the percent of time in each mode. DOE does believe that the proposed amendment can be useful in comparing the energy use characteristics between space heating equipment with and without modulating controls; provide materially accurate comparative data; and provide valid representations of the product's true energy use. DOE is interested in comments and data concerning the proposed procedure for modulating boilers.

3. *Condensing Furnaces and Boilers.*

A. *Direct Condensate Method*—On January 3, 1979, Hydrotherm, Inc. (Hydrotherm), filed an application for exception for its pulse combustion/condensing boiler. Hydrotherm contended that the pulse combustion boiler operates in a condensing mode and that the prescribed test procedures do not consider the improvement in energy efficiency attributable to the condensing and the removing of water in the flue products. The exception was granted on February 12, 1979, to remain in effect until test methods applicable to pulse combustion/condensing boilers were prescribed by DOE. DOE issued such methods on August 4, 1980.

On November 21, 1980, Hydrotherm filed a petition for a test procedure waiver regarding its condensing boiler because the company felt the flue gas temperature measurement method, prescribed in the 1980 amendment, did not measure all the condensate produced by the boiler under normal operating conditions. Hydrotherm claimed that the prescribed method either understated the amount of condensate or indicated that there is no condensate when, in fact, a significant amount of condensate was collected during the test. DOE agreed with the claims by Hydrotherm and consequently issued Hydrotherm a test procedure waiver by decision and order on June 26, 1982 (46 FR 34621, July 2, 1981). The test procedure waiver allowed the use of a direct condensate measurement method which directly measures the amount of condensate produced during three test cycles of the boiler. Since that time, Lennox Industries Inc. (Lennox), Arkla Industries, (Arkla), and Amana Refrigeration Inc. (Amana) have requested that they be allowed to use the direct condensate measurement method for their condensing furnaces and boilers. Two of these requests were granted by decision and order by DOE on July 27, 1982 (47 FR 32417), for Lennox and on December 27, 1982 (47 FR 57987), for Arlka.

Today's notice proposes a six cycle direct condensate method to be used at the option of the manufacturer, but otherwise is essentially identical to the method outlined in Appendix C of the NBS report, *Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers*, NBSIR 80–2110, April 1981. This published method is based on measuring the amount of condensate produced within the furnace or boiler during three test cycles immediately following two consecutive test cycles which have reached steady-state flue gas temperatures. However, further testing by NBS indicates, that, for some models of condensing furnaces and boilers, no appreciable amount of condensation occurs during these early test cycles. It is believed that condensation occurs; but, due to the design of the unit, no condensation drips into the condensate collection-container during the test. Testing by NBS also indicates that appreciable amounts of condensation do occur in later test cycles. Therefore, today's proposal requires that condensate be directly measured during six test cycles immediately following two consecutive test cycles that have reached steady-state flue gas temperatures. DOE is interested in comments, and data relating to the proposed direct condensate method.

B. *Relative Humidity of Room Air*—DOE is concerned over the effect that high relative humidity of room air can have in testing condensing furnaces and boilers. Specifically, testing under conditions of extremely high humidity is believed to result in overestimating the improvement in energy efficiency attributable to the condensing mode. DOE, realizes the additional testing burden that strict humidity control provisions would have and would like to avoid such provisions if possible. Today's proposal prohibits testing of condensing units when the relative humidity is in excess of 80 percent.

DOE is today seeking comments on today's proposed revision.

4. *Furnaces Without Draft Relief.* The Heil-Quaker Corporation (Heil) filed an application for exception with OHA because the company claimed that the test procedures as written did not accurately and fairly determine the energy efficiency for its induced draft gas furnace. Since the Heil furnace has no draft relief, Heil contended that it was not clear how to determine its energy efficiency using the existing test procedures. Heil was granted an exception by Decision and Order on September 5, 1979 *(Federal Energy Guidelines*, 4 DOE 81113). This exception specified how the test procedures were to be used with regard to this particular furnace design. Consequently, the 1980 amendments to the furnace test procedures addressed this issue for all manufacturers by adding the definition "direct exhaust" and specifying the provisions under which direct exhaust units may be tested.

The Carrier Corporation (Carrier) petitioned DOE for a test procedure waiver for its induced draft gas furnace with a draft safeguard system on October 27, 1980. The draft safeguard system is a feature that permits the induced draft gas furnace to be connected with a naturally aspirated gas appliances; otherwise such a connection is prohibited by most local codes. Under normal operation, this device will allow miniscule amounts of relief air into the venting system. Carrier contended that this design should not be considered a draft relief device, but rather, the provisions granted to the Heil-Quaker design will accurately evalute the draft

safeguard system. Work at the NBS confirmed this contention and consequently, DOE granted Carrier a test procedure waiver by decision and order on April 15, 1981 (46 FR 22799, April 22, 1981).

Today, DOE is proposing to amend the furnace test procedure to allow all manufacturers of similiar designs to use the provisions granted to Carrier's draft safeguard system. DOE is proposing to define "draft safeguard system" and add provisions which clarify that furnaces equipped with these devices are to be tested under the provisions for direct exhaust furnaces. DOE invites comments concerning the provisions. DOE is specifically interested in comments concerning whether the proposed definition is appropriate, functional, and workable.

5. *Hot Water Boiler Specifications.* Existing test procedures for non-condensing hot water boilers specify testing at a 120° F. temperature rise and a 200° F. outlet water temperature. These specifications are not difficult to meet and thereby reduce the testing burden on manufacturers. However, some manufacturers of finned tube boilers and low thermal mass boilers were granted test procedure exceptions and test procedure waivers because their boilers cannot be safely tested by these conditions. (Exception requests by Teledyne Laars and Raypak, Office of Hearings and Appeals, Case Nos. DEE–3439 and DEE–3950 and Waiver request by Energy Kinetics Inc., Case No. F–003). DOE prescribed methods from these test procedure exceptions and waivers in the 1980 furnace amendment so that all manufacturers of finned tube boilers and low thermal mass boilers could safely test their boilers. Specifically, these boilers were required to test a 20° F. to 40° F. temperature rise and a 200° F. outlet water temperature.

Today, DOE is proposing that all non-condensing hot water boilers be tested with a return inlet water temperature of at least 120°F and a water temperature rise of at least 20°F. DOE believes that all noncondensing hot water boilers, including finned tube boilers and low thermal mass boilers, generally operate at these conditions. It is DOE's belief that the proposed specifications will not be burdensome to conduct, will not result in mass retesting of boilers, and will eliminate the need for future test procedure waivers for specific kinds of hot water boilers. The boiler industry has indicated their desire to have these provisions included. DOE is interested in comments concerning whether the proposed changes in the specifications are appropriated.

6. *Thermal Stack Dampers.* Today, DOE is proposing a test method to directly measure the off-cycle losses for furnaces and boilers equipped with thermal stack dampers. These losses are the off-cycle infiltration loss ($L_{I,OFF}$) and the off-cycle sensible loss ($L_{S,OFF}$) which have been estimated in the past by the use of off-cycle draft factors for flue gas flow (D_f) and for stack gas flow (D_s). The off-cycle draft factors are assigned values in the existing furnace test procedure. In addition, these draft factors are adjusted if the unit is equipped with an electro-mechanical stack damper; this adjustment factor is the stack damper effectiveness factor D_o.

For furnaces and boilers with thermal stack dampers, the energy efficiency cannot be accurately determined by using the value of D_o that was developed for electro-mechanical stack dampers. This is based on the fact that thermal stack dampers typically have changing off-period leakage rates, whereas electro-mechanical dampers typically have relatively constant off-period leakage rates. Also, the leakage rate is strongly dependent on temperature for thermal stack dampers whereas it is not dependent on temperature for electro-mechanical stack dampers.

The test method proposed today allows for the direct measurement of off-cycle losses by measuring the concentration of a tracer gas in the flue and in the stack during an appropriate off-cycle period and thereby eliminating any need for assigned draft factors. The method is essentially identical to the tracer gas method described in Appendix A of the NBS milestone report, *Recommendations to DOE on Modifications of Assigned Factors for Test Procedures for Vented Gas and Oil Fueled Heaters*, May 1980, and in Appendix D of ASHRAE Standard 103–82, except that instead of the prescribed 15 minute off periods, today's proposal would prescribe different off periods for boilers equipped with single stage controls and furnaces and boilers equipped with either two stage controls or step-modulating controls. See the NBS letter report, *An Analysis of Burner On and Off Periods and Their Effect on Part-Load Efficiency for Furnaces and Boilers Equipped with Modulating Controls*, January 1983, for the development of the different off-periods.

DOE is today proposing that this direct measurement of off-cycle losses be required when testing any furnace equipped with a thermal stack damper. DOE is interested in comments on this new test method.

7. *Improvement in Stack (Flue) Damper Evaluation in the Test Procedures.* Since the development of DOE furnace test procedures, it has been suspected by many interested parties that the actual energy efficiency improvement attributable to electro-mechanical stack (flue) dampers is less than that predicted in the test procedures. At this time, DOE is aware of analyses (both theoretical and field analyses) that support this conclusion. (See *Proposed Framework for Furnace and Boiler Test Procedure Modifications*, a report to U.S. DOE Office of Buildings Energy Research and Development by Arthur D. Little, Inc., November 1982).

The current test procedure evaluates the effectiveness of a stack (flue) damper by comparing the area of the damper plate to the area of the stack. This method, though non-complicated, ignores closing times. Thus, this method is deficient in that it results in possible overstatements of efficiency. Also, the existing method discourages manufacturers from using quicker closing dampers.

In view of these deficiencies and in view of the fact that today's proposal includes an expansion of the test procedures for thermal stack dampers (see II.a.6. above), DOE is today proposing that the direct measurement (tracer gas) method proposed above for thermal stack dampers be allowed as an option for other than thermal stack (flue) dampers. This option shall be in effect for a 2-year period from final issuance. After the 2-year period, all stack (flue) dampers are to be evaluated using the direct measurement (tracer gas) method. The existing method using the D_o factor will not be allowed after the 2-year period.

The reason for this 2-year tie-in period is to minimize the burden of rerating, especially in view of the fact that the use of the direct method will result in lower (though more accurate) credit due to most designs of stack dampers. DOE is interested in comments and data relating to the improvement in test procedure accuracy provided by the direct measurement (tracer gas) method.

8. *Pump Delay Boiler Controls.* Energy Kinetics Incorporated (EKI) filed a petition for a test procedure waiver on December 27, 1980, regarding its low thermal mass boilers with pump delay controls. One of the issues was that the prescribed test procedure does not consider the improvement in energy efficiency attributable to pump delay controls. In the decision and order granted to EKI on November 18, 1981 (46 FR 58732, December 3, 1981), DOE

denied that part of the petition relating to pump delay boiler controls on the ground that this would be addressed in a rulemaking process for all manufacturers. Consequently, NBS developed a test procedure applicable for boilers with pump delay controls. The results of this work is included in NBSIR 83-2648 *Experimental and Analytical Investigation of a Residential Hot Water Boiler with Finned Copper Tube Heat Exchangers*, issued April 1983.

Today's proposed amendment for pump delay boiler controls is similar to the method for time delay blower controls for furnaces in that during testing the circulating pump is allowed to operate in accordance with its own control strategy. Maximum allowable time delays and a minimum return water temperature are proposed today. Other changes are in calculating the estimated annual operating cost to reflect the additional run time of the electrical circulating pump. DOE believes that these changes will accurately determine the improvement in energy efficiency attributable to pump delay controls. DOE is interested in comments, statements, and data concerning whether the proposed amendment is appropriate for boilers with pump delay controls.

9. *Improved Method of Determining the S/F Factor for Furnaces and Boilers.*

A. *Gas Furnaces and Boilers*—DOE is today proposing a new method for calculating the S/F factor (average ratio of stack gas mass flow rate to flue gas mass flow rate at steady-state operation). The S/F factor is used to measure the on-cycle infiltration losses and the off-cycle infiltration losses in the furnace test procedure. The existing method is based on assigned values. Today's proposed method is based on the flue and stack measurements of CO_2 concentration, which already are required in the existing test procedures.

NBS has conducted numerous tests on gas space heating appliances and found that the value of S/F can be highly variable. The use of one assigned value is not likely to be appropriate. See the NBS milestone report, *Recommendation to DOE on Modifications of Assigned Factors for Test Procedures for Vented Gas and Oil Fueled Heaters*, May 1980.

DOE is today proposing that the S/F factor be actually determined by using the measured CO_2 concentrations in the stack and flue in lieu of the assigned S/F values.

B. *Oil Furnaces and Boilers.* Based on tests conducted by NBS, it was found that the value of S/F for oil furnaces and boilers is relatively constant, therefore, the assigned value of S/F is not likely to result in marked inaccuracy. Also, oil furnaces and boilers are commonly marketed and sold without a barometric draft diverter thus, a laboratory determination of an S/F value is inappropriate in these cases. For these reasons, DOE is retaining the assigned value of S/F for oil furnaces and boilers.

However, to encourage more efficient designs of barometric draft diverters, DOE is proposing to allow the use of an assigned value of S/F or a measured value of S/F for oil furnaces and boilers that have the barometric deverter shipped with the unit. As with the gas furnaces and boilers, CO_2 concentrations are used to determine the measured value of S/F.

DOE believes that today's proposed method for S/F, based on the dilution ratio from the flue and stack CO_2 concentration, results in more accurate estimates of energy efficiency than the existing method. Manufacturers are not required to make additional or new measurements. DOE is interested in comments, statements, and arguments on today's proposed method for determining S/F for gas furnaces and boilers.

DOE is interested in comments and data concerning the use of assigned values for oil furnaces and boilers equipped with barometric draft dampers and the measuring of S/F for those oil furnaces and boilers that are marketed and sold with attached barometric draft dampers.

C. *Another Concern Regarding S/F Factor.* Today's proposed amendment defines S/F as 1.3 times the ratio of two dilution ratios specifically "$R_{T,S}$ (as measured in the field)" to "$R_{T,F}$ (as measured in the lab)" with no correction factor. Thus, it is assumed in the test procedures that "$R_{T,S}$ (as measured in the field)" is equal to "$R_{T,S}$ (as measured in the lab)" times a correction factor of 1.3. However, field data from American Gas Association indicate that this relationship is not always constant. Test data from NBS also indicate that the value of S/F when the furnace or boiler is on can differ somewhat from the value of S/F when the unit is off. Variable correction factors may be needed in order to properly account for these effects. DOE is interested in comments, statements, and data relating to this issue.

10. *Isolated Combustion System (ICS).* There has been much discussion between the furnace industry, State governments and DOE concerning how the DOE test procedures should apply to units installed in an "isolated combustion system." DOE is proposing to define an "isolated combustion system" as "an installation in which a furnace is installed indoors and all combustion and ventilation air is admitted through grills or ducts from outdoors and said air does not communicate with air in the conditioned space. Examples are: interior enclosures with air from attic or ducted from outdoors, exterior enclosures with air from outdoors through grills, or enclosures in garages or carports attached to the building." Today's proposal specifically addresses how DOE test procedures should be applied to determine a representative energy efficiency for units installed in an "isolated combustion system."

As the DOE test procedures for furnaces were being developed in 1977-78, it was sought to prescribe a procedure which would reflect the energy performance of a residential furnace in representative use and would not be unduly burdensome to conduct. DOE realized that defining representative use with regard to residential furnaces would be difficult and would require a number of assumptions concerning typical installation parameters. The selection of average values for many of these parameters, stack height, water/air temperature, outdoor air temperature, etc., did not cause much controversy in the rulemaking process. However, with regard to furnace location (i.e. indoor and outdoor), the test procedure should be different. For units installed entirely outdoors, infiltration losses are not deducted, jacket losses are deducted, and the calculations are corrected for the use of outdoor air for combustion. For units installed entirely indoors, infiltration losses are deducted, and jacket losses are not deducted. Thus, DOE prescribed two different evaluation methods regarding furnace location in the final test procedures. When testing units which are only intended for installation indoors, or only intended for installation outdoors, the user of the test procedure is provided with an appropriate evaluation method. When testing units which could be installed either indoors or outdoors, the user of the test procedure is provided with two evaluation methods which "bracket" the effect of furnace location.

Since the indoor test method of deducting infiltration losses and not deducting any jacket losses is not proper for furnances installed in an ICS, the outdoor test method is the more appropriate of the two methods when evaluating furnaces so installed. However, even through the outdoor test method is the more appropriate, it is not entirely accurate for some examples of ICS installations. Rather, for most

furnace designs, the outdoor test method represents the minimum energy efficiency performance that a furnace could have when installed in an ICS. In some instances, the jacket loss should not be entirely deducted since some of the jacket heat is transmitted to the conditioned space through either direct heat transmission (through the enclosure's structure) or preheating the combustion air. In addition, it has been pointed out by industry that for furnaces that are designed and intended for indoor installation the test procedure does not require an indoor and outdoor test result. Further, the industry feels it would be burdensome to require the additional jacket loss test to be run on all designs, if an outdoor rating was specifically prescribed.

In consideration of all of the discussion above, DOE is today proposing that an assigned jacket loss value of 1 percent may be used, as an option, by all designs of furnaces, if an outdoor rating is made. This will allow manufacturers to produce indoor and outdoor ratings of any design without increasing testing burden. Additionally, DOE is proposing that representations specifically regarding ICS installations be based on the outdoor test method with one half of the measured or proposed assigned jacket loss deduction.

DOE hopes that these provisions will allow for the increased distribution of efficiency information, particularly to those interested in the efficiency of furnaces installed outdoors and in ICS. DOE is interested in comments and data concerning the one percent assigned jacket loss value for all outdoor units and the one half jacket loss deduction for ICS installations.

b. *Vented Heater Test Procedure.* The vented heater test procedure was prescribed by DOE by notice issued May 2, 1978 (43 FR 20182, May 10, 1978). Several manufactuers petitioned DOE to expand the vented heater test procedure to include modulating vented heaters and manually controlled vented heaters. Other manufacturers felt that an improved method of testing was needed for vented oil heaters equipped with vaporizing-type burners. In 1980, the *Ad Hoc* Technical Committee of Gas Appliance Manufacturers Association, Inc. (GAMA), presented a simplified testing method to DOE. The method was intended to be an optional procedure that reduces the testing burden on manufacturers. On the basis of the information submitted by the petitioners, information from GAMA, research conducted by NBS, and other available information, DOE today is proposing to amend the vented heater test procedure to expand the coverage of the test procedure while at the same time reducing the testing burden.

1. *Simplified Vented Heater Test Procedure.* For vented heaters equipped without manual controls or without thermal stack dampers, DOE is proposing a new, simplified test procedure. The previous vented heater test procedure is similar to the furnace test procedure. Numerous comments from manufacturers and GAMA requested that DOE consider a simplified test procedure for vented heaters in order to reduce testing burden. Typically manufacturers of vented heaters have less assets than furnace and boiler manufacturers and do not have the resources needed to conduct the full-scale testing prescribed in the existing vented heater test procedure. Therefore, GAMA requested that DOE consider a simplified test procedure for vented heaters.

A. *Proposed Amendment*—Today, DOE is proposing a simplified test procedure for vented heaters except those with either manual controls or thermal stack dampers. The complicated cool down test and the heat up test are not required under the proposed simplified test procedure. The proposed test method requires a steady-state test at the maximum firing rate for all vented heaters and a second steady-state test at the minimum firing rate for modulating vented heaters, obtaining values of D_F and $_{DS}$, and measuring the pilot fraction and the jacket loss. Insulation of the stack, blocking the draft diverter, and restricting the stack outlet would also no longer be required. The heater is set-up and operated with the draft diverter in the normal unrestricted open position. For modulating vented heaters, a weighted efficiency is determined by the ratio of a minimum to maximum heat output rates. The entire procedure is more fully described in the NBS letter report, *Evaluation of an AGA/GAMA Proposed Short Cut Test Procedure for Determining Annual Efficiency of Vented Household Heaters*, June 1981.

B. *Manually Controlled Vented Heaters*—DOE believes that manually controlled vented heaters cannot be adequately tested by the simplified test procedure since this procedure uses empirical correction factors to estimate cycling losses. These cycling losses should not be included for manually controlled heaters, because these heaters are directly controlled by the user. Also, the simplified test procedure does not explicitly determine the on-cycle infiltration loss, $L_{t,ON}$. Therefore, DOE is proposing that manually controlled heaters cannot be tested by the simplified test procedure. Rather a separate procedure is proposed for manually controlled vented heaters, as discussed In II.b.2. below.

C. *Vented Heaters with Thermal Stack Dampers*—DOE believes that vented heaters with thermal stack dampers cannot be adequately tested by the simplified test procedure. This procedure accounts for the improvement in energy efficiency attributed to a stack damper by calculating the stack (or flue) damper effectiveness (D_e). Data from Aga work sponsored by GAMA have shown a poor correlation between energy efficiency and D_e for vented heaters with thermal stack dampers. Therefore, DOE believes that vented heaters (or furnaces) with thermal stack dampers cannot be evaluated using the D_e method.

Further, NBS has tested several vented heaters equipped with thermal stack dampers to determine the efficiency improvement due thermal stack dampers. (See *ASHRAE Transactions 1981*, volume 87, part 1, CH–81–9, No. 1) These tests show that a significant portion of the improvement in energy efficiency for thermal stack dampers can be attributed to a reduction in on-cycle losses. The simplified testing procedure does not consider all the savings in on-cycle losses caused by thermal stack dampers. Thus, DOE is proposing a direct measurement method, similar to that proposed for furnaces, for vented heaters equipped with thermal stack dampers, as discussed in II.b.3. below.

DOE is interested in comments and data concerning whether simplified test procedure results in reasonably accurate estimates of energy efficiency.

2. *Manually Controlled Vented Heaters.* Today, DOE is proposing a test procedure for manually controlled vented heaters. Previous vented heater test procedures did not address manually controlled vented heaters. These heaters typically operate continuously and have no off-cycle losses.

Steady-state efficiency tests are conducted at the maximum and minimum firing rates. A weighted-average steady/state efficiency is calculated. It is defined as the steady-state efficiency for the manually controlled heater operating at an average outdoor temperature of 45° F and an average indoor temperature of 70° F. Assuming that heating starts at an outdoor temperature of 65° F and a design outdoor temperature of 15° F, the average heat output rate for the

manually controlled heater is at 50 percent of the maximum heat output rate. Therefore, the weighted-average steady-state efficiency is based on the manually controlled heater operating at 50 percent of the maximum heating output rate.

The part-load utilization efficiency for manual control units is defined as 100 percent less the sum of steady-state flue loss (sensible and latent heat loss) and the on-cycle infiltration loss. The on-cycle infiltration loss is calculated from data collected during the steady-state test. The annual fuel utilization efficiency is then calculated by adjusting the part-load utilization efficiency to account for losses due to the continuous burning pilot light.

DOE is interested in comments, statements, and arguments concerning whether the proposed test procedure is appropriate for manually controlled vented heaters.

3. *Vented Heaters Equipped with Thermal Stack Dampers.* DOE is today proposing a test procedure for vented heaters equipped with thermal stack dampers. Previous vented heater test procedures did not address thermal stack dampers.

The part-load utilization efficiency is defined as 100 percent less the steady-state (sensible and latent), on-cycle and off-cycle flue losses. The on-cycle losses are calculated from data collected during the steady-state test. The off-cycle losses are measured during a direct measurement (tracer gas) test. The direct measurement test is identical to the one proposed today for furnaces and boilers equipped with thermal stack dampers. The annual fuel utilization efficiency is calculated by adjusting the part-load utilization efficiency to account for losses due to a continuous burning pilot light.

DOE is interested in comments, statements, and arguments concerning whether the proposed test procedure is appropriate for vented heaters equipped with thermal stack dampers.

c. *Unvented Heater Test Procedure.* A test procedure for unvented heaters, using electricity, natural gas, or propane, was proposed by DOE on May 4, 1977 (42 FR 23860, May 11, 1977). A test procedure for electric heaters was prescribed by DOE on May 2, 1978 (43 FR 20128, May 10, 1978). A Final test procedure was not prescribed for unvented natural and propane gas heaters at that time because the Consumer Product Safety Commission (CPSC) proposed to ban the sale of these heaters (43 FR 6235, February 14, 1978). CPSC has issued a safety standard in place of a sales ban (16 CFR Part 1212). Today, DOE is proposing a test procedure appropriate for unvented natural and propane gas heaters.

In addition, DOE is today proposing a test procedure for unvented kerosene heaters. Kerosene heaters were not considered during the previous rulemaking process essentially because these heaters were not widely marketed at the time of the original proposal. DOE believes that a test procedure for kerosene heaters is presently needed since these heaters are now widely marketed.

1. *Gas and Kerosene Unvented Heaters.* Test procedures now being proposed for unvented heaters using natural gas, propane, or kerosene. These procedures are similar to those currently in place for electric unvented heaters. The input energy rate (Btu's/hr) is determined by measurement. This measured input is assumed to be the output of the heater (i.e. an implied 100 percent fuel efficieny). The output is then used to determine an estimated operating cost.

DOE is interested in comments concerning the proposed amendments. In particular, DOE is concerned whether an infiltration loss caused by operating the heaters with adequate ventilation air should be considered in the test procedure and, if so, how should it be determined.

d. *Estimated Operating Cost for Vented and Unvented Heaters.* For vented and unvented heaters, DOE is proposing a method to determine an estimated operating cost per million British thermal unit (Btu) output. In the past, several commenters expressed concern over the validity of an estimated annual operating cost for vented and unvented heaters. Most felt that any selection of a representative hours of annual use would be inappropriate for these heaters considering the large variability involved. Secondly, an appropriate efficiency determination was needed for vented heaters with modulating controls. As with furnaces, heaters with modulating controls would have a variable efficiency and operating costs depending on the extent of oversizing.

A valid estimated annual operating cost method for modulating vented heaters would require substantial changes in order to properly consider the effects of oversizing. The changes would require additional calculations for the weighted-average efficiency because the fraction of time that the heater would operate in each mode would depend on the extent of oversizing and on the ratio of minimum to maximum heat output rates. The changes would be similar to today's proposed amendments for modulating furnaces and boilers discussed in II.b.2. above.

The variable annual operating cost method was originally developed for vented heaters under the premise that the cost data would be required under the Federal Trade Commission labeling program. FTC has excluded vented heaters from the labeling program. Therefore, DOE sees no need to expand the estimated annual operating cost calculations for vented heaters.

DOE believes that for vented and unvented heaters the best economic measure to assist consumers in their purchasing decisions is the estimated operating cost per million Btu output. For vented heaters, the estimated cost is determined by using the measured output, the representative unit cost of energy and the annual fuel utilization efficiency (which may be determined from the simplified test procedure proposed today). for unvented heaters, the estimate cost is determined by using the measured output, the representative unit cost of energy and the implied efficiency of 100 percent. DOE is interested in comments concerning whether the proposed methods for estimating the operating cost per million Btu output is appropriate for all types of vented and unvented heaters.

III. Comment Procedure

a. *Written Comment.* Interested persons are invited to participate in the rulemaking by submitting data, views, or arguments with respect of the proposed amendments set forth in this notice to the address indicated at the beginning of the notice.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Furnace, Vented Heater, and Unvented Heater Test Procedures (Docket No. CAS-RM-79-104)." Fifteen (15) copies are requested to be submitted. All comments received by the date specified at the beginning of this notice and all other relevent information will be considered by DOE before final action is taken on the proposed regulation. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document, and 15 copies, if possible, from which the information believed to be confidential has been deleted. DOE will make its own determination with regard to the confidential status of the information and treat it according to its determination.

b. *Public Hearing.*

1. *Request Procedure*—The time and place of the public hearing are indicated at the beginning of this notice. DOE invites any person who has an interest in today's proposed rule amendments, or who is a representative of a group or class of persons that has an interest in the proposed amendments, to make a written request for an opportunity to make an oral presentation. Such requests should be directed to the address indicated at the beginning of this notice and must be received by the time specified at the beginning of this notice. Requests may be hand delivered to such address between the hours 8:30 a.m. and 4:30 p.m., Monday through Friday. Requests should be labeled "Furnace, Vented Heater, and Unvented Heater Test Procedures (Docket No. CAS–RM–79–104)" both on the document and on the envelope.

The person making the request should briefly describe the interest concerned and, if appropriate, state why he or she is a proper representative of the group or class of persons that has such an interest, and give a telephone number where he or she may be contacted. Each person requesting an opportunity to speak should give a concise summary of the proposed oral presentation.

DOE will notify, by the date indicated at the beginning of this notice, each person selected to be heard at the hearing. Each person selected to be heard is requested to submit eight copies of his or her statement to the address and by the date given in the beginning of this notice. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be make with the Office of Hearings and Dockets in advance of the hearing by so indicating in the letter requesting to make an oral presentation.

2. *Conduct of Hearings*—DOE reserves the right to select the persons to be heard at this hearing, to schedule the respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation shall be limited to 20 minutes.

A DOE official will be designated to preside at the hearing. The hearing will not be a judicial or an evidentiary-type hearing, but will be conducted in accordance with 5 U.S.C. 553 and Section 336 of the Act. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person who wishes to ask a question at the hearing may submit the question in writing to the presiding officer to be asked of any person making a statement at the hearing. The presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules regarding proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. an 4:00 p.m., Monday through Friday. For information concerning the availability of records at the Freedom of Information Reading Room call (202) 252–5969. In addition, any person may purchase a copy of the transcript from the reporter.

IV. Environmental Review

Pursuant to Section 7(c)(2) of the Federal Energy Administration Act of 1974, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment.

Since test procedures under the energy conservation program for consumer products will be used only to standardize the measurement of energy usage and will not affect the quality or distribution of energy usage, prescribing test procedures will not result in any environmental impacts. On this basis, DOE has determined that prescribed test procedures under the energy conservation program for consumer products is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Consequently, neither an Environmental Impact Statement nor an Environmental Assessment is required for the proposed rule.

V. Review Under E.O. 12291

The proposed rule has been reviewed in accordance with Executive Order 12291 which directs that all regulations achieve their intended goals without imposing unnecessary burdens on the economy, on individuals, on public or private organizations, or on State and local governments. The Executive Order also requires that regulatory impact analyses be prepared for "major rules." The Executive Order defined "major rule" as any regulation that is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions: or (3) significant diverse effects on competition, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed rules for furnaces, vented heaters, and unvented heaters would only result in changing the test procedures to allow for more accurate determinations of energy efficiency and cost. Therefore, DOE has determined that the proposed rules do not come within the definition of "major rule."

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601–612), requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement (which appears in Section 603) does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact of a substantial number of small entities." The proposed rule affects manufacturers of furnaces, vented heaters, and unvented heaters. As previously discussed, the proposed changes would not have significant economic impacts, but rather would simply improve the test procedures and reduce testing costs. Therefore, DOE certifies that the proposed rules, if promulgated, would not have a "significant impact on a substantial number of small entities."

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

In consideration of the foregoing, it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C. June 10, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Provisions of 10 CFR Part 430, § 430.2, § 430.22, Appendix G, Appendix N, and Appendix O are amended as follows:

1. Section 430.2 definition of "unvented home heating equipment" is revised and definitions of "Kerosene," "Unvented gas heater," and "unvented oil heater" are added in alphabetical order to read as follows:

§ 430.2 Definition.

* * * * *

"Kerosene" means No. 1 fuel oil with a viscosity meeting the specifications as specified in UL–730–1974, section 36.9 and in tables 2 and 3 of ANSI Standard Z91.1–1972.

* * * * *

"Unvented gas heater" means an unvented, self-contained, free-standing, nonrecessed gas-burning appliance which furnishes warm air by gravity or fan circulation, and includes unvented circulators, radiant heaters, unvented overhead heaters, and wall heaters, unvented closed front.

"Unvented home heating equipment" means a class of home heating equipment, not including furnaces, used for the purpose of furnishing heat to a space proximate to such heater directly from the heater and without duct connections and includes electric heaters and unvented gas and oil heaters.

"Unvented oil heater" means an unvented, self-contained, free-standing, nonrecessed oil-burning appliance which furnishes warm air by gravity or fan circulation and includes unvented kerosene heaters and portable kerosene heaters.

* * * * *

§ 430.22 [Amended]

2. Section 430.22 is amended by revising paragraphs (g), (n) and (o) to read as follows:

* * * * *

(g) *Unvented home heating equipment.* (1) The estimated annual operating cost for primary electric heaters, shall be the product of: (i) The average annual electric energy consumption in kilowatt-hours per year, determined according to section 3.1 of Appendix G of this subpart and (ii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated hourly operating cost for primary and supplementary electric heaters and gas, propane, and oil heaters, shall be the product of: (i) The maximum power input in kilowatts, determined according to section 2.1 of Appendix G of this subpart, or the rated output in Btu's per hour, determined according to sections 3.3 or 3.4 of Appendix G of this subpart, as appropriate, (ii) 1 hour of continuous use, and (iii) the representative average unit cost in dollars per kilowatt-hour or dollars per Btu's as appropriate, as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest 0.01 dollar per hour.

(3) The estimated hourly operating cost for primary electric unvented home heating equipment shall be the product of: (i) The maximum power input in kilowatts for electric heaters, determined according to section 2.1 of Appendix G of this subpart, (ii) 1 hour of continuous use, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest 0.01 dollar per hour.

(4) The estimated regional annual operating cost for primary electric heaters, shall be the product of: (i) The regional annual electric energy consumption in kilowatt-hours per year for primary heaters determined according to section 3.2 of Appendix G of this subpart and (ii) the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(5) The estimated operating cost per million Btu output shall be—

(i) For primary and supplementary electric heaters and unvented gas and oil heaters without an auxiliary electric system, the product of: (A) One million Btu output; and (B) the representative unit cost in dollars per Btu for natural gas, propane, or oil, as appropriate, or the product of 3,412 Btu per kilowatt-hour times the representative unit cost in dollars per kilowatt-hour, as provided pursuant to section 323(b)(2) of the Act, the resulting product then being rounded off to the nearest 0.01 dollar per million Btu output; and

(ii) For unvented gas and oil heaters with an auxiliary electric system, the sum of: (A) The product of: (*1*) One million Btu output and (*2*) the representative unit cost in dollars per Btu for natural gas, propane, or oil, as appropriate, as provided pursuant to section 323(b)(2) of the Act; and (B) the product of: (*1*) The quotient of one million Btu output divided by the rated fuel input in Btu/hr as determined in section 3.4 of Appendix G of this subpart; (*2*) the auxiliary electric power in kilowatt as determined in section 2.1 of Appendix G of this subpart; and (*3*) the representative unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, and the resulting sum then being rounded off to the nearest 0.01 dollar per million Btu output.

(6) The rated output for unvented heaters is the rated output as determined according to either sections 3.3 or 3.4 of Appendix G of this subpart, as appropriate, with the result being rounded to the nearest 100 Btu per hour.

(7) Other useful measures of energy consumption for unvented home heating equipment shall be those measures of energy consumption for unvented home heating equipment which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix G of this subpart.

* * * * *

(n) *Furnaces.* (1) The estimated annual operating cost for furnaces is the sum of: (i) The product of the average annual fuel energy consumption, in Btu's per year for gas or oil furnaces or in kilowatt-hours per year for electric furnaces, determined according to section 4.8 or 4.10 of Appendix N of this subpart, respectively, and the representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided pursuant to section 323(b)(2) of the Act, plus (ii) the product of the average annual auxiliary electric energy consumption in kilowatt-hours per year determined according to section 4.9 of Appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year. (For furnaces which operate with variable inputs, an estimated annual operating cost is to be calculated for each degree of oversizing specified in section 4 of Appendix N of this subpart.)

(2) The annual fuel utilization efficiency for furnaces, expressed in percent, is the ratio of annual fuel output of useful energy delivered to the heated space to the annual fuel energy input to the furnace determined according to section 4.6 of Appendix N of this subpart for gas and oil furnaces and determined in accordance with section 4.1 of Appendix N of this subpart for electric furnaces.

(3) The estimated regional annual operating cost for furnaces is the sum of: (i) The product of the regional annual fuel energy consumption in Btu's per year for gas or oil furnaces or in kilowatt-hours per year for electric furnaces, determined according to section 4.11 or 4.13 of Appendix N of this subpart, respectively, and the

representative average unit cost in dollars per Btu for gas or oil, or dollars per kilowatt-hour for electric, as appropriate, as provided pursuant to section 323(b)(2) of the Act, plus (ii) the product of the regional annual auxiliary electrical energy consumption in kilowatt-hours per year, determined according to section 4.12 of Appendix N of this subpart, and the representative average unit cost in dollars per kilowatt-hour as provided pursuant to section 323(b)(2) of the Act, the resulting sum then being rounded off to the nearest dollar per year.

(4) The energy factor for furnaces, expressed in percent, is the ratio of annual fuel output of useful energy delivered to the heated space to the total annual energy input to the furnace determined according to section 4.14 of Appendix N of this subpart.

(5) Other useful measures of energy consumption for furnaces shall be those measures of energy consumption which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix N of this subpart.

(o) *Vented home heating equipment.*

(1) The annual fuel utilization efficiency for vented home heating equipment, expressed in percent, which is the ratio of the annual fuel output of useful energy delivered to the heated space to the annual fuel energy input to the vented heater, shall be determined either according to section 4.1.17 of Appendix O of this subpart for vented heaters without either manual controls or thermal stack dampers; according to section 4.2.6 of Appendix O of this subpart for vented heaters equipped with manual controls; or according to section 4.3.7 of Appendix O of this subpart for vented heaters equipped with thermal stack dampers.

(2) The estimated operating cost per million Btu output shall be the product of: (i) One hundred; (ii) the quotient of one million Btu output divided by the annual fuel utilization efficiency as determined in paragraph (0)(1) and (iii) the representative unit cost in dollars per Btu for natural gas, propane, or oil, as appropriate, as provided pursuant to section 323(b)(2) of the Act, the resulting product shall be rounded to the nearest 0.01 dollar per million Btu output.

(3) Other useful measures of energy consumption for vented home heating equipment shall be those measures of energy consumption which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix O of this subpart.

3. Appendix G. to Subpart B of Part 430 is revised to read as follows:

Apendix G to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Unvented Home Heating Equipment

1. *Testing conditions.*

1.1 *Installation.*

1.1.1 *Electric heater.* Install heater according to manufacturer's instructions. Heaters shall be connected to an electrical supply circuit of nameplate voltage with a wattmeter installed in the circuit. The wattmeter shall have a maximum error not greater than one percent.

1.1.2 *Unvented gas heater.* Install heater according to manufacturer's instructions. Heaters shall be connected to a gas supply line with a gas displacement meter installed between the supply line and the heater according to manufacturer's specifications. The gas displacement meter shall have a maximum error not greater than one percent. Gas heaters with electrical auxiliaries shall be connected to an electrical supply circuit of nameplate voltage with a wattmeter installed in the circuit. The wattmeter shall have a maximum error not greater than one percent.

1.1.3 *Unvented oil heater.* Install heater according to manufacturer's instructions. Oil heaters with electric auxiliaries shall be connected to an electrical supply circuit of nameplate voltage with a wattmeter installed in the circuit. The wattmeter shall have a maximum error not greater than one percent.

1.2 *Temperature regulating controls.* All temperature regulating controls shall be shorted out of the circuit or adjusted so that they will not operate during the test period.

1.3 *Fan controls.* All fan controls shall be set at the highest fan speed setting.

1.4 *Energy supply.*

1.4.1 *Electrical supply.* Supply power to the heater within one percent of the nameplate voltage.

1.4.2 *Natural gas supply.* For an unvented gas heater utilizing natural gas, maintain the gas supply to the heater with a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches of water column. The regulator outlet pressure at normal supply test pressure shall be approximately that recommended by the manufacturer. The natural gas supplied should have a higher heating value within ± 5 percent of 1,025 Btu's per standard cubic foot. Determine the higher heating value, in Btu's per standard cubic foot, for the natural gas to be used in the test, with an error no greater than one percent. Alternatively, the test can be conducted using "bottled" natural gas of a higher heating value within ± 5 percent of 1,025 Btu's per standard cubic foot as long as the actual higher heating value of the bottled natural gas has been determined with an error no greater than one percent as certified by the supplier.

1.4.3 *Propane gas supply.* For an unvented gas heater utilizing propane, maintain the gas supply to the heater with a normal inlet test pressure immediately ahead of all controls at 11 to 13 inches of water column. The regulator outlet pressure at normal supply test pressure shall be that recommended by the manufacturer. The propane supplied should have a higher heating value of within ± 5 percent of 2,500 Btu's per standard cubic foot. Determine the higher heating value in Btu's per standard foot, for the propane to be used in the test, with an error no greater than one percent. Alternatively, the test can be conducted using "bottled" propane of a higher heating value within ± 5 percent of 2,500 Btu's per standard cubic foot as long as the actual higher heating value of the bottled propane has been determined with an error no greater than one percent as certified by the supplier.

1.4.4 *Oil supply.* For an unvented oil heater utilizing No. 1 fuel oil (kerosene), use No. 1 fuel oil with a viscosity meeting the specification in UL–730–1974, section 36.9 and conforming to the specifications given in Table 2 of ANSI Standard Z91.1–1972. Determine the higher heating value in Btu's per gallon, for the oil to be used in the test, with an error no greater than one percent. Alternatively, the test can be conducted using a tested No. 1 fuel oil of a higher heating value within ± 5 percent of 137,400 Btu's per gallon as long as the actual higher heating value of the tested fuel oil has been determined with an error no greater than one percent as certified by the supplier.

1.5 *Energy flow instrumentation.* Install one or more energy flow instruments which measure, as appropriate and with an error no greater than one percent, the quantity of electrical energy, natural gas, propane gas, or oil supplied to the heater.

2. *Testing and measurements.*

2.1 *Electric power measurement.* Establish the test conditions set forth in section 1 of this appendix. Allow an electric heater to warm up for at least five minutes before recording the maximum electric power measurement from the wattmeter. Record the maximum electric power (P_E) expressed in kilowatts.

Allow the auxiliary electrical system of a forced air unvented gas, propane, or oil heater to operate for at least five minutes before recording the maximum auxiliary electric power measurement from the wattmeter. Record the maximum auxiliary electric power (P_A) expressed in kilowatts.

2.2 *Natural gas, propane, and oil measurement.* Establish the test conditions as set forth in section 1 of this appendix. A natural gas, propane, or oil heater shall be operated for one hour. Using either the nameplate rating or the energy flow instrumentation set forth in section 1.5 of this appendix and the fuel supply rating set forth in sections 1.4.2, 1.4.3, or 1.4.4 of this appendix, as appropriate, determine the maximum fuel input (P_F) of the heater under test in Btu's per hour. The energy flow instrumentation shall measure the maximum fuel input with an error no greater than one percent.

3. Calculations.

3.1 *Annual energy consumption for primary electric heaters.* For primary electric heaters, calculate the annual energy consumption (E_E) expressed in kilowatt-hours per year and defined as:

$E_E = 2080(0.77)DHR$

where:

2080 = national average annual heating load hours

0.77 = adjustment factor

DHR = design heating requirement and is equal to P_E /1.2.

P_E = as defined in 2.1 of this appendix

1.2 = typical oversizing factor for primary electric heaters

3.2 *Annual energy consumption for primary electric heaters by geographic region of the United States.* For primary electric heaters, calculate the annual energy consumption by geographic region of the United States (E_R) expressed in kilowatt-hours per year and defined as:

$E_R = HLH(0.77)(DHR)$

where:

HLH = heating load hours for a specific region determined from Figure 1 of this appendix

0.77 = as defined in 3.1 of this appendix

DHR = as defined in 3.1 of this appendix

3.3 *Rated output for electric heaters.* Calculate the rated output (Q_{out}) for electric heaters, expressed in Btu's per hour, and defined as:

$Q_{out} = P_E$ (3,412 Btu/kWh)

where:

P_E = as defined in 2.1 of this appendix

3.4 *Rated output for unvented heaters using either natural gas, propane, or oil.* For unvented heaters using either natural gas, propane, or oil equipped without auxiliary electrical systems, the rated output (Q_{out}), expressed in Btu's per hour, is equal to P_F, as determined in section 2.2 of this appendix.

For unvented heaters using either natural gas, propane, or oil equipped with auxiliary electrical systems, calculate the rated output (Q_{out}), expressed in Btu's per hour, and defined as:

$Q_{out} = P_F + P_A$ (3,412 Btu/kWh)

where:

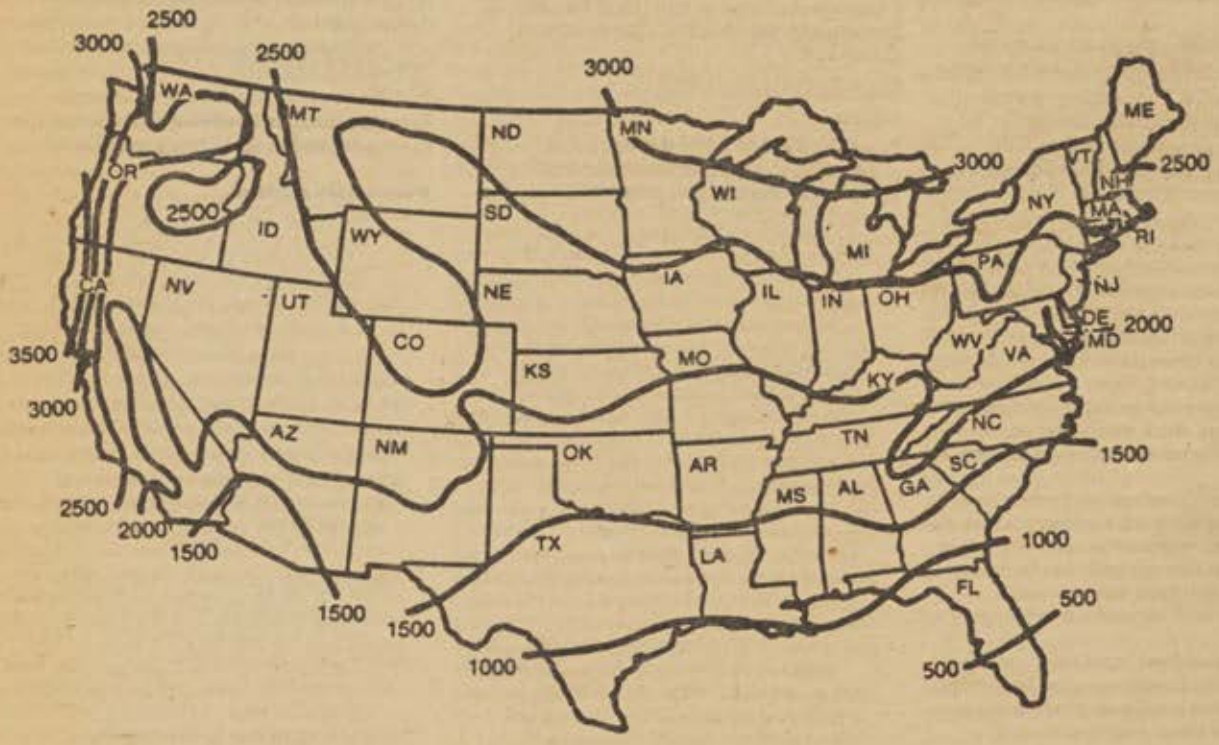
P_F = as defined in 2.2 of this appendix

P_A = as defined in 2.1 of this appendix

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FIGURE I

Heating Load Hours (HLH) for the United States and Territories



This map is reasonably accurate for most parts of the United States but is necessarily highly generalized and consequently not too accurate in mountainous regions, particularly in the Rockies.

Alaska — 3500 HLH
Hawaii and Territories — O HLH

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4. Appendix N to Subpart B of Part 430 is revised to read as follows:

Appendix N to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Furnaces

1. *Definitions.* Definitions shall include the definitions specified in section 3.0 of ASHRAE 103–82 and the following additional definitions:

1.1 "ASHRAE" means the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.

1.2 "ASHRAE 103-82" means the test standard published in 1982 by ASHRAE and titled "Methods of Testing for Heating Seasonal Efficiency of Central Furnaces And Boilers."

1.3 "Draft safeguard system" means a safety feature that has a small air passage in the flue to automatically shut off an induced draft gas furnace whenever the pressure after the furnace becomes positive so that the induced draft gas furance can be safely connected to a common stack with naturally aspirated appliances.

1.4 "Electro-mechanical stack damper" means a type of stack damper which is operated by electrical and/or mechanical means.

1.5 "Isolated combustion system" means an installation in which a furnace is installed indoors and all combustion and ventilation air is admitted through grills or ducts from outdoors and (all such air) does not communicate with air in the conditioned space.

1.6 "Reduced heat input rate" means the factory adjusted lowest reduced heat input rate for furnaces equipped with either two stage thermostats or step-modulating thermostats.

1.7 "Single stage thermostat" means a thermostat that cycles a burner at the maximum heat input rate and off.

1.8 "Step-modulating thermostat control" means a control that reduces burner fuel input rate if the heating load is light, or gradually increases the heat input to meet any higher heating load that cannot be met with the low firing rate.

1.9 "Thermal stack damper" means a type of stack damper which is dependent for operation exclusively upon the direct conversion of thermal energy of the stack gases into closure of the damper.

1.10 "Two stage thermostat control" means a control that either cycles a burner at the reduced heat input rate and off or cycles a burner at the maximum heat input rate and off.

2.0 *Testing conditions.* The testing conditions shall be as specified in section 8 of ASHRAE 103–82 with the exception of section 8.4.2.3, and the inclusion of the following additional testing conditions:

2.1 *Gas burner adjustment at maximum input rate.* The following paragraph is in addition to the requirements specified in section 8.4.1.1 of ASHRAE 103–82:

For gas fueled furnaces and boilers equipped with modulating type thermostat controls, adjust the controls to operate the unit at the maximum fuel input rate. Set the thermostat control to the maximum setting. Start the furnace or boiler by turning the safety control valve to the "on" position. Use a supply water temperature for boilers that will allow for continuous operation without shut off by the thermostat control.

2.2 *Gas burner adjustment at reduced input rate.* The following paragraph is in addition to the requirements specified in section 8.4.1.1 of ASHRAE 103–82:

For gas fueled furnaces and boilers equipped with modulating type thermostat controls, adjust the controls to operate the unit at the reduced fuel input rate. Set the thermostat control to the minimum setting. Start the furnace or boiler by turning the safety control valve to the "on" position. Use supply water temperature for boilers that will allow for continuous operation without shut off by the thermostat control. If necessary, supply water may be increased above 120° F in order to maintain continuous operation at the reduced setting.

2.3 *Gas and oil fueled low pressure steam and hot water boilers (including direct vent systems).* The following paragraphs are in place of section 8.4.2.3 of ASHRAE 103–82:

For non-condensing hot water boilers, the water flow rate shall be adjusted to produce a water temperature rise, during the steady-state test described in section 9.1 of ASHRAE 103–82, of at least 20° F. During the steady-state and heat-up tests, the hot water boiler shall be supplied with water having a temperature of at least 120° F.

For steam boilers, the pressure shall be at atmospheric or at a pressure not exceeding 2 psig during the steady-state test.

3.0 *Test procedure.* Testing and measurements shall be as specified in section 9 of ASHRAE 103–82 with the exception of sections 9.2.2 and 9.3.2, and the inclusion of the following additional procedures:

3.1 *Gas fueled gravity furnaces, forced air central furnaces, and low pressure steam and hot water boilers (including direct vent systems, excluding condensing furnaces or boilers).* The following paragraphs are in addition to the requirements specified in section 9.1.1 of ASHRAE 103–82:

For all gas fueled furnaces and boilers, the steady-state efficiency shall be determined at the maximum fuel input rate measured in accordance with sections 2.1 of this appendix and section 9.1.1 of ASHRAE 103–82. Also, for gas fueled furnaces and boilers equipped with either two stage thermostats or step-modulating thermostats, the steady-state efficiency shall also be determined at the reduced fuel input rate measured in accordance with sections 2.2 of this appendix and section 9.1.1 of ASHRAE 103–82.

For gas fueled boilers, measuure CO_2 in stack after dilution during the steady state condition.

3.2 *Flue temperature measurements—cool down test.* The following paragraphs are in addition to the requirements specified in section 9.2 of ASHRAE 103–82:

For all furnaces and boilers, the following cool down test shall be conducted after steady-state testing. However, $T_{F,OFF(min)}$ can be measured before the testing provided that the unit has not been cycled for at least one hour and that the pilot light has been continuously on for at least four hours before testing.

For furnaces and boilers equipped with step-modulating thermostats, the cool down test shall be conducted after steady-state conditions have been reached at the reduced input rate, as specified in section 2.2 of this appendix. For furnaces and boilers equipped with two stage thermostats, separate cool down tests shall be conducted after steady-state conditions have been reached at both the reduced and maximum fuel input rates.

3.3 *Gas and oil fueled boilers—cool down test.* The following paragraphs are in place of the requirements specified in section 9.2.2 of ASHRAE 103–82:

After steady-state testing has been completed, turn the main burner(s) off and measure the flue gas temperature at 3.75 ($T_{F,OFF(3)}$) and 22.5 ($T_{F,OFF(4)}$) minutes after the burner shuts off, using the thermocouple grid described above. During this off period for units that do not have pump delay after shut-off, no water shall be allowed to circulate through the hot water boilers. For units that have pump delay on shut-off, the pump shall be stopped by the unit control and the time, t^*, between burner shut-off and pump shut-off shall be measured within one second accuracy. While the pump is operating, the inlet water temperature and flow rate shall be maintained at the same values as used during the preceding steady-state test.

If temperature rebound after pump shut-off occurs such that $T_{F,OFF(4)}$ is equal to or greater than $T_{F,OFF(3)}$ or $T_{F,OFF(min)}$ is equal to or greater than $T_{F,OFF(4)}$, the time delay for pump shut-off after burner shut-off, t^*, shall be manually increased or the pump cycled so that $T_{F,OFF(3)}$ is greater than $T_{F,OFF(4)}$ and $T_{F,OFF(4)}$ is greater than $T_{F,OFF(min)}$. The time delay t^* shall be increased by this additional pump opertion time.

Make a third flue gas temperature measurement 45 minutes after the burner shuts off to determine the off-period minimum flue gas temperature ($T_{F,OFF(min)}$). Alternately, $T_{F,OFF(min)}$ can be measured before the testing, provided that the unit has not been cycled for at lest one hour and that the pilot light has been continuously on for at least four hours before the testing.

During this cool down test, measure the energy input rate to the pilot light (Q_P), if the unit is so equipped, to within an error no larger than ± 3 percent. Record all measured values. For oil fueled units not equipped with stack dampers, maintain the draft in the flue within the same ranges specified in section 9.2.1 of ASHRAE 103–82. For direct vent systems with flue dampers or boilers equipped with both stack dampers and barometric dampers, close the flue or stack damper during the cool down test.

3.4 *Flue gas temperature measurements—heat-up test.* The following paragraph is in addition to the requirement specified in section 9.3 of ASHRAE 103–82.

For furnaces and boilers equipped with step-modulating thermostats, the heat-up test shall be conducted at the reduced fuel input rate, as specified in section 2.2 of this appendix. For furnaces and boilers equipped with two stage thermostats, separate heat-up tests shall be conducted at both the reduced and maximum fuel input rates.

3.5 *Gas and oil fueled boilers.* The following paragraph is in place of the

requirements specified in section 9.3.2 of ASHRAE 103–82.

Fifty minutes after the main burner(s) is turned off for the cool down test, turn on the steam or hot water boiler and measure the flue gas temperature at 1.0 ($T_{f,out(t1)}$) and 5.5 ($T_{f,out(t2)}$) minutes after the main burners are turned on. For units that have pump delay on start-up by the unit control, measure the time (t^-) between burner and pump start-up to within one second. The water flow rate shall be the same as that maintained during the steady-state test described in section 9.1 of ASHRAE 103–82. During the heat-up test for oil fired boilers maintain the draft in the flue pipe within ± 0.01 inch of water column of the manufacturer's recommended on-period draft. Record the measured temperatures.

3.6 *Direct measurement of condensate.* For condensing furnaces and boilers, the condensate heat loss shall be determined either by the method specified in section 11.2.33 of ASHRAE 103–82 or by the following test procedures:

Control devices shall be installed to allow cyclical operation of the unit and return water or air flows as described in sections 9.2 and 9.3 of ASHRAE 103–82 and sections 3.2, 3.3, 3.4 and 3.5 of this appendix. The test unit shall be leveled prior to test. Operating times and beginning and end of condensate collection shall be determined by a clock or timer with a minimum resolution of one second. Humidity of the room air shall, at no time, exceed 80 percent.

Control of on or off operation actions shall be within ± 6 seconds of the scheduled time. Condensate drain lines shall be attached to the unit as specified in the manufacturer's installation instructions. A continuous downward slope of drain lines from the unit shall be maintained. Additional precautions shall be taken to facilitate uninterrupted flow of condensate during the test.

The flue pipe installation must not allow condensate formed in the flue pipe to flow back into the unit. An initial downward slope from the unit's exit, an offset with a drip leg, annular collection rings, or drain holes must be included in the flue pipe installation without disturbing normal flue gas flow, as specified in section 7.2.2 of ASHRAE 103–82. Plus gases should not flow out of the drain with the condensate.

Collection-containers must be glass or polished stainless steel, so removal of interior deposits can be easily made. The collection-container shall have a vent opening to the atmosphere.

The scale for measuring the containers and sample condensate mass shall be calibrated with an error no larger than ± 0.5 percent over the range of interest.

The condensing furnace or boiler shall be tested in accordance with the provisions for non-condensing units, as specified in section 9 of ASHRAE 103–82 and section 3 of this appendix. The condensate collection-containers shall be dried prior to each use and shall be at room ambient temperature prior to a sample collection. Tare weight of the collection-container must be measured and recorded prior to each sample collection.

The unit should be operated in a cyclical manner until flue gas temperatures at the end of each on-cycle are within 5° F (2.8° C) of each other for two consecutive cycles. On-cycle and off-cycle times are listed in Table 2 of this appendix. Begin three test cycles. Return air temperature for furnaces shall be as specified in section 9 of ASHRAE 103–82 and section 3 of this appendix. Return water temperature for boilers shall be as specified in section 2.3 of this appendix. Operation of the furnace blower or boiler pump shall conform to the time delay requirements specified in sections 9.2 and 9.3 of ASHRAE 103–82 and sections 3.2, 3.3, 3.4, and 3.5 of this appendix for cool down and heat up tests. Operation of the boiler pump shall conform to the time delay requirements specified in section 3.3 of this appendix.

Begin condensate collection at one minute before the on-cycle period of the first test cycle. The container shall be removed one minute before the end of the off-cycle period of the sixth test cycle. Condensate mass shall be measured immediately at the end of the collection period to prevent evaporation loss from the sample.

Fuel input shall be recorded during the entire test period starting at the beginning of the on-time period of the first cycle to the beginning of the on-time period of the second cycle, etc., for each of the six test cycles. Fuel higher heating value (HHV), temperature and pressures necessary for determining fuel energy input (Q^c) shall be recorded. The fuel quantity and HHV shall be measured with errors no greater than one percent. Determine the mass of condensate for six cycles (m_c) in pounds by subtracting the tare container weight from the total container and condensate weight at end of the six test cycles. Calculate the fuel energy input during the six test cycles (Q_c) expressed in Btu.

Begin a steady-state condensate collection after steady-state conditions have been achieved as specified in section 8 of ASHRAE 103–82 and section 2 of this appendix. The steady-state collection period shall be one (1) hour. Condensate mass shall be measured immediately at the end of the collection period to prevent evaporation loss from the sample. Fuel input shall be recorded for the one hour steady-state test period. Fuel Higher Heating Value (HHV), temperature and pressures necessary for determining fuel energy input $Q_{c.ss}$ will be observed and recorded in Btu's. The fuel quantity and HHV shall be measured with errors no greater than one percent. Determine the mass of condensate for the steady-state test, $m_{c.ss}$, in pounds by subtracting the tare container weight from the total container and condensate weight measured at the end of the one hour test period.

3.7 *Direct measurement of off-cycle losses testing method.* For furnaces and boilers equipped with thermal stack dampers, the off-cycle losses shall be determined by the "direct measurement" procedure set forth herein.

For furnaces and boilers equipped with electro-mechanical stack dampers, the off-cycle losses shall be determined either by the "direct measurement" procedure set forth herein or by the methods specified in sections 11.2.29 and 11.2.31 of ASHRAE 103–82. The "direct measurement" procedure for determining off-cycle losses may be used instead of the methods specified in section 11.2.29 and 11.2.31 of ASHRAE 103–82 until 24 months from the effective date of this amendment. After that date, sections 11.2.29 and 11.2.31 of ASHRAE 103–82 may not be used and only the "direct measurement" procedure set forth herein may be used.

Install the stack damper according to the manufacturer's instructions. Unless specified otherwise, the stack damper shall be at the draft diverter exit collar. Attach a five foot length of bare stack to the outlet of the damper. Install termocouples as specified in section 7.5 of ASHRAE 103–82.

For furnaces and boilers equipped with single stage thermostats, measure the off-cycle losses at the maximum fuel input rate. For furnaces and boilers equipped with two stage thermostats, measure the off-cycle losses at the maximum fuel input rate and at the reduced fuel input rate. For furnaces and boilers equipped with step-modulating thermostats, measure the off-cycle losses at the reduced fuel input rate.

Let the furnace or boiler heat up to a steady-state condition. Feed a tracer gas at a constant metered rate into the stack at the draft relief opening. Record tracer gas flow rate and temperature. Measure the tracer gas concentration in the stack at several locations in a horizontal plane through a cross section of the stack at a point sufficiently above the stack damper to ensure that the tracer gas is well mixed in the stack.

Instruments are needed to continuously measure the tracer gas concentration and temperature during a specified off-cycle period (t_{off}), as listed in Table 2 of this appendix for various types of furnaces and boilers, rounded up to the nearest minute. Shut the burner off and immediately begin measuring tracer gas concentration in the stack, stack temperature, room temperature, and barometric pressure. Record these values at the midpoint of each one-minute interval between burner shut down and the end of the off-cycle period (t_{off}). Meter response time and sampling delay time shall be considered in timing these measurements.

3.8 *Direct measurement of the S/F factors for oil furnaces and boilers.* For oil furnaces and boilers that are marketed and sold with attached dampers, the S/F factor shall be determined either by using assigned factors in Table 2 of ASHRAE 103–82 or by the following test procedure:

To directly measure the S/F factor, seal the barometric damper plate in the closed position. Operate the furnace or boiler until steady-state temperatures are attained. Adjust the draft in the flue within one foot of the heat exchanger exit to be between 0.075 and 0.085 inch water column. A mechanical draft inducer or a natural draft developed by adjusting the height of the test stack may be used. Remove the seal from the barometric damper and adjust the damper gate to achieve proper draft, as specified by the manufacturer. If the draft over the fire is specified as a range, adjust the draft to the mid-point of that range.

After steady-state conditions are again achieved with the draft adjusted as specified, measure CO_2 before and after dilution at points marked A and B in Figure 2 of this appendix. To ensure that the sample is will

mixed after dilution obtain a representative sample of stack gas by sampling from several points on a horizontal plane through the cross section of the stack. The test setup shown in Figure 2 enhances the mixing of dilution air and flue gases. Alternatively, a straight length of stack or other flue piping arrangement may be used with stack samples taken sufficiently downstream after dilution in order to obtain a well-mixed sample.

3.9 *Furnaces and boilers employing draft safeguard systems, or any other system that includes small air passages in the flue.* For furnaces and boilers employing draft safeguard systems, or any other system that includes small air passages in the flue where such passage serves a utility other than for draft relief, the air passage shall be open during all tests and the test data shall be reduced as specified in section 4 to this appendix.

These units shall be considered as direct vent systems, for the pruposes of this test procedure. These provisions shall not apply to systems which allow for air flow through the air passage in excess of 5 percent of the total flue flow; in these cases, such passages are to be considered as draft diverters.

4.0 *Calculations.* Calculations shall be as specified in section 11 of ASHRAE 103–82 with the exception of section 11.2.6, and the inclusion of the following additonal calculations:

4.1 *Annual fuel utilization efficiency for electric furnaces and boilers.* The annual fuel utilization efficiency for electric furnaces and boilers (AFUE) is equal to the heating seasonal efficiency for electric furnaces and boilers ($Effy_{hs\cdot e}$) as defined in section 11.1 of ASHRAE 103–82.

4.2. *Average ratio of stack gas mass flow rate to flue gas mass flow rate at steady-state operation.* The following paragraphs are in place of the requirements specified in section 11.2.6 of ASHRAE 103–82:

For gas furnaces and boilers, calculate the average ratio of stack gas mass flow rate to flue gas mass flow rate at steady-state operation (S/F) defined as:

$$S/F = 1.3\ R_{T\cdot S}/R_{T\cdot F}$$

where:

$R_{T\cdot S}$ = as defined in 11.2.3 of ASHRAE 103–2
$R_{T\cdot F}$ = as defined in 11.2.2 of ASHRAE 103–2

For oil furnaces and boilers, S/F shall be 1.40 for units not shipped with barometric dampers or for units shipped with barometric dampers, S/F shall be either 1.40 or determined by:

$$S/F = R_{T\cdot S}/R_{T\cdot F}$$

where:

$R_{T\cdot S}$ = as defined in 11.2.3 of ASHRAE 103–2 in which the value of CO_2 measured in the stack in 3.8 of this appendix is used
$R_{T\cdot F}$ = as defined in 11.2.2 of ASHRAE 103–2 in which the value of CO_2 measured in the flue in 3.8 of this appendix is used

4.3 *Optional direct condensate measurement method.* For condensing furnaces and boilers for which the direct measurement of condensate is used, as specified in section 3.6 of this appendix, calculate the part-load efficiency (η_u) and the steady-state efficiency (η_{ss}) expressed as a percent and defined as:

$$\eta_u = Effy_{hs} + L_G - L_C$$

$$\eta_{ss} = Effy_{ss} + L_{G\cdot ss} - L_{C\cdot ss}$$

where:

$Effy_{hs}$ = heating seasonal efficiency for non-condensing furnaces and boilers, as defined in 11.2.34 of ASHRAE 103–82
L_G = latent heat gain under part-load conditions, as defined in 4.3.1 of this appendix
L_C = part-load heat loss due to the condensate going down the drain and corrected for the fact that the condensate did not go up the flue as heated vapor, as was assumed in determining $L_{S\cdot ss\cdot A}$, as defined in 4.3.2 of this appendix
$Effy_{ss}$ = steady-state efficiency for non-condensing furnaces and boilers, as defined in 11.2.5 of ASHRAE 103–82
$L_{G\cdot ss}$ = latent heat gain under steady-state conditions, as defined in 4.3.3 of this appendix
$L_{C\cdot ss}$ = steady-state heat loss due to the condensate going down the drain and corrected for the fact that the condensate did not go up the flue as heated vapor, as was assumed in determining $L_{S\cdot ss\cdot A}$, as defined in 4.3.4 of this appendix

4.3.1 *Latent heat gain under part-load conditions.* Calculate the latent heat gain under part-load condiitons (L_G) expressed as a percent and defined as:

$$L_G = 100(1053.3)\ m_c/Q_c$$

where:

100 = conversion factor to express a decimal as a percent
1053.3 = latent heat vaporization of water, Btu per pound
m_c = as defined in 3.6 of this appendix
Q_c = as defined in 3.6 of this appendix

4.3.2 *Part-load heat loss due to the condensate.* Calculate the part-load heat loss due to the condensate going down the drain and corrected for the fact that the condensate did not go up the flue as heated vapor, as was assumed in determining $L_{S\cdot ss\cdot A}$ (L_C) expressed as a percent and defined as:

$$L_C = L_G[1.0(T_{F\cdot ss} - 70) - 0.45(T_{F\cdot ss} - 42)]/1053.3$$

where:

L_G = as defined in 4.3.1 of this appendix
1.0 = specific heat of water (liquid), Btu per pound – °F
$T_{F\cdot ss}$ = as defined in 11.2.4 of ASHRAE 103–82
70 = assumed average indorr air temperature, °F
0.45 = specific heat of water vapor, Btu per pound – °F
42 = average outdoor temperature corresponding to 5,200 degree day location, °F
1053.3 – Latent heat of vaporization of water, Btu per pound

4.3.3 *Latent heat gain under steady-state conditions.* Calculate the latent heat gain under steady-state conditions ($L_{G\cdot ss}$) expressed as a percent and defined as:

$$L_{G\cdot ss} = 100(1053.3)m_{C\cdot ss}/Q_{C\cdot ss}$$

where:

100 = conversion factor to express a decimal as a percent
1053.3 = latent heat of vaporization of water, Btu per pound
$m_{C\cdot ss}$ = as defined in 3.6 of this appendix, pound
$Q_{C\cdot ss}$ = as defined in 3.6 of this appendix, Btu

4.3.4 *Steady-state heat loss due to the condensate.* Calculate the steady-state heat loss due to the condensate ($L_{C\cdot ss}$) expressed as a percent and defined as:

$$L_{C\cdot ss} = L_{G\cdot ss}[1.0(T_{F\cdot ss} - 70) - 0.45(T_{F\cdot ss} - 42]/1053.3$$

where:

$L_{G\cdot ss}$ = as defined in 4.3.3 of this appendix
1.0 = specific heat of water (liquid), Btu per pound – ° F
$T_{F\cdot ss}$ = as defined in 11.2.4 of ASHRAE 103–82
70 = assumed average indoor air temperature, ° F
0.45 = specific heat of water vapor, Btu per pound – ° F
42 = average outdoor temperature corresponding to 5200 degree day location, ° F
1053.3 = latent heat of vaporization of water, Btu per pound

4.4 *Direct determination of off-cycle losses for furnaces and boilers equipped with stack dampers.* The following method shall be used by units equipped with thermal stack dampers and can be optionally used for units equipped with other types of stack dampers. For furnaces and boilers equipped with stack dampers, in which the method in section 3.7 of this appendix is used, calculate the off-cycle sensible heat loss ($L_{S\cdot OFF}$) and the off-cycle infiltration heat loss ($L_{I\cdot OFF}$) expressed as a percent and defined as:

$$L_{S\cdot OFF} = \frac{100(0.24)}{Q_{in}t_{on}} \sum m_{S\cdot OFF}(T_{S\cdot OFF} - T_{RA})$$

$$L_{I\cdot OFF} = \frac{100(0.24)(1.3)(0.7)(70 - T_{OA})}{Q_{in}t_{on}} \sum m_{S\cdot OFF}$$

where:

100 = conversion factor for percent
0.24 = specific heat of air, Btu per pound – ° F
1.3 = dimensionless factor for converting laboratory measured stack flow to typical field conditions
0.7 = infiltration parameter
70 = assumed average indoor air temperature, ° F
T_{OA} = average outdoor temperature as defined in 11.2.15 of ASHRAE 103–82 for furnaces and boilers equipped with single step thermostats or in 4.5.13 of this appendix for modulating furnaces and boilers
Q_{in} = fuel input rate, as defined in 3.7 of this appendix in Btu per minute
t_{on} = assigned burner on-cycle time, as listed in Table 2 of this appendix
$\Sigma m_{S\cdot OFF}(T_{S\cdot OFF} \quad T_{RA})$ = summation of values of the quantity $M_{S\cdot OFF}(T_{S\cdot OFF} \quad T_{RA})$ as measured according to 3.7 of this appendix
$\Sigma m_{S\cdot OFF}$ = summation of the values of the quantity $M_{S\cdot OFF}$ as measured according to 3.7 of this appendix
$T_{S\cdot OFF}$ = as defined in 3.7 of this appendix
T_{RA} = as defined in 3.7 of this appendix
P_B = barometric pressure in inches of mercury

$M_{S.OFF}$ = stack gas mass flow rate in pounds per minute

$$m_{S.OFF} = \frac{1.325\ P_B\ V_T\ (C_{T'} - C_T)}{C_T\ (T_T + 460)}$$

V_T = flow rate of the tracer gas through the stack in cubic feet per minute
$C_{T'}$ = concentration by volume of the active tracer gas in the mixture in percent and is 100 when the tracer gas is a single component gas
C_T = concentration by volume of the active tracer gas in the diluted stack gas in percent
T_T = temperature of the tracer gas entering the flow meter in degrees Fahrenheit
$(T_T + 460)$ = absolute temperature of the tracer gas entering the flow meter in degrees Rankine

4.5 *Modulating controls.*

4.5.1 *Weighted-average part-load utilization efficiency.* For furnaces and boilers equipped with two stage thermostats, calculate the weighted-average part-load utilization efficiency at each design heating requirement ($\eta_{U.WT}$) expressed as a percent and defined as:

$$\eta_{U.WT} = X_1\eta_{U.RED} + X_2\eta_{U.MAX}$$

where:

X_1 = fraction of heating load at reduced operating mode, as defined in 4.5.2 of this appendix
$\eta_{U.RED}$ = the part-load efficiency at the reduced fuel input rate and is defined as the heating seasonal efficiency ($Effy_{hs}$) in 11.2.34 of ASHRAE 103–82$_{hs}$, measured at the reduced fuel input rate
X_2 = fraction of heating load at maximum operating mode, as defined in 4.5.3 of this appendix
$\eta_{U.MAX}$ = the part-load efficiency at the maximum fuel input rate and is defined as the heating seasonal efficiency ($Effy_{hs}$) in 11.2.34 of ASHRAE 103–82, measured at the maximum fuel input rate

For furnaces and boilers equipped with step-modulating thermostats, calculate $\eta_{U.DHR}$ expressed as a percent and defined as:

$$\eta_{U.DHR} = X_1\ \eta_{U.RED} + X_2\eta_{U.MOD}$$

where:

X_1 = as defined in 4.5.2 of this appendix
$\eta_{U.RED}$ = as defined in 4.5.1 of this appendix
X_2 = as defined in 4.5.3 of this appendix
$\eta_{U.MOD}$ = average part-load efficiency for the modulating mode, as defined in 4.5.8 of this appendix

4.5.2 *Fraction of heating load at reduced operating mode.* Determine the fraction of heating load at the reduced operating mode (X_1) expressed as a decimal and listed in either Figure 4 or Table 3 of this appendix for appropriate values of the balance point temperature (T_C). T_C is defined in section 4.5.4 of this appendix.

4.5.3 *Fraction of heating load at maximum operating mode.* Determine the fraction of heating load at the maximum operating mode (X_2) expressed as a decimal and listed in either Figure 4 or Table 3 of this appendix for appropriate values of the balance point temperature (T_C).

4.5.4 *Balance point temperature.* Calculate the balance point temperature (T_C) which represents a temperature used to apportion the annual heating load between the reduced input cycling mode and either the modulation mode or maximum input cycling mode. T_C is defined as:

$$T_C = 65 - [\Delta T_D(1 + \alpha_{DHR})\ (Q_{OUT.RED}/Q_{OUT.MAX})]$$

where:

65 = average outdoor temperature at which a furnace or boiler starts operating, °F
ΔT_D = the difference between the outdoor air temperature where heating is typically required and the outdoor design temperature, the national average temperature difference is 65° F − 5° F or 60° F
5 = outdoor design temperature
α_{DHR} = oversize factor at each design heating requirement, as defined in 4.5.5 of this appendix
$Q_{OUT.RED}$ = heat output rate at the reduced fuel input rate, as defined in 4.5.6 of this appendix
$Q_{OUT.MAX}$ = heat output rate at the maximum fuel input rate, as defined in 4.5.7 of this appendix

4.5.5 *Oversize factor at each design heating requirement.* Calculate the oversize factor at each design heating requirement (α_{DHR}) expressed as a decimal and defined as:

$$\alpha_{DHR} = [Q_{OUT.MAX}/DHR] - 1$$

where:

$Q_{OUT.MAX}$ as defined in 4.5.7 of this appendix
DHR = typical design heating requirements, as listed in Table 1 of this appendix

4.5.6 *Heat output rate at the reduced fuel input rate.* Calculate the heat output rate at the reduced fuel input rate ($Q_{OUT.RED}$) defined as:

$$Q_{OUT.RED} = \eta_{SS.RED}Q_{IN.RED}$$

where:

$\eta_{SS.RED}$ = steady-state efficiency at the reduced fuel input rate and is defined as the steady-state efficiency ($Effy_{SS}$) in 11.2.5 of ASHRAE 103–82, measured at the reduced fuel input rate
$Q_{IN.RED}$ = the reduced fuel input rate and is defined as Q_{IN} in 11.2.34 of ASHRAE 103–82, measured at the reduced fuel imput rate

4.5.7 *Heat output rate at the maximum fuel input rate.* Calculate the heat output rate at the maximum fuel input rate ($Q_{OUT.MAX}$) defined as:

$$Q_{OUT.MAX} = \eta_{SS.MAX}Q_{IN.MAX}$$

where:

$\eta_{SS.MAX}$ = steady-state efficiency at the maximum fuel imput rate and is defined as the steady-state efficiency ($Effy_{SS}$) in 11.2.5 of ASHRAE 103–82, measured at the maximum fuel imput rate
$Q_{IN.MAX}$ = the maximum fuel input rate and is defined as $_{IN}$ in 11.2.34 of ASHRAE 103–82

4.5.8 *Average part-load efficiency for the modulating mode for furnaces and boilers equipped with step-modulating thermostats.* For furnaces and boilers equipped with step-modulating thermostats and are located in heated spaces, calculate the average part-load efficiency for the modulating mode ($\eta_{U.MOD}$) expressed as a percent and defined as:

$$\eta_{U.MOD} = \eta_{SS.MOD} - L_{I.ON.\ MOD}$$

where:

$\eta_{SS.MOD}$ = average steady-state efficiency for the modulating mode as defined in 4.5.9 of this appendix
$L_{I.ON.MOD}$ = average on-cycle infiltration heat loss for the modulating mode as defined in 4.5.10 of this appendix

For furnaces and boilers equipped with step-modulating thermostats and are located outside or are in unheated spaces, calculate $\eta_{U.MOD}$ defined as:

$$\eta_{U.MOD} = \eta_{SS.MOD} - C_JL_L$$

where:

$\eta_{SS.MOD}$ = as defined in 4.5.9 of this appendix
C_J = as defined in 4.6 of this appendix
L_J = as defined in 4.6 of this appendix

4.5.9 *Average steady-state efficiency for the modulating mode for furnaces and boilers equipped with step-modulating thermostats.* For furnaces and boilers equipped with step-modulating thermostats, calculate the average steady-state efficiency for the modulating mode ($\eta_{SS.MOD}$) expressed as a percent and defined as:

$$\eta_{SS.MOD} = \left[\frac{DHR - Q_{OUT.RED}}{Q_{OUT.MAX} - Q_{OUT.RED}}\right]\left[\frac{T_C - T_{OA'}}{T_C - 5}\right]\left[\eta_{SS.MAX} - \eta_{SS.RED}\right] + \eta_{SS.RED}$$

where:

DHR = average design heating requirement as listed in Table 1 of this appendix
$Q_{OUT.RED}$ = as defined in 4.5.6 of this appendix
$Q_{OUT.MAX}$ = as defined in 4.5.7 of this appendix
T_C = as defined in 4.5.4 of this appendix and is based on the average design heating requirement listed in Table 3 of this appendix
$T_{OA'}$ = average outdoor air temperature during the modulating mode, as defined in 4.5.1 of this appendix and is based on the average disign heating requirement listed in Table 3 of this appendix
5 = outdoor design temperature, ° F
$\eta_{SS.MAX}$ = as defined in 4.5.7 of this appendix
$\eta_{SS.RED}$ = as defined in 4.5.6 of this appendix

4.5.10 *Average on-cycle infiltration heat loss for the modulating mode for furnaces and boilers equipped with step-modulating thermostats.* For furnaces and boilers equipped with step-modulating thermostats, calculate the average on-cycle infiltration heat loss for the modulating mode ($L_{I.ON.MOD}$) expressed as a percent and defined as:

$$L_{I.ON.MOD} = [K_{I.ON.RED}(70 - T_{OA}) + K_{I.ON.MAX}(70 - T_{OA'})]/2$$

where:

$K_{I.ON.RED}$ = multiplication factor for infiltration loss during burner on-cycle at the reduced firing rate, and defined as $K_{I.ON}$ in 11.2.18 of ASHRAE 103–82 at the reduced firing rate
70 = average indoor temperature, ° F
T_{OA} = average outdoor temperature in the cycling mode, based on the average design heating requirement, and is listed in either Figure 3 or Table 2 of this appendix

$K_{L,ON,MAX}$ = multiplication factor for infiltration loss during burner on-cycle at the maximum firing rate, and defined as K_{LON} in 11.2.18 of ASHRAE 103–82 at the maximum firing rate

T_{OA}* = average outdoor temperature in the modulating mode, based on the average design heating requirement, and is listed in either Figure 3 or Table 3 of this appendix

4.5.11 *Average heat output rate for the modulating mode for furnaces and boilers equipped with step-modulating thermostats.* For furnaces and boilers equipped with step-modulating thermostats, calculate the average heat output rate for the modulating mode ($Q_{OUT,MOD}$) defined as:

$$Q_{OUT,MOD} = [[DHR - Q_{OUT,RED}][T_C - T_{OA}^*]/[T_C - 5]] + Q_{OUT,RED}$$

where:

DHR = average design heating requirement, as listed in Table 1 of this appendix

$Q_{OUT,RED}$ = as defined in 4.5.6 of this appendix

T_C = as defined in 4.5.4 of this appendix and is based on the average design heating requirement listed in Table 3 of this appendix

T_{OA}* = as defined in 4.5.10 of this appendix and is based on the average design heating requirement listed in Table 3 of this appendix

5 = outdoor design temperature; ° F

4.5.12 *Average fuel input rate for the modulating mode for furnaces and boilers equipped with step-modulating thermostats.* For furnaces and boilers equipped with step-modulating thermostats, calculate the average fuel input rate for the modulating mode ($Q_{IN,MOD}$) defined as:

$$Q_{IN,MOD} = Q_{OUT,MOD} / \eta_{SS,MOD}$$

where:

$Q_{OUT,MOD}$ = as defined in 4.5.11 of this appendix

$\eta_{SS,MOD}$ = as defined in 4.5.9 of this appendix

4.5.13 *Average outdoor temperature.* For furnaces and boilers equipped with two stage thermostats or with step-modulating thermostats operating at the reduced operating mode, the average outdoor temperature shall be T_{OA}, as obtained either from Figure 3 or Table 3 of this appendix. For furnaces and boilers equipped with two stage thermostats operating at the maximum operating mode or with step-modulating thermostats operating at the modulating mode, the average outdoor temperature shall be T_{OA}*, as obtained from either Figure 3 or Table 3 of this appendix. These values for the average outdoor temperature shall replace the value of 42 specified as the average outdoor temperature in sections 11.2.15, 11.2.17, 11.2.19, 11.2.30, 11.2.31, and 11.2.33 of ASHRAE 103–82.

4.5.14 *Weighted-average steady-state efficiency.* For furnaces and boilers equipped with two stage thermostats, calculate the weighted-average steady-state efficiency ($\eta_{SS,WT}$) expressed as a percent and defined as:

$$\eta_{SS,WT} = X_1\eta_{SS,MAX} + X_2\eta_{SS,RED}$$

where:

X_1 = as defined in 4.5.2 of this appendix

$\eta_{SS,MAX}$ = as defined in 4.5.7 of this appendix

X_2 = as defined in 4.5.3 of this appendix

$\eta_{SS,RED}$ = as defined in 4.5.6 of this appendix

For furnaces and boilers equipped with step-modulating thermostats, calculate $\eta_{SS,WT}$ defined as:

$$\eta^{SS,WT} = X_1\eta_{SS,MOD} + X_2\eta_{SS,RED}$$

where:

X_1 = as defined in 4.5.2 of this appendix

$\eta_{SS,MOD}$ = as defined in 4.5.9 of this appendix

X_2 = as defined in 4.5.3 of this appendix

$\eta_{SS,RED}$ = as defined in 4.5.6 of this appendix

4.6 *Annual fuel utilization efficiency.* The annual fuel utilization efficiency (AFUE) shall be expressed as a percent and defined as:

$$AFUE = \frac{5200\eta_{SS}\eta_U Q_{IN}}{5200\eta_{SS}Q_{IN} + 2.5(1+0.7)(4600)\eta_U Q_P}$$

where:

5200 = average annual heating degree-days

η_{SS} as defined in 4.3 of this appendix for condensing furnaces and boilers measured by the optional direct condensate measurement method; as $\eta_{SS,WT}$ as defined in 4.5.14 of this appendix at each design heating requirement for modulating furnaces and boilers; or as $Effy_{SS}$ as defined in 11.2.5 of ASHRAE 103–82 for all other furnaces and boilers

η_U = as defined in 4.3 of this appendix for condensing furnaces and boilers measured by the optional direct condensate measurement method; as $\eta_{U,WT}$ as defined in 4.5.1 of this appendix at each design heating requirement for modulating furnaces and boilers; or as $Effy_{hs}$ as defined in 11.2.34 of ASHRAE 103–82 and in 4.2 of this appendix for all other furnaces and boilers except that C_j and L_j are defined as:

C_j =
- 0 for furnaces or boilers intended to be installed indoors
- 3.3 for furnaces intended to be installed outdoors
- 1.7 for furnaces intended to be installed as isolated combustion systems
- 4.7 for boilers intended to be installed outdoors
- 2.4 for boilers intended to be installed as isolated combustion systems

L_j = jacket loss and is either assigned the value of 1 percent or determined in accordance with 8.6 of ASHRAE 103–82 in percent

Q_{IN} = steady-state heat input as defined in 11.2.34 of ASHRAE 103–82

0.7 = average oversizing factor for furnaces and boilers

4600 = average non-heating season hours per year

Q_P = pilot flame fuel input rate as defined in 9.2 of ASHRAE 103–82

4.7 *National average number of burner operating hours.* For furnaces and boilers equipped with single stage thermostats, calculate the national average number of burner operating hours (BOH_{SS}) defined as:

$$BOH_{SS} = 2080(0.77)A\ DHR - 2080\ B$$

where:

2080 = national average heating load hours

0.77 = adjustment factor which serves to adjust the calculated design heating requirement and heating load hours to the actual heating load experienced by a heating system

DHR = typical design heating requirements, as listed in Table 1 of this appendix

$A = 100{,}000/[341{,}300(PE + y\ BE) + (Q_{IN} - Q_P)\eta_U]$

$B = 2\ Q_P\eta_U A/100{,}000$

100,000 = factor that accounts for percent and kBtu

PE = power burner electrical energy input rate at full-load steady-state operation, as defined in 9.1 of ASHRAE 103–82

y =
- ratio of average blower or pump on time to average burner on time
- 1, for furnaces without a fan delay
- 1, for boilers without a pump delay
- $1 + (t^+ - t^-)/3.87$, for furnaces with a fan delay
- $1 + (t^+ - t^-)/9.68$, for boilers with a fan delay

BE = circulating air fan (or circulating water pump) electrical energy input rate at full-load steady-state operation, as defined in 9.1 of ASHRAE 103–82

Q_{IN} = as defined in 11.2.34 of ASHRAE 103–82

Q_P = as defined in 11.2.34 of ASHRAE 103–82

$\eta\mu$ = as defined in 4.6 of this appendix

2 = ratio of the average length of a heating season in hours to the average heating load hours

t^+ = as defined in 3.3 of this appendix

t^- = as defined in 3.3 of this appendix

For furnaces and boilers equipped with two stage thermostats or step-modulating thermostats, calculate the national average number of burner operating hours at the reduced operating mode (BOH_{RED}) defined as:

$$BOH_{RED} = X_1\ E_M/Q_{IN,RED}$$

where:

X^1 = as defined in 4.5.2 of this appendix

E_M = average annual energy used during the heating season

$E_M = [Q_{IN,MAX} - Q_P]BOH_{SS} + [8760 - 4600]Q_P$

$Q_{IN,RED}$ = as defined in 4.5.6 of this appendix

$Q_{IN,MAX}$ = as defined in 4.5.7 of this appendix

Q_P = as defined in 11.2.34 of ASHRAE 103–82

BOH_{SS} = as defined in 4.7 of this appendix in which $\eta_{U,WT}$ replaces η_U for calculating the values of A and B

8760 = total number of hours per year

4600 = as defined in 4.6 of this appendix

For furnaces and boilers equipped with two stage thermostats, calculate the national average number of burner operating hours at the maximum operating mode (BOH_{MAX}) defined as:

$$BOH_{MAX} = X_2E_M/Q_{IN,MAX}$$

where:

X_2 = as defined in 4.5.3 of this appendix

E_M = as defined in 4.7 of this appendix

$Q_{IN,MAX}$ = as defined in 4.5.7 of this appendix

For furnaces and boilers equipped with step-modulating thermostats, calculate the national average number of burner operating hours in the modulating mode (BOH_{MOD}) defined as:

$$BOH_{MOD} = X_2E_M/Q_{IN,MOD}$$

where:

X_2 = as defined in 4.5.3 of this appendix

E_M = as defined in 4.7 of this appendix

$Q_{IN,MOD}$ = as defined in 4.5.12 of this appendix

4.8 *Average annual fuel energy consumption for gas or oil fueled furnaces or boilers.* For furnaces and boilers equipped with single stage thermostats, calculate the average annual fuel energy consumption for gas or oil fueled furnaces or boilers (E_F) expressed in Btu's per year and defined as:

$$E_F = BOH(Q_{IN} - Q_P) + 8760\ Q_P$$

where:

BOH = as defined in 4.7 of this appendix
Q_{IN} = as defined in 11.2.34 of ASHRAE 103–82
Q_P = as defined in 11.2.34 of ASHRAE 103–82
8760 = as defined in 4.7 of this appendix

For furnaces and boilers equipped with either two stage thermostats or step-modulating thermostats, calculate E_F as defined as:

$$E_F = E_M + 4600\ Q_P$$

where:

E_M = as defined in 4.7 of this appendix
4600 = as defined in 4.6 of this appendix
Q_P = as defined in 11.2.34 of ASHRAE 103–82

4.9 *Average annual auxiliary electrical energy consumption for gas or oil fueled furnaces or boilers.* For furnaces and boilers equipped with single stage thermostats, calculate the average annual auxiliary electrical energy consumption (E_{AE}) expressed in kilowatt-hours per year and defined as:

$$E_{AE} = BOH_{SS}\ (PE + y\ BE)$$

where:

BOH_{SS} = as defined in 4.7 of this appendix
PE = as defined in 9.1 of ASHRAE 103–82
y = as defined in 4.7 of this appendix
BE = as defined in 9.1 of ASHRAE 103–82

For furnaces and boilers equipped with two stage thermostats, calculatae E_{AE} defined as:

$$E_{AE} = BOH_{RED}\ (PE_{RED} + y\ BE_{RED}) + BOH_{MAX}(PE_{MAX} + y\ BE_{MAX})$$

where:

BOH_{RED} = as defined in 4.7 of this appendix
PE_{RED} = as defined in 9.1 of ASHRAE 103–82, measured at the reduced fuel input rate
y = as defined in 4.7 of this appendix
BE_{RED} = as defined in 9.1 of ASHRAE 103–82, measured at the reduced fuel input rate
BOH_{MAX} = as defined in 4.7 of this appendix
PE_{MAX} = as defined in 9.1 of ASHRAE 103–82, measured at the maximum fuel input rate
BE_{MAX} = as defined in 9.1 of ASHRAE 103–82, measured at the maximum fuel input rate

For furnaces and boilers equipped with step-modulating thermostats, calculate E_{AE} defined as:

$$E_{AE} = BOH_{RED}\ (PE_{RED} + y\ BE_{RED}) + BOH_{MOD}(PE_{MAX} + y\ BE_{MAX})$$

where:

BOH_{RED} = as defined in 4.7 of this appendix
PE_{RED} = as defined in 4.9 of this appendix
y = as defined in 4.7 of this appendix
BE_{RED} = as defined in 4.9 of this appendix
BOH_{MOD} = as defined in 4.7 of this appendix
PE_{MAX} = as defined in 4.9 of this appendix
BE_{MAX} = as defined in 4.9 of this appendix

4.10 *Average annual electric energy consumption for electric furnaces or boilers.* For electric furnaces and boilers, calculate the average annual electric energy consumption (E_E) expressed in kilowatt-hours per year and defined as:

$$E_E = 100(2080)(0.77)\ DHR/3.412\ AFUE$$

where:

100 = conversion to express a percent as a decimal
2080 = as defined in 4.7 of this appendix
0.77 = as defined in 4.7 of this appendix
DHR = as defined in 4.7 of this appendix
3.412 = conversion to express energy in terms of watt-hours instead of Btu
AFUE = as defined in 4.1 of this appendix

4.11 *Average annual fuel energy consumption for gas or oil fueled furnaces or boilers located in different geographic regions of the United States and in buildings with different design heating requirements.* For gas or oil fueled furnaces and boilers, calculate the average annual fuel energy consumption for a specific geographic region and for a specific typical design heating requirement (E_{FR}) expressed in Btu's per year and defined as:

$$E_{FR} = [(E_F - 8760\ Q_P)HLH/2080] + 8760\ Q_P$$

where:

E_F = as defined in 4.8 of this appendix
8760 = as defined in 4.7 of this appendix
Q_P = as defined in 11.2.34 of ASHRAE 103–82
HLH = heating load hours for a specific geographic region determined in accordance with the heating load hour map in Figure 1 of this appendix
2080 = as defined in 4.7 of this appendix

4.12 *Average annual auxiliary electrical energy consumption for gas or oil fueled furnaces or boilers located in different geographic regions of the United States and in buildings with different design heating requirements.* For gas or oil fueled furnaces and boilers, calculate the average annual auxiliary electrical energy consumption for a specific geographic region and for a specific typical design heating requirement (E_{AER}) expressed in kilowatt-hours per year and defined as:

$$E_{AER} = E_{AE}HLH/2080$$

where:

E_{AE} = as defined in 4.9 of this appendix
HLH = as defined in 4.11 of this appendix
2080 = as defined in 4.7 of this appendix

4.13 *Average annual electric energy consumption for electric furnaces or boilers located in different geographic regions of the United States and in buildings with different design heating requirements.* For electric furnaces and boilers, calculate the average annual electric energy consumption for a specific geographic region and for a specific typical design heating requirement (E_{ER}) expressed in kilowatt-hours per year and defined as:

$$E_{ER} = 100(0.77)DHR\ HLH/3.412\ AFUE$$

where:

100 = as defined in 4.10 of this appendix
0.77 = as defined in 4.7 of this appendix
DHR = as defined in 4.7 of this appendix
HLH = as defined in 4.11 of this appendix
3.412 = as defined in 4.10 of this appendix
AFUE = as defined in 4.1 of this appendix

4.14 *Energy factor.* For electric furnaces and boilers, the energy factor (EF) is equal to AFUE, as defined in section 4.1 of this appendix. For gas and oil furnaces and boilers, calculate EF as defined as:

$$EF = \eta_U[E_F - 4600\ Q_P]/[E_F + 3412\ E_{AE}]$$

where:

η_U = as defined in 4.6 of this appendix
E_F = as defined in 4.8 of this appendix
4600 = as defined in 4.6 of this appendix
Q_P = as defined in 11.2.34 of ASHRAE 103–82
3142 = as defined in 4.10 of this appendix
E_{AE} = as defined in 4.9 of this appendix

TABLE 1.—AVERAGE AND TYPICAL DESIGN HEATING REQUIREMENTS FOR FURNACES AND BOILERS WITH DIFFERENT OUTPUT CAPACITIES

Furnace or boiler output capacity, Q_{out} (Btu/hr)	Average design heating requirements (KBtu/hr)	Typical design heating requirements (KBtu/hr)
5,000–10,000	5	5
11,000–16,000	10	5, 10
17,000–25,000	15	10, 15
26,000–34,000	20	15, 20
35,000–42,000	25	20, 25, 30
43,000–51,000	30	25, 30, 35
52,000–59,000	35	30, 35, 40, 45
60,000–76,000	40	35, 40, 45, 50
77,000–93,000	50	40, 45, 50, 60
94,000–110,000	60	50, 60, 70, 80
111,000–127,000	70	60, 70, 80, 90
128,000–144,000	80	70, 80, 90, 100
145,000–161,000	90	80, 90, 100, 110, 120
162,000–178,000	100	90, 100, 110, 120, 130
179,000–195,000	110	100, 110, 120, 130, 140
over 196,000	130	120, 130, 140, 150, 160

TABLE 2.—AVERAGE BURNER ON-TIME AND OFF-TIME PER CYCLE FOR FURNACES AND BOILERS (MINUTES)

Thermostat type	Furnaces		Boilers	
	t_{on}	t_{off}	t_{on}	t_{off}
Single stage	3.87	13.3	9.68	33.26
Two stage	10.0	10.0	15.0	15.0
Step modulating	10.0	10.0	15.0	15.0

TABLE 3.—FRACTIONAL HEATING LOADS AND AVERAGE OUTDOOR TEMPERATURES FOR FURNACES AND BOILERS EQUIPPED WITH MODULATING CONTROLS

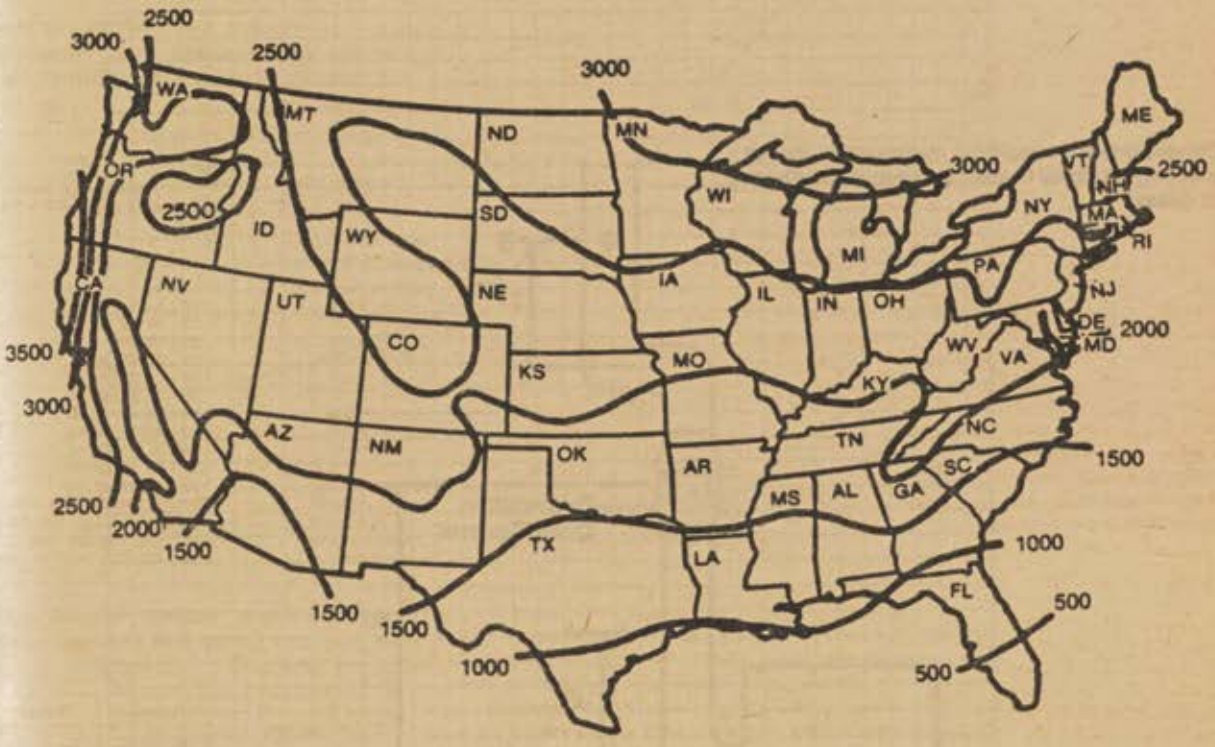
Balance point temperature range (° F)	Fractional heating load		Average outdoor temperature (° F)	
	Reduced rate	Modulating or maximum rate	Reduced rate	Modulating or maximum rate
(T_C)	(X_L)	(X_H)	(T_{OA})	(T_{OA}*)
6 to 15	0.95	0.05	41	9
16 to 20	0.90	0.10	42	14
21 to 25	0.84	0.16	43	18
26 to 28	0.77	0.23	44	22
29 to 31	0.70	0.30	45	24
32 to 33	0.66	0.34	46	26
34 to 35	0.60	0.40	47	27
36 to 37	0.54	0.46	48	28
38 to 39	0.48	0.52	48	30
40 to 41	0.42	0.58	49	31
42 to 43	0.35	0.65	50	32
44 to 45	0.29	0.71	51	33
46 to 47	0.23	0.77	52	35
48 to 49	0.18	0.82	54	36
50 to 52	0.12	0.88	55	37
53 to 57	0.07	0.93	58	39
58 to 62	0.02	0.98	61	40

NOTE.—This table is based on national average 5,200 degree-days.

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FIGURE I

Heating Load Hours (HLH) for the United States and Territories



This map is reasonably accurate for most parts of the United States but is necessarily highly generalized and consequently not too accurate in mountainous regions, particularly in the Rockies.

Alaska — 3500 HLH
Hawaii and Territories — O HLH

FIGURE 2

Test Setup for Measuring S/F for Furnaces and Boilers with Barometric Draft Controls

Note: Dimensions are suggested minimums in inches and may be varied to assure well-mixed samples of gases.

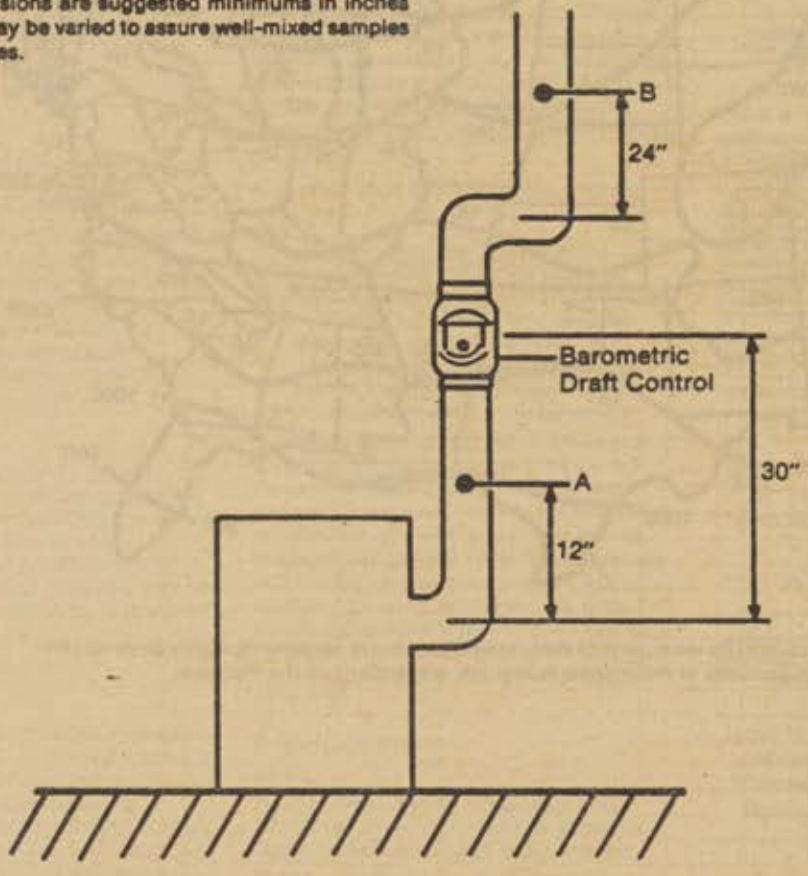
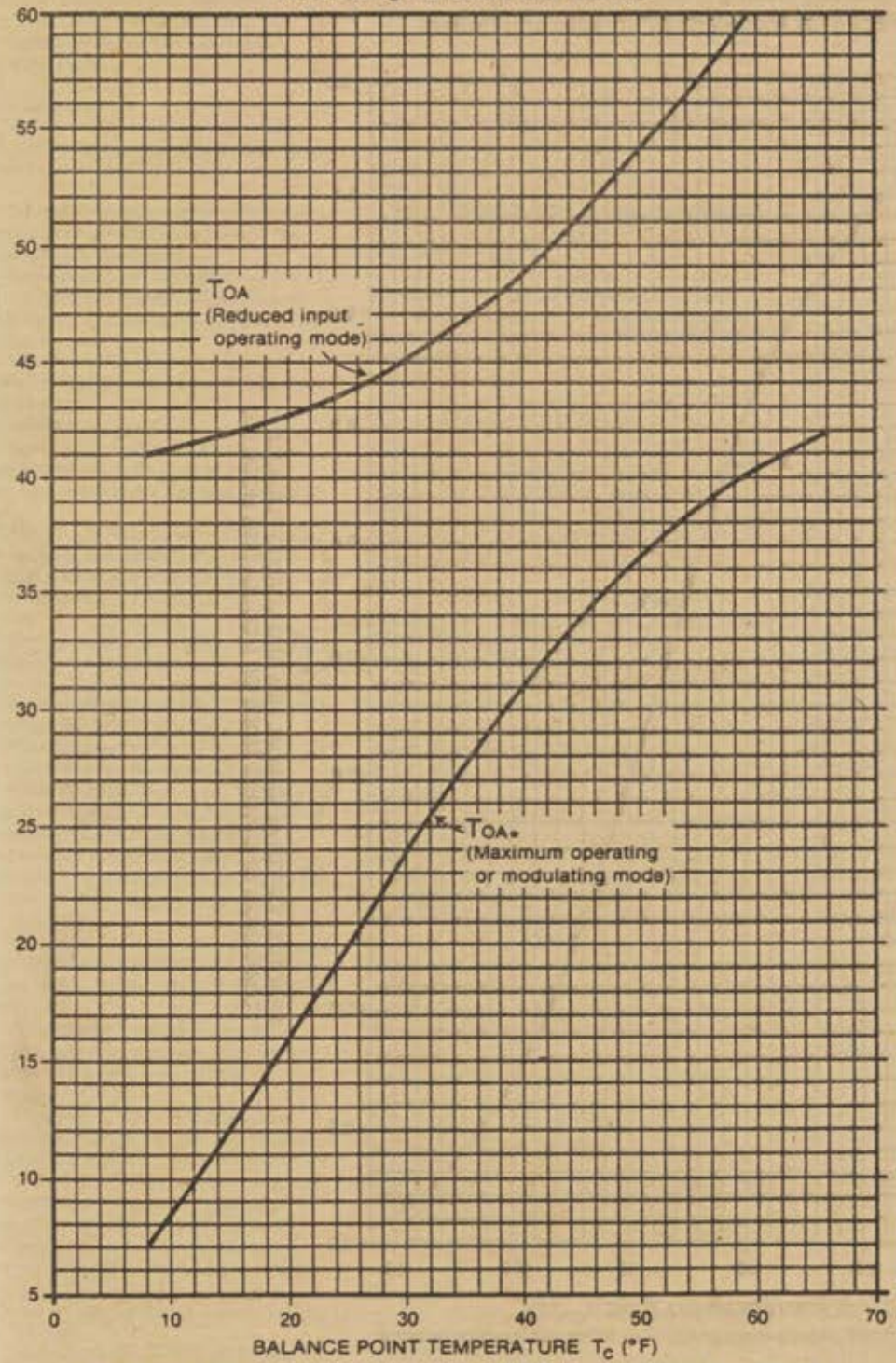


FIGURE 3

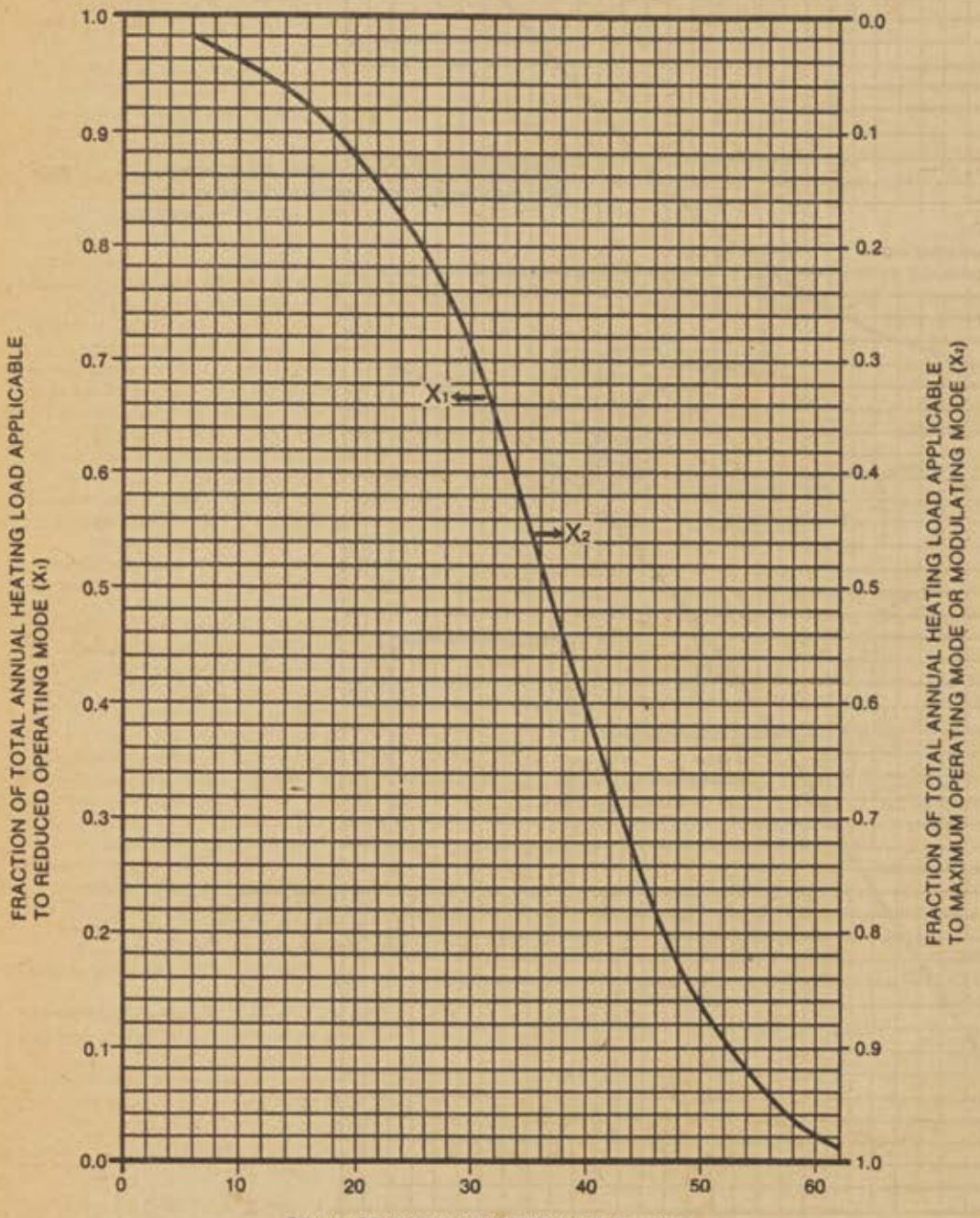
Average Outdoor Air Temperature vs. Balance Point Temperature for Modulating Furnaces and Boilers



This figure is based on 5200 degree-days and 5°F outdoor design temperature.

FIGURE 4

Fraction of Total Annual Heating Load Applicable to Reduced Operating Mode (X_1) and to Maximum Operating Mode or Modulating Mode (X_2) vs. Balance Point Temperature for Modulating Furnaces and Boilers.



This figure is based on 5200 degree-days and 5°F outdoor design temperature.

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5. Appendix O to Subpart B of Part 430 is revised to read as follows:

Appendix O to Subpart B of Part 430–Uniform Test Method for Measuring the Energy Consumption of Vented Home Heating Equipment

1.0 *Definitions.*

1.1 "Air shutter" means an adjustable device for varying the size of the primary air inlet(s) to the combustion chamber power burner.

1.2 "Air tube" means a tube which carries combustion air from the burner fan to the burner nozzle for combustion.

1.3 "Barometic draft regulator or barometric damper" means a mechanical device designed to maintain a constant draft in a vented heater.

1.4 "Draft hood" means an external device which performs the same function as an integral draft diverter, as defined in section 1.17 of this appendix.

1.5 "Electro-mechanical stack damper" means a type of stack damper which is operated by electrical and/or mechanical means.

1.6 "Excess air" means air which passes through the combustion chamber and the vented heater flues in excess of that which is theoretically required for complete combustion.

1.7 "Flue" means a conduit between the flue outlet of a vented heater and the integral draft diverter, draft hood, barometric damper or vent terminal through which the flue gases pass prior to the point of draft relief.

1.8 "Flue damper" means a device installed between the furnace and the integral draft diverter, draft hood, barometric draft regulator, or vent terminal which is not equipped with a draft control device, designed to open the venting system when the appliance is in operation and to close the venting system when the appliance is in a standby condition.

1.9 "Flue gases" means reaction products resulting from the combustion of a fuel with the oxygen of the air, including the inerts and any excess air.

1.10 "Flue losses" means the sum of sensible and latent heat losses above room temperature of the flue gases leaving a vented heater.

1.11 "Flue outlet" means the opening provided in a vented heater for the exhaust of the flue gases from the combustion chamber.

1.12 "Heat input" (Q_{in}) means the rate of energy supplied in a fuel to a vented heater operating under steady-state conditions, expresse in Btu's per hour. It includes any input energy to the pilot light and is obtained by multiplying the measured rate of fuel consumption by the measured higher heating value of the fuel.

1.13 "Heating capacity" (Q_{out}) means the rate of useful heat output from a vented heater, operating under steady-state conditions, expressed in Btu's per hour. For room and wall heaters, it is obtained by multiplying the "heat input" (Q_{in}) by the steady-state efficency (η_{ss}) divided by 100. For floor furnaces, it is obtained by multiplying (A) the "heat input" (Q_{in}) by (B) the steady-state efficiency divided by 100, minus the quantity (3.3) (L_j) divided by 100, where L_j is the jacket loss as determined in section 3.2 of this appendix.

1.14 "Higher heating value" (HHV) means the heat produced per unit of fuel when complete combustion takes place at constant pressure and the products of combustion are cooled to the initial temperature of the fuel and air and when the water vapor formed during combustion is condensed. The higher heating value is usually expressed in Btu's per pound, Btu's per cubic foot for gaseous fuel, or Btu's per gallon for liquid fuel.

1.15 "Induced draft" means a method of drawing air into the combustion chamber by mechanical means.

1.16 "Infiltration parameter" means that portion of unconditioned outside air drawn into the heated space as a consequence of loss of conditioned air through the exhaust system of a vented heater.

1.17 "Integral draft diverter" means a device which is an integral part of a vented heater, designed to: (1) Provide for the exhaust of the products of combustion in the event of no draft, back draft, or stoppage beyond the draft diverter, (2) prevent a back draft from entering the vented heater, and (3) neutralize the stack action of the chimney or gas vent upon the operation of the vented heater.

1.18 "Manually controlled vented heaters" means either gas or oil fueled vented heaters equipped without thermostats.

1.19 "Power burner" means a vented heater burner which supplies air for combustion at a pressure exceeding atmospheric pressure, or a burner which depends on the draft induced by a fan incorporated in the furnace for proper operation.

1.20 "Reduced heat input rate" means the factory adjusted lowest reduced heat input rate for vented home heating equipment equipped with either two stage thermostats or step-modulating thermostats.

1.21 "Single stage thermostat" means a thermostat that cycles a burner at the maximum heat input rate and off.

1.22 "Stack" means the portion of the exhaust system downstream of the integral draft diverter, draft hood or barometric draft regulator.

1.23 "Stack damper" means a device installed downstream of the integral draft diverter, draft hood, or barometric draft regulator, designed to open the venting system when the applicance is in operation and to close off the venting system when the appliance is in the standby condition.

1.24 "Stack gases" means the flue gases combined with dilution air that enters at the integral draft diverter, draft hood or barometric draft regulator.

1.25 "Steady-state conditions for vented home heating equipment" means equilibrium conditions as indicated by temperature variations of not more than 5° F (2.8C) in the flue gas temperature for units equipped with draft hoods, barometric draft regulators or direct vent systems, in three successive readings taken 15 minutes apart or not more than 3° F (1.7C) in the stack gas temperature for units equipped with integral draft diverters in three successive readings taken 15 minutes apart.

1.26 "step-modulating thermostat" means a thermostat that either cycles off and on at the low input if the heating load is light, or gradually, increases the heat input to meet any higher heating load that cannot be met with the low firing rate.

1.27 "Thermal stack damper" means a type of stack damper which is dependent for operation exclusively upon the direct conversion of thermal energy of the stack gases into movement of the damper plate.

1.28 "Two stage thermostat" means a thermostat that either cycles a burner at the reduced heat input rate and off or cycles a burner at the maximum heat input rate and off.

1.29 "Vaporizing-type oil burner" means a device with an oil vaporizing bowl or other receptacle designed to operate by vaporizing liquid fuel oil by the heat of combustion and mixing the vaporized fuel with air.

1.30 "Vent/air intake terminal" means a device which is located on the outside of a building and is connected to a vented heater by a system of conduits. It is composed of an air intake terminal through which the air for combustion is taken from the outside atmosphere and a vent terminal from which flue gases are discharged.

1.31 "Vent limiter" means a device which limits the flow of air from the atmospheric diaphragm chamber of a gas pressure regulator to the atmosphere. A vent limiter may be a limiting orifice or other limiting device.

1.32 "Vent pipe" means the passages and conduits in a direct vent system through which gases pass from the combustion chamber to the outdoor air.

2.0 *Testing conditions.*

2.1 *Installation of test unit.*

2.1.1 *Vented wall furnaces (including direct vent systems).* Install gas fueled vented wall furnaces for test as specified in sections 2.1.3 and 2.1.4 of ANSI Z21.49–1975. Install gas fueled wall furnaces with direct vent systems for test as described in sections 2.1.3 and 2.1.4 of ANSI Z21.44–1973. Install oil fueled vented wall furnaces as specified in UL–730–1974, section 33. Install oil fueled vented wall furnaces with direct vent systems as specified in UL–730–1974, section 34.

2.1.2 *Vented floor furnaces.* Install vented floor furnaces for test as specified in sections 35.1 through 35.5 of UL–729–1976.

2.1.3 *Vented room heaters.* Install in accordance with manufacturer's instructions.

2.2 *Flue and stack requirements.*

2.2.1 *Gas fueled vented home heating equipment employing integral draft diverters and draft hoods (excluding direct vent systems).* Attach to, and vertically above the outlet of gas fueled vented home heating equipment employing draft diverters or draft hoods with vertically discharging outlets, a five (5) foot long test stack having a cross sectional area the same size as the draft diverter outlet.

Attach to the outlet of vented heaters having a horizontally discharging draft diverter or draft hood outlet a 90 degree elbow, and a five (5) foot long vertical test stack. A horizontal section of pipe may be used on the floor furnace between the

diverter and the elbow if necessary to clear any framing used in the installation. Use the minimum length of pipe possible for this section. Use stack, elbow, and horizontal section with same cross sectional area as the diverter outlet.

2.2.2 *Oil fueled vented home heating equipment (excluding direct vent systems).* Use flue connections for oil fueled vented floor furnaces as specified in section 35 of UL 729–1976, sections 34.10 through 34.18 of UL 730–1974 for oil fueled vented wall furnaces and sections 36.2 and 36.3 of UL 896–1973 for vented room heaters.

2.2.3 *Direct vent systems.* Have the exhaust/air intake system supplied by the manufacturer in place during all tests. Test units intended for installation with a variety of vent pipe lengths with the minimum length recommended by the manufacturer. Do not connect a heater employing a direct vent system to a chimney or induced draft source. Vent the gas solely on the provision for venting incorporated in the heater and the vent/air intake system supplied with it.

2.3 *Fuel supply.*

2.3.1 *Natural gas.* For a vented heater utilizing natural gas, maintain the gas supply to the unit under test at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches water column. Maintain the regulator outlet pressure at normal test pressure approximately at that recommended by the manufacturer. Use natural gas having a specific gravity of approximately 0.65 and a higher heating value within ± 5 percent of 1,025 Btu's per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the natural gas to be used in the test with an error no greater than one percent.

2.3.2 *Propane gas.* For a vented heater utilizing propane gas, maintain the gas supply to the unit under test at a normal inlet pressure of 11 to 13 inches water column and a specific gravity of approximately 1.53. Maintain the regulator outlet pressure, on units so equipped, approximately at that recommended by the manufacturer. Use propane having a specific gravity of approximately 1.53 and a higher heating value with ± 5 percent of 2,500 Btu's per standard cubic foot. Determine the actual higher heating value in Btu's per standard cubic foot for the propane to be used in the test with an error no greater than one percent.

2.3.3 *Other test gas.* Use other test gases with characteristics as described in section 2.2, table VII, of ANSI Standard Z21.11.1–1974. Use gases with a measured higher heating value within ± 5 percent of the values specified in the above ANSI standard. Determine the actual higher heating value of the gas used in the test with an error no greater than one percent.

2.3.4 *Oil supply.* For a vented heater utilizing fuel oil, use No. 1, fuel oil (kerosene) for vaporizing-type burners and either No. 1 or No. 2 fuel oil, as specified by the manufacturer, for mechanical atomizing type burners. Use No. 1 fuel oil with a viscosity meeting the specifications as specified in UL–730–1974, section 36.9. Use test fuel conforming to the specifications given in tables 2 and 3 of ANSI Standard Z91.1–1972 No. 1 and No. 2 fuel oil. Measure the higher heating value of the test fuel with an error no greater than one percent.

2.3.5 *Electrical supply.* For an auxiliary electric component of a vented heater, maintain the electrical supply to the test unit within one percent of the nameplate voltage for the entire test cycle. If a voltage range is used for nameplate voltage, maintain the electrical supply within one percent of the mid-point of the nameplate voltage range.

2.4 *Burner adjustments.*

2.4.1 *Gas burner adjustments.* Adjust the burners of gas fueled vented heaters to their maximum Btu ratings at the test pressure specified in section 2.3 of this appendix. Correct the burner volumetric flow rate to 60° F (15.6C) and 30 inches of mercury barometric pressure and within ±2 percent of the hourly Btu rating specified by the manufacturer as measured after 15 minutes of operation starting with all parts of the vented heater at room temperature. Set the primary air shutters in accordance with the manufacturer's recommendations to give a good flame at this adjustment. Do not allow the deposit of carbon during any test specified herein.

If a vent limiting means is provided on a gas pressure regulator, have it in place during all tests.

For gas fueled heaters with hydraulic thermostat controls, adjust the controls to operate the heater at the maximum fuel input rate. Set the safety control valve to the "pilot" position. Place the thermostat sensing bulb in a pan of water and ice. Set the thermostat control to the maximum setting. Start the heater by turning the safety control valve to the "on" position.

For gas fueled heaters with hydraulic thermostat controls, adjust the controls to operate the heater at the reduced fuel input rate. Set the safety control valve to the "pilot" position. Place the thermostat sensing bulb in a pan of water and ice. Set the thermostat control to the minimum setting. Start the heater by turning the safety control valve to the "on" position.

2.4.2 *Oil burner adjustments.* Adjust the burners of oil fueled vented heaters to give the CO_2 reading recommended by the manufacturer and an hourly Btu input, during the steady-state performance test described below, which is within ±2 percent of the heater manufacturer's specified normally hourly Btu input rating. On units employing a power burner do not allow smoke in the flue to exceed a No. 1 smoke during the steady-state performance test as measured by the procedure in ANSI Standard Z11.182–1965 (R1971) (ASTM D 2156–65 (1970)). If, on units employing a power burner, the smoke in the flue exceeds a No. 1 smoke during the steady-state test, readjust the burner to give a lower smoke reading, and, if necessary a lower CO_2 reading, and start all tests over. Maintain the average draft over the fire and in the flue during the steady-state performance test at that recommended by the manufacturer ±0.005 inches of water gauge. Do not make additional adjustments to the burner during the required series of performance tests. The instruments and measuring apparatus for this test are described in section 6.3 of ANSI standard Z91.1–1972.

2.5 *Circulating air adjustments.*

2.5.1 *Forced air vented wall furnaces (including direct vent systems).* During tests maintain the air flow through the heater as specified by the manufacturer and operate the vented heater with the outlet air temperature between 80° F and 130° F above room temperature. If adjustable air discharge registers are provided, adjust them so as to provide the maximum possible air resriction. Measure air discharge temperature as specified in section 2.14 of ANSI Z21.49–1975.

2.5.2 *Fan type vented room heaters and floor furnaces.* During tests on fan type furnaces and heaters, adjust the air flow through the heater as specified by the manufacturer. If adjustable air discharge registers are provided, adjust them to provide the maximum possible air restriction.

2.6 *Location of temperature measuring instrumentaton.*

2.6.1 *Gas fueled vented home heating equipment (including direct vent systems).* For units employing an integral draft diverter, install nine thermocouples, wired in parallel, in a horizontial plane in the five foot test stack located one foot from the test stack inlet. Equalize the length of all thermocouple leads before paralleling. Locate one thermocouple in the center of the stack. Locate eight thermocouples along imaginary lines intersecting at right angles in this horizontal plane at points one third and two thirds of the distance between the center of the stack and the stack wall.

For units which employ a direct vent system, locate at least one thermocouple at the center of each flue way exiting the heat exchanger. Provide radiation shields if the thermocouples are exposed to burner radiation.

For units which employ a draft hood or units which employ a direct vent system which does not significantly preheat the incominng combustion air, install nine thermocouples, wired in parallel, in a horizontal plane located within 12 inches (304.8 mm) of the heater outlet and upstream of the draft hood on units so equipped. Locate one thermocouple in the center of the pipe and eight thermocouples along imaginary lines intersecting at right angles in this horizontal plane at points one third and two third of the distance between the center of the pipe and the pipe wall.

For units which employ direct vent systems that significantly preheat the incoming combustion air, install nine thermocouples, wired in parallel, in a plane parallel to and located within 6 inches (152.4 mm) of the vent/air intake terminal. Equalize the length of all thermocouples leads before paralleling. Locate one thermocouple in the center of the vent pipe and eight thermocouples along imaginary lines intersecting at right angles in this plane at points one third and two thirds of the distance between the center of the flue pipe and the pipe wall.

Use bead-type thermocouples having wire size not greater than No. 24 American Wire Gauge (AWG). If there is a possibility that the thermocouples could receive direct radiation from the fire, install radiation shields on the fire side of the thermocouples

only and position the shields so that they do not touch the thermocouple junctions.

Install thermocouples for measuring conditioned warm air temperature as described in ANSI Z21.49–1975, section 2.14. Establish the temperature of the inlet air by means of single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

2.6.2 *Oil fueled vented home heating equipment (including direct vent systems).* Install nine thermocouples, wired in parallel and having equal length leads, in a plane perpendicular to the axis of the flue pipe. Locate this plane at the position shown in Figure 34.4 of UL 730–1974, or Figures 35.1 and 35.2 of UL 729–1976 for a single thermocouple, except that on direct vent systems which significantly preheat the incoming combustion air, it shall be located within 6 inches (152.5 mm) of the outlet of the vent/air intake terminal. Locate one thermocouple in the center of the flue pipe and eight thermocouples along imaginary lines intersecting at right angles in this plane at points one third and two thirds of the distance between the center of the pipe and pipe wall.

Use bead-type thermocouples having a wire size not greater than No. 24 AWG. If there is a possibility that the thermocouples could receive direct radiation from the fire, install radiation shields on the fire side of the thermocouples only and position the shields so that they do not touch the thermocouple junctions.

Install thermocouples for measuring the conditioned warm air temperature as described in sections 35.12 through 35.17 of UL 730–1974. Establish the temperature of the inlet air by means of a single No. 24 AWG bead-type thermocouple, suitably shielded from direct radiation and located in the center of the plane of each inlet air opening.

2.7 *Combustion measurement instrumentation.* Analyze the samples of stack and flue gases for vented heaters to determine the concentration by volume of carbon dioxide present in the dry gas with instrumentation which will result in a reading having an accuracy of ±0.1 percentage points.

2.8 *Energy flow instrumentation.* Install one or more instruments, which measure the rate of gas flow or fuel oil supplied to the vented heater, and if appropriate, the electrical energy with an error no greater than one percent.

2.9 *Room ambient temperature.* During the time period required to perform all the testing and measurement procedures specified in section 3.0 of this appendix, maintain the room temperature within ±5° F (±2.8C) of the value T_{RA} measured during the steady-state performance test. At no time during these tests shall the room temperature exceed 100° F (37.8C) or fall below 65° F (18.3C).

Temperature (T_{RA}) shall be the arithmetic average temperature of the test area, determined by measurement with four No. 24 AWG bead-type thermocouples with junctions shielded against radiation, located approximately at 90-degree positions on a circle circumscribing the heater or heater enclosure under test, in a horizontal plane approximately at the vertical midpoint of the appliance or test enclosure, and with the junctions approximately 24 inches from sides of the heater or test enclosure and located so as not to be affected by other than room air. Locate a thermocouple at each elevation of draft relief inlet opening and combustion air inlet opening at a distance of approximately 24 inches from the inlet openings. The temperature of the air for combustion and the air for draft relief shall not differ more than ±5° F from room temperature as measured above.

2.10 *Equipment used to measure mass flow rate in flue and stack.* The tracer gas chosen for this task should have a density which is less than or approximately equal to the density of air. Use a gas unreactive with the environment to be encountered. Using instrumentation of either the batch or continuous type, measure the concentration of tracer gas with an error no greater than 2 percent of the value of the concentration measured.

3.0 *Testing and measurements.*

3.1 *Steady-state testing.*

3.1.1 *Gas fueled vented home heating equipment (including direct vent systems).* Set up the vented heater as specified in sections 2.1, 2.2, and 2.3 of this appendix. The draft diverter shall be in the normal open condition and the stack shall not be insulated. (Insulation of the stack is no longer required for the vented heater test.) Begin the steady-state performance test by operating the burner and the circulating air blower, on units so equipped, with the adjustments specified by sections 2.4.1 and 2.5 of this appendix, until steady-state conditions are attained as indicated by a temperature variation of not more than 3°F (1.7 C) in the stack gas temperature for vented heaters equipped with draft diverters or 5°F (2.8 C) in the flue gas temperature for vented heaters equipped with either draft hoods or direct vent systems; in three successive readings taken 15 minutes apart.

On units employing draft diverters, measure the room temperature (T_{RA}) as described in section 2.9 of this appendix and measure the steady-state stack gas temperature ($T_{S.SS}$) using the nine thermocouples located in the 5 foot test stack as specified in section 2.6.1 of this appendix. Secure a sample of the stack gases in the plane where $T_{S.SS}$ is measured or within 3.5 feet downstream of this plane. Determine the concentration by volume of carbon dioxide (X_{CO_2S}) present in the dry stack gas. If the location of the gas sampling differs from the temperature measurement plane, there shall be not air leaks through the stack between these two locations.

On units employing draft hoods or direct vent systems, measure the room temperature (T_{RA}) as described in section 2.9 of this appendix and measure the steady-state flue gas temperature ($T_{F.SS}$), using the nine thermocouples located in the flue pipe as described in section 2.6.1 of this appendix. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 (X_{CO_2F}) present in dry flue gas. In addition, for units employing draft hoods, secure a sample of the stack gas in a horizontal plane in the five foot test stack located one foot from the test stack inlet; and determine the concentration by volume of CO_2 (X_{CO_2S}) present in dry stack gas.

Determine the steady-state heat input rate (Q_{in}) including pilot gas by multiplying the measured higher heating value of the test gas by the steady-state gas input rate corrected to standard conditions of 60°F and 30 inches of mercury. Use measured values of gas temperature and pressure at the meter and the barometric pressure to correct the metered gas flow rate to standard conditions.

After the above test measurements have been completed on units employing draft diverters, secure a sample of the flue gases at the exit of the heat exchanger(s) and determine the concentration of CO_2 (X_{CO_2F}) present. In obtaining this sample of flue gas, move the sampling probe around or use a sample probe with multiple sampling parts in order to assure that an average value is obtained for the CO_2 concentration. For units with multiple heat exchanger outlets, measure the CO_2 concentration in a sample from each outlet to obtain the average CO_2 concentration for the unit. A manifold (parallel connected sampling tubes) may be used to obtain this sample.

For heaters with single stage thermostat control (wall mounted electric thermostats), determine the steady-state efficiency at the maximum fuel imput rate as specified in section 2.4 of this appendix.

For gas fueled vented heaters equipped with either two stage thermostats or step-modulating thermostats, determine the steady-state efficiency at the maximum fuel input rate, as specified in section 2.4.1 of this appendix, and at the reduced fuel input rate, as specified in section 2.4.1 of this appendix.

For manually controlled gas fueled vented heaters, determine the steady-state efficiency at a fuel input rate that is within ±5 percent of 50 percent of the maximum fuel input rate.

3.1.2 *Oil fueled vented home heating equipment (including direct vent systems).* Set up and adjust the vented heater as specified in sections 2.1, 2.2, and 2.3.4 of this appendix. Begin the steady-state performance test by operating the burner and the circulating air blower, on units so equipped, with the adjustments specified by sections 2.4.2 and 2.5 of this appendix until steady-state conditions are attained as indicated by a temperature variation of not more than 5°F (2.8 C) in the flue gas temperature in three successive readings taken 15 minutes apart.

Do not allow smoke in the flue, for units equipped with power burners, to exceed a No. 1 smoke during the steady-state performance test as measured by the procedure described in ANSI standard Z11.182–1965 (R1971) (ASTM D 2156–65 (1970). Maintain the average draft over the fire and in the breeching during the steady-state performance test at that recommended by the manufacturer ±0.005 inches of water gauge.

Measure the room temperature (T_{RA}) as described in section 2.9 of this appendix and measure the steady-state flue gas temperature ($T_{F.SS}$) using nine thermocouples located in the flue pipe as described in

section 2.6.2 of this appendix. Secure a sample of the flue gas in the plane of temperature measurement and determine the concentration by volume of CO_2 (X_{CO2F}) present in dry flue gas. Measure and record the steady-state heat input rate (Q_{in}).

For manually controlled oil fueled vented heaters, determine the steady-state efficiency at a fuel input rate that is within ±5 percent of 50 percent of the maximum fuel input rate.

3.2 *Jacket loss measurement.* Conduct a jacket loss test for vented floor furnaces. Measure the jacket loss (L_j) in accordance with the ANSI standard Z21.48–1976 section 2.12.

3.3 *Measurement of the off-cycle losses for vented heaters equipped with thermal stack dampers.* Install the thermal stack damper according to the manufacturer's instructions. Unless specified otherwise, the thermal stack damper should be at the draft diverter exit collar. Attach a five foot length of bare stack to the outlet of the damper. Install thermocouples as specified in section 2.6.1 of this appendix.

For vented heaters equipped with single stage thermostats, measure the off-cycle losses at the maximum fuel input rate. For vented heaters equipped with two stage thermostats, measure the off-cycle losses at the maximum fuel input rate and at the reduced fuel input rate. For vented heaters equipped with step-modulating thermostats, measure the off-cycle losses at the reduced fuel input rate.

Let the vented heater heat up to a steady-state condition. Feed a tracer gas at a constant metered rate into the stack directly above and within one foot above the stack damper. Record tracer gas flow rate and temperature. Measue the tracer gas concentration in the stack at several locations in a horizontal plane through a cross section of the stack at a point sufficiently above the stack damper to ensure that the tracer gas is well mixed in the stack.

Continuously measure the tracer gas concentration and temperature during a 20-minute cool down period. Shut the burner off and immediately begin measuring tracer gas concentration in the stack, stack temperature, room temperature, and barometric pressure. Record these values as the midpoint of each one-minute interval between burner shut down and twenty minutes after burner shut down. Meter response time and sampling delay time shall be considered in timing these measurements.

3.4 *Measurement of the effectiveness of electro-mechanical stack dampers.* For vented heaters equipped with electro-mechanical stack dampers, measure the cross sectional area of the stack (A_s), the net area of the damper plate (A_o), and the angle that the damper plate makes when closed with a plane perpendicular to the axis of the stack (Ω). The net areas of the damper plate means the area of the damper plate minus the area of any holes through the damper plate.

3.5 *Pilot light measurement.* Measure the enrgy input rate to the pilot light (Q_p) with an error no greater than 3 percent for vented heaters so equipped.

3.6 *Optional procedure for determining D_p, D_F and D_s for systems for all types of vented heaters.* For all types of vented heaters, D_p, D_F and D_s can be measured by the following optional cool down test.

Conduct cool down test by letting the unit heat up until steady-state conditions are reached, as indicated by temperature variation of not more than 5°F (2.8°C) in the flue gas temperature in three successive readings taken 15 minutes apart, and then shutting the unit off with the stack or flue damper controls by-passed or adjusted so that the stack or flue damper remains open during the resulting cool down period. If a draft was maintained on oil fueled units in the flue pipe during the steady-state performance test described in section 3.1 of this appendix, maintain the same draft (within a range of −.001 to +.005 inches of water gauge of the average steady-state draft) during this cool down period.

Measure the flue gas mass flow rate ($m_{F,OFF}$) during the cool down test described above at a specific off-period flue gas temperature and corrected to obtain its value at the steady-state flue gas temperature ($T_{F,SS}$), using the procedure described below.

Within one minute after the unit is shut off to start the cool down test for determining D_F, begin feeding a tracer gas into the combustion chamber at a constant flow rate of V_T, and at a point which will allow for the best possible mixing with the air flowing through the chamber. (On units equipped with an oil fired power burner, the best location for injecting this tracer gas appears to be through a hole drilled in the air tube.) Periodically measure the value of V_T with an instantaneously reading flow meter having an accuracy of ±3 percent of the quantity measured. Maintain V_T at less than 1 percent of the air flow rate through the furnace. If a combustible tracer gas is used, there should be a delay period between the time the tracer gas is shut off and the time the tracer gas is first injected to prevent ignition of the tracer gas.

Between 5 and 6 minutes after the unit is shut off to start the cool down test, measure the flue gas temperature, $T^*_{F,Off}$ using the 9 thermocouples described above. At the same instant the flue gas temperature is measured, also measure the percent volumetric concentration of tracer gas C_t in the flue gas in the same plane where $T^*_{F,Off}$ is determined. Obtain the concentration of tracer gas using an instrument which will result in an accuracy of ±2 percent in the value of C_t measured. If use of a continuous reading type instrument results in a delay time between drawing of a sample and its analysis, this delay should be taken into account so that the temperature measurement and the measurement of tracer gas concentration coincide. In addition, determine the temperature of the tracer gas entering the flow meter (T_T) and the barometric pressure (P_B).

The rate of the flue gas mass flow through the vented heater and the factors D_p, D_F, and D_s are calculated by the equations in sections 4.4.1 thru 4.4.3 of this appendix.

4.0 *Calculations.*

4.1 *Annual fuel utilization efficiency for gas or oil fueled vented home heating equipment equipped without manual controls and without thermal stack dampers.* The following procedure determines the annual fuel utilization efficiency for gas or oil fueled vented home heating equipment equipped without manual controls and without thermal stack dampers.

4.1.1 *System number.* Obtain the system number from Table 1 of this appendix.

4.1.2 *Off-cycle flue gas draft factor.* Based on the system number, determine the off-cycle flue gas draft factor (D_F) from Table 1 of this appendix.

4.1.3 *Off-cycle stack gas draft factor.* Based on the system number, determine the off-cycle stack gas draft factor (D_s) from Table 1 of this appendix.

4.1.4 *Pilot fraction.* Calculate the pilot fraction (P_F) expressed as a decimal and defined as:

$$P_F = Q_P / Q_{in}$$

where:

Q_P = as defined in 3.5 of this appendix
Q_{in} = as defined in 3.1 of this appendix at the maximum fuel input rate

4.1.5 *Jacket loss.* Determine the jacket loss (L_j) expressed as a percent and measured in accordance with section 3.2 of this appendix.

4.1.6 *Latent heat loss.* Based on the fuel, obtain the latent heat loss ($L_{L,A}$) from Table 2 of this appendix.

4.1.7 *Ratio of combustion air mass flow rate to stoichiometric air mass flow rate.* Determine the ratio of combustion air mass flow rate to stoichiometric air mass flow rate ($R_{T,F}$), and defined as:

$$R_{T,F} = A + B/X_{CO2F}$$

where:

A = as determined from Table 2 of this appendix
B = as determined from Table 2 of this appendix
X_{CO2F} = as defined in 3.1 of this appendix

4.1.8 *Ratio of combustion and relief air mass flow rate to stoichiometric air mass flow rate.* For vented heaters equipped with either an integral draft diverter or a drafthood, determine the ratio of combustion and relief air mass flow rate to stoichiometric air mass flow rate ($R_{T,S}$), and defined as:

$$R_{T,S} = A + [B/X_{CO,S}]$$

where:

A = as determined from Table 2 of this appendix
B = as determined from Table 2 of this appendix
X_{CO2S} = as defined in 3.1 of this appendix

4.1.9 *Sensible heat loss at steady-state operation.* For vented heaters equipped with either an integral draft diverter or a draft hood, determine the sensible heat loss at steady-state operation ($L_{S,SS,A}$) expressed as a percent and defined as:

where:

$L_{S,SS,A} = C(R_{T,S} + D)(T_{S,SS} - T_{RA})$
C = as determined from Table 2 of this appendix
$R_{T,S}$ = as defined in 4.1.8 of this appendix
D = as determined from Table 2 of this appendix
$T_{S,SS}$ = as defined in 3.1 of this appendix
T_{RA} = as defined in 2.9 of this appendix

For vented heaters equipped without an integral draft diverter, determine ($L_{S\text{-}SS\text{-}A}$) expressed as a percent and defined as:

$$L_{S\text{-}SS\text{-}A} = C(R_{T\text{-}F} + D)(T_{F\text{-}SS} - T_{RA})$$

where:

C = as determined from Table 2 of this appendix
$R_{T\text{-}F}$ = as defined in 4.1.7 of this appendix
D = as determined from Table 2 of this appendix
$T_{F\text{-}SS}$ = as defined in 3.1 of this appendix
T_{RA} = as defined in 2.9 of this appendix

4.1.10 *Steady-state efficiency.* For vented heaters equipped with single stage thermostats, calculate the steady-state efficiency (excluding jacket loss, η_{SS}, expressed in percent and defined as:

$$\eta_{SS} = 100 - L_{L\text{-}A} - L_{S\text{-}SS\text{-}A}$$

where:

$L_{L\text{-}A}$ = as defined in 4.1.6 of this appendix
$L_{S\text{-}SS\text{-}A}$ = as defined in 4.1.9 of this appendix

For vented heaters equipped with either two stage thermostats or with step-modulating thermostats, calculate the steady-state efficiency at the reduced fuel input rate, $\eta_{SS\text{-}L}100 = {}_{S\text{-}SS\text{-}A}$

$$\eta_{SS\text{-}L} = 100 - L_{L\text{-}A} - L_{S\text{-}SS\text{-}A}$$

where:

$L_{L\text{-}A}$ = as defined in 4.1.6 of this appendix
$L_{S\text{-}SS\text{-}A}$ = as defined in 4.1.9 of this appendix in which $L_{S\text{-}SS\text{-}A}$ is determined at the reduced fuel input rate

For vented heaters equipped with two stage thermostats, calculate the steady-state efficiency at the maximum fuel input rate, $\eta_{SS\text{-}H}$, expressed in percent and defined as:

$$\eta_{SS\text{-}H} = 100 - L_{L\text{-}A} - L_{S\text{-}SS\text{-}A}$$

where:

$L_{L\text{-}A}$ = as defined in 4.1.6 of this appendix
$L_{S\text{-}SS\text{-}A}$ = as defined in 4.1.9 of this appendix in which $L_{S\text{-}SS\text{-}A}$ is measured at the maximum fuel input rate

For vented heaters equipped with step-modulating thermostats, calculate the weighted-average steady-state efficiency in the modulating mode, $\eta_{SS\text{-}MOD}$, expressed in percent and defined as:

$$\eta_{SS\text{-}MOD} = [\eta_{SS\text{-}H} - \eta_{SS\text{-}L}]\left[\frac{T_C - T_{OA'}}{T_C - 15}\right] + \eta_{SS\text{-}L}$$

where:

$\eta_{SS\text{-}H}$ = as defined in 4.1.10 of this appendix
$\eta_{SS\text{-}L}$ = as defined in 4.1.10 of this appendix
$T_{OA'}$ = average outdoor temperature for vented heaters with step-modulating thermostats operating in the modulating mode and is obtained from Table 3 or Figure 1 of this appendix
T_C = balance point temperature which represents a temperature used to apportion the annual heating load between the reduced input cycling mode and either the modulating mode or maximum input cycling mode and is obtained either from Table 3 of this appendix or calculated by the following equation:

$$T_C = 65 - [(65 - 15R]$$

where:

65 = average outdoor temperature at which a vented heater starts operating
15 = national average outdoor design temperature for vented heaters
R = ratio of reduced to maximum heat output rates, as defined in 4.1.13 of this appendix

4.1.11 *Reduced heat output rate.* For vented heaters equipped with either two stage thermostats or step-modulating thermostats, calculate the reduced heat output rate ($Q_{red\text{-}out}$) defined as:

$$Q_{red\text{-}out} = \eta_{SS\text{-}L} Q_{red\text{-}in}$$

where:

$\eta_{SS\text{-}L}$ = as defined in 4.1.10 of this appendix
$Q_{red\text{-}in}$ = the reduced fuel input rate

4.1.12 *Maximum heat output rate.* For vented heaters equipped with either two stage thermostats or step-modulating thermostas, calculate the maximum heat output rate ($Q_{max\text{-}out}$) defined as:

$$Q_{max\text{-}out}\eta_{SS\text{-}H}\, Q_{max\text{-}in}$$

where:

$\eta_{SS\text{-}H}$ = as defined in 4.1.10 of this appendix
$Q_{max\text{-}in}$ = the maximum fuel input rate

4.1.13 *Ratio of reduced to maximum heat output rates.* For vented heaters equipped with either two stage thermostats or step-modulating thermostats, calculate the ratio of reduced to maximum heat output rates (R) expressed as a decimal and defined as:

$$R = Q_{red\text{-}out}/Q_{max\text{-}out}$$

where:

$Q_{red\text{-}out}$ = as defined in 4.1.11 of this appendix
$Q_{max\text{-}out}$ = as defined in 4.1.121 of this appendix

4.1.14 *Fraction of heating load at reduced operating mode.* For vented heaters equipped with either two stage thermostats or step-modulating thermostats, determine the fraction of heating load at the reduced operating mode (X_1) expressed as a decimal and listed in Table 3 of this appendix or obtained from Figure 2 of this appendix.

4.1.15 *Fraction of heating load at maximum operating mode or noncycling mode.* For vented heaters equipped with either two stage thermostats or step-modulating therostats, determine the fraction of heating load at the maximum operating mode or noncycling mode (X_2) expressed as a decimal and listed in Table 3 of this appendix or obtained from Figure 2 of this appendix.

4.1.16 *Weighted-average steady-state efficiency.* For vented heaters equipped with single stage thermostats, the weighted-average steady-state efficiency ($\eta_{SS\text{-}WT}$) is equal to η_{SS}, as defined in section 4.1.10 of this appendix. For vented heaters equipped with either two stage thermostats, $\eta_{SS\text{-}WT}$ is defined as:

$$\eta_{SS\text{-}WT} = X_1\eta_{SS\text{-}L} + X_2\eta_{SS\text{-}H}$$

where:

X_1 = as defined in 4.1.14 of this appendix
$\eta_{SS\text{-}L}$ = as defined in 4.1.14 of this appendix
X_2 = as defined in 4.1.15 of this appendix
$\eta_{SS\text{-}H}$ = as defined in 4.1.10 of this appendix

For vented heaters equipped with step-modulating thermostats, $\eta_{SS\text{-}WT}$ is defined as:

$$\eta_{SS\text{-}WT} = X_1\eta_{SS\text{-}L} + X_2\eta_{SS\text{-}MOD}$$

where:

X_1 = as defined in 4.1.14 of this appendix
$\eta_{SS\text{-}L}$ = as defined in 4.1.10 of this appendix
X_2 = as defined in 4.1.15 of this appendix
$\eta_{SS\text{-}MOD}$ = as defined in 4.1.10 of this appendix

4.1.17 *Annual fuel utilization efficiency.* Calculate the annual fuel utilization efficiency (AFUE) expressed as percent and defined as:

$$AFUE = [0.968\eta_{SS\text{-}WT}] - 1.78D_F - 1$$
$$.89D_S - 129P_F - 3.93\, L_J + 1.81$$

where:

$\eta_{SS\text{-}WT}$ = as defined in 4.1.16 of this appendix
D_F = as defined in 4.1.2 of this appendix
D_S = as defined in 4.1.3 of this appendix
P_F = as defined in 4.1.4 of this appendix
L_J = as defined in 4.1.5 of this appendix

4.2 *Annual fuel utilization efficiency for gas or oil fueled vented home heating equipment equipped with manual controls.* The following procedure determines the annual fuel utilization efficiency for gas or oil fueled vented home heating equipment equipped with manual controls.

4.1.1 *Average ratio of stack gas mass flow rate to flue gas mass flow rate at steady-state operation.* For vented heaters equipped with either direct vents or direct exhaust or are outdoor units, the average ratio of stack gas mass flow rate to flue gas mass flow rate at steady-state operation (S/F) shall be equal to unity. (S/F = 1.) For all other types of vented heaters, calculate (S/F) defined as:

$$S/F = 1.3R_{T.S}/R_{T.F}$$

where:

$R_{T.S}$ = as defined in 4.1.8 of this appendix
$R_{T.F}$ = as defined in 4.1.7 of this appendix

4.1.2 *Multiplication factor for infiltration loss during burner on-cycle.* Calculate the multiplication factor for infiltration loss during burner on-cycle ($K_{L\text{-}ON}$) defined as:

$$K_{L\text{-}ON} = 100(0.24)\,(S/F)\,(0.7)\,[/1 + R_{T.F}(A/F)]/$$
$$HHV_A$$

where:

100 = converts a decimal fraction into a percent
0.24 = specific heat of air
A/F = stoichiometric air/fuel ratio, determined in accordance with Table 3 of this appendix
S/F = as defined in 4.2.1 of this appendix at 50 percent of rated maximum fuel input
0.7 = infiltration parameter
$R_{T.F}$ = as defined in 4.1.7 of this appendix
HHV_A = average higher heating value of the test fuel, determined in accordance with Table 2 of this appendix

4.2.3 *On-cycle infiltration heat loss.* Calculate the on-cycle infiltration heat loss ($L_{4.ON}$) expressed as a percent and defined as:

$L_{I\text{-}ON} = K_{I\text{-}ON}$ (70–45)

where:

$K_{I\text{-}ON}$ = as defined in 4.2.2 of this appendix
70 = average indoor temperature
45 = average outdoor temperature

4.2.4 *Weighted-Average Steady-State Efficiency.* The weighted-average steady efficiency ($\eta_{SS\text{-}WT}$), which is at 50 percent of the maximum fuel input rate for manually controlled vented heaters, is as measured in either section 3.1.1 to this appendix for manually controlled gas vented heaters or section 3.1.2 to this appendix for manually controlled oil vented heaters.

4.2.5 *Part-load fuel utilization efficiency.* Calculate the part-load fuel utilization efficiency ($\eta\mu$) expressed as a percent and defined as:

$\eta_\mu = \eta_{SS\text{-}WT} - L_{I\text{-}ON}$

where:

$\eta_{SS\text{-}WT}$ = as defined in 4.2.4 of this appendix
$L_{I\text{-}ON}$ = as defined in 4.2.3 of this appendix

4.2.6 *Annual fuel utilization efficiency.* Calculate the annual fuel utilization efficiency (AFUE) expressed as a percent and defined as:

$$AFUE = \frac{4400\eta_{SS}\eta_u Q_{in-max}}{4400\eta_{SS}Q_{in-max} + 2.5(4600)\eta_u Q_P}$$

where:

4400 = average number of heating degree days
η_{SS} = as defined as $\eta_{SS\text{-}WT}$ in 4.2.4 of this appendix
η_u = as defined in 4.2.5 of this appendix
$Q_{in\text{-}max}$ = as defined as Q_{in} at the maximum fuel input rate, as defined in 3.1 of this appendix
4600 = average number of non-heating season hours per year
Q_P = as defined in 3.5 of this appendix

4.3 *Annual fuel utilization efficiency by the tracer gas method.* The annual fuel utilization efficiency shall be determined by the following tracer gas method for all vented heaters equipped with thermal stack dampers. All other types of vented heaters can elect to use the following tracer gas method, as an optional procedure.

4.3.1 *On-cycle sensible heat loss.* For vented heaters equipped with single stage thermostats, calculate the on-cycle sensible heat loss ($L_{S\text{-}ON}$) expressed as a percent and defined as:

$L_{S\text{-}ON} = L_{S\text{-}SS\text{-}A}$

where:

$L_{S\text{-}SS\text{-}A}$ = as defined in 4.1.9 of this appendix

For vented heaters equipped with two stage thermostats, calculate $L_{S\text{-}ON}$ defined as:

$L_{S\text{-}ON} = X_1 L_{S\text{-}SS\text{-}A\text{-}red} + X_2 L_{S\text{-}SS\text{-}A\text{-}max}$

where:

X_1 = as defined in 4.1.14 of this appendix
$L_{S\text{-}SS\text{-}A\text{-}red}$ = as defined as $L_{S\text{-}SS\text{-}A}$ in 4.1.9 of this appendix at the reduced fuel input rate
X_2 = as defined in 4.1.15 of this appendix
$L_{S\text{-}SS\text{-}A\text{-}max}$ = as defined as $L_{S\text{-}SS\text{-}A}$ in 4.1.9 of this appendix at the maximum fuel input rate

For vented heaters with step-modulating thermostats, calculate $L_{S\text{-}ON}$ defined as:

$L_{S\text{-}ON} = X_1 L_{S\text{-}SS\text{-}A\text{-}red} + X_2 L_{S\text{-}SS\text{-}A\text{-}ave}$

where:

X_1 = as defined in 4.1.14 of this appendix
$L_{S\text{-}SS\text{-}A\text{-}red}$ = as defined in 4.3.1 of this appendix
X_2 = as defined in 4.1.15 of this appendix
$L_{S\text{-}SS\text{-}A\text{-}ave}$ = average sensible heat loss for step-modulating vented heaters operating in the modulating mode

$$L_{S\text{-}SS\text{-}A\text{-}ave} = \left[(L_{S\text{-}SS\text{-}A\text{-}max} - L_{S\text{-}SS\text{-}A\text{-}red})\left[\frac{T_C - T_{OA^*}}{TC - 15}\right]\right] + L_{S\text{-}SS\text{-}A\text{-}red}$$

where:

$L_{S\text{-}SS\text{-}A\text{-}ave}$ = as defined in 4.3.1 of this appendix
T_C = as defined in 4.1.10 of this appendix
T_{OA^*} = as defined in 4.1.10 of this appendix
15 = as defined in 4.1.10 of this appendix

4.3.2 *On-cycle infiltration heat loss.* For vented heaters equipped with single stage thermostats, calculate the on-cycle infiltration heat loss ($L_{I\text{-}ON}$) expressed as a percent and defined as:

$L_{I\text{-}ON} = K_{I\text{-}ON}$(70–45)

where:

$K_{I\text{-}ON}$ = as defined in 4.2.2 of this appendix
70 = as defined in 4.2.3 of this appendix
45 = as defined in 4.2.3 of this appendix

For vented heaters equipped with two stage thermostats, calculate $L_{I\text{-}ON}$ defined as:

$L_{I\text{-}ON} = X_1 K_{I\text{-}ON\text{-}Max}(70 - T_{OA^*}) + X_2 K_{I\text{-}ON\text{-}red}(70 - T_{OA})$

where:

X_1 = as defined in 4.1.14 of this appendix
$K_{I\text{-}ON\text{-}max}$ = as defined as $K_{I\text{-}ON}$ in 4.2.2 of this appendix at the maximum heat input rate
70 = as defined in 4.2.3 of this appendix
T_{OA^*} = as defined in 4.3.4 of this appendix
$K_{I\text{-}ON\text{-}min}$ = as defined as $K_{I\text{-}ON}$ in 4.2.2 of this appendix at the minimum heat input rate
T_{OA} = as defined in 4.3.4 of this appendix
X_2 = as defined in 4.1.15 of this appendix

For vented heaters equipped with step-modulating thermostats, calculate $L_{I\text{-}ON}$ defined as:

$L_{I\text{-}ON} = X_1 K_{I\text{-}ON\text{-}ave}(70 - T_{OA^*}) + X_2 K_{I\text{-}ON\text{-}red}(70 - T_{OA})$

where:

X_1 = as defined in 4.1.14 of this appendix
$K_{I\text{-}ON\text{-}ave} = [K_{I\text{-}ON\text{-}max} + K_{I\text{-}ON\text{-}red}]/2$, $K_{I\text{-}ON\text{-}max}$ = as defined in 4.3.2 of this appendix
70 = as defined in 4.2.3 of this appendix
T_{OA^*} = as defined in 4.3.4 of this appendix
X_2 = as defined in 4.1.15 of this appendix
$K_{I\text{-}ON\text{-}red}$ = as defined in 4.3.2 of this appendix
T_{OA} = as defined in 4.3.4 of this appendix

4.3.3 *Off-cycle sensible heat loss.* For vented heaters equipped with single stage thermostats, calculate the off-cycle sensible heat loss ($L_{S\text{-}OFF}$) at the maximum fuel input rate. For vented heaters equipped with step-modulating thermostats, calculate $L_{S\text{-}OFF}$ defined as:

$L_{S\text{-}OFF} = X_1 L_{S\text{-}OFF\text{-}red}$

where:

X_1 = as defined in 4.1.14 of this appendix
$L_{S\text{-}OFF\text{-}red}$ = as defined as $L_{S\text{-}OFF}$ in 4.3.3 of this appendix at the reduced fuel input rate

For vented heaters equipped with two stage thermostats, calculate $L_{S\text{-}OFF}$ defined as:

$L_{S\text{-}OFF} = X_1 L_{S\text{-}OFF\text{-}red} + X_2 L_{S\text{-}OFF\text{-}Max}$

where:

X_1 = as defined in 4.1.14 of this appendix
$L_{S\text{-}OFF\text{-}red}$ = as defined as $L_{S\text{-}OFF}$ in 4.3.3 of this appendix at the reduced fuel input rate
X_2 = as defined in 4.1.15 of this appendix
$L_{S\text{-}OFF\text{-}Max}$ = as defined as $L_{S\text{-}OFF}$ in 4.3.3 of this appendix at the maximum fuel input rate

Calculate the off-cycle sensible heat loss ($L_{S\text{-}OFF}$) expressed as a percent and defined as:

$$L_{S\text{-}OFF} = \frac{100(0.24)}{Q_{in}t_{on}} \sum m_{S\text{-}OFF}(T_{S\text{-}OFF} - T_{RA})$$

where:

100 = conversion factor for percent
0.24 = specific heat of air in Btu per pound—° F
Q_{in} = fuel input rate, as defined in 3.1 of this appendix in Btu per minute (as appropriate for the firing rate)
t_{on} = average burner on-time per cycle and is 20 minutes
$\Sigma m_{S\text{-}OFF}(T_{S\text{-}OFF} - T_{RA})$ = summation of the twenty values of the quantity, $m_{S\text{-}OFF}[T_{S\text{-}OFF} - T_{RA}]$, measured in accordance with 3.3 of this appendix
$m_{S\text{-}OFF}$ = stack gas mass flow rate pounds per minute

$$m_{S\text{-}OFF} = \frac{1.325 P_B V_T (C_T - C_T)}{C_T(T_T + 460)}$$

$T_{S\text{-}OFF}$ = stack gas temperature measured in accordance with 3.3 of this appendix
T_{RA} = average room temperature measured in accordance with 3.3 of this appendix
P_B = barometric pressure in inches of mercury
V_T = flow rate of the tracer gas through the stack in cubic feet per minute
C_{T^*} = concentration by volume of the active tracer gas in the mixture in percent and is 100 when the tracer gas is a single component gas
C_T = concentration by volume of the active tracer gas in the diluted stack gas in percent
T_T = temperature of the tracer gas entering the flow meter in degrees Fahrenheit
$(T_T + 460)$ = absolute temperature of the tracer gas entering the flow meter in degrees Rankine

4.3.4 *Average outdoor temperature.* For vented heaters equipped with single stage thermostats, the average outdoor temperature (T_{OA}) is 45°F. For vented heaters equipped with either two stage thermostats or step-modulating thermostats, T_{OA} during the reduced operating mode is obtained from Table 3 or Figure 1 of this appendix. For vented heaters equipped with two stage thermostats, T_{OA^*} during the maximum

operating mode is obtained from Table 3 or Figure 1 of this appendix.

4.3.5 *Off-cycle infiltration heat loss.* For vented heaters equipped with single stage thermostats, calculate the off-cycle infiltration heat loss ($L_{I\text{-}OFF}$) at the maximum fuel input rate. For vented heaters equipped with step-modulating thermostats, calculate $L_{I\text{-}OFF}$ defined as:

$$L_{I\text{-}OFF} = X_1 L_{I\text{-}OFF\text{-}red}$$

where:

X_1 = as defined in 4.1.14 of this appendix
$L_{I\text{-}OFF\text{-}red}$ = as defined in $L_{I\text{-}OFF}$ in 4.3.3 of this appendix at the reduced fuel input rate

For vented heaters equipped with two stage thermostats, calculate $L_{I\text{-}OFF}$ defined as:

$$L_{I\text{-}OFF} = X_1 L_{I\text{-}OFF\text{-}red} + X_2 L_{I\text{-}OFF\text{-}max}$$

where:

X_1 = as defined in 4.1.14 of this appendix
$L_{I\text{-}OFF\text{-}red}$ = as defined as $L_{I\text{-}OFF}$ in 4.3.3 of this appendix at the reduced fuel input rate
X_2 = as defined in 4.1.15 of this appendix
$L_{I\text{-}OFF\text{-}MAX}$ = as defined as $L_{I\text{-}OFF}$ in 4.3.3 of this appendix at the maximum fuel input rate

Calculate the off-cycle infiltration heat loss ($L_{I\text{-}OFF}$) expressed as a percent and defined as:

$$L_{I\text{-}OFF} = \frac{100(0.24)(1.3)(0.7)(70 - TO_A)}{Q_{in} t_{on}} \sum m_{S\text{-}OFF}$$

where:

100 = conversion factor for percent
0.24 = specific heat of air in Btu per pound – ° F
1.3 = dimensionless factor for converting laboratory measured stack flow to typical field conditions
0.7 = infiltration parameter
70 = assumed average indoor air temperature, ° F
T_{OA} = average outdoor temperature as defined in 4.3.4 of this appendix
Q_{in} = fuel input rate, as defined in 3.1 of this appendix in Btu per minute (as appropriate for the firing rate)
t_{on} = average burner on-time per cycle and is 20 minutes
$\Sigma m_{S\text{-}OFF}$ = summation of the twenty values of the quantity, $m_{S\text{-}OFF}$, measured in accordance with 3.3 of this appendix
$m_{S\text{-}OFF}$ = as defined in 4.3.3 of this appendix

4.3.6 *Part-load fuel utilization efficiency.* Calculate the part-load fuel utilization efficiency ($\eta\mu$) expressed as a percent and defined as :

$$\eta\mu = 100 - L_{I\text{-}A} - t_{on}[L_{S\text{-}ON} + L_{S\text{-}OFF} + L_{I\text{-}ON} + L_{I\text{-}OFF}]/[t_{on} P_F t_{OFF}]$$

where:

$L_{I\text{-}A}$ = as defined in 4.1.6 of this appendix
t_{on} = as defined in 4.3.3 of this appendix
$L_{S\text{-}ON}$ = as defined in 4.3.1 of this appendix
$L_{S\text{-}OFF}$ = as defined in 4.3.3 of this appendix
$L_{I\text{-}ON}$ = as defined in 4.3.2 of this appendix
$L_{I\text{-}OFF}$ = as defined in 4.1.4 of this appendix
P_F = as defined in 4.1.4 of this appendix
t_{OFF} = average burner off-time per cycle and is 20 minutes

4.3.7 *Annual fuel utilization efficiency.* Calculate the annual fuel utilization efficiency (AFUE) expressed as a percent and defined as:

$$AFUE = \frac{4400\eta_{SS-WT}\eta_\mu Q_{in-max}}{4400\eta_{SS} Q_{in-max} + 2.5(4600)\eta_\mu Q_p}$$

where:

4400 = as defined in 4.2.6
η_{SS-WT} = as defined in 4.1.16 of this appendix
η_μ = as defined in 4.3.6 of this appendix
Q_{in-max} = as defined in 4.2.6 of this appendix
4600 = as defined in 4.2.6 of this appendix
Q_p = as defined in 3.5 of this appendix

4.4 *Stack damper effectiveness for vented heaters equipped with electro-mechanical stack dampers.* Determine the stack damper effectiveness for vented heaters equipped with electro-mechanical sack dampers (D_e), defined as:

$$D_e = 1.62\,[1 - A_D \cos \Omega / A_S]$$

where:

A_D = as defined in 3.4 of this appendix
Ω = as defined in 3.4 of this appendix
A_S = as defined in 3.4 of this appendix

4.5 *Addition requirements for vented home heating equipment using indoor air for combustion and draft control.* For vented home heating equipment using indoor air for combustion and draft control, D_F, as described in section 4.1.2 of this appendix, and D_S, as described in section 4.1.3 of this appendix, shall be determined from Table 1 of this appendix.

4.5.1 *Optional procedure for determining D_F for vented home heating equipment.* Calculate the ratio (D_F) of the rate of flue gas mass through the vented heater during the off-period, $M_{F.OFF}(T_{F.SS})$, to the rate of flue gas mass flow during the on-period, $M_{F.SS}(T_{F.SS})$, and defined as:

$$D_F = M_{F.OFF}(T_{F.SS}) / M_{F.SS}(T_{F.SS})$$

For vented heaters in which no draft is maintained during the steady-state or cool down tests, $M_{F.OFF}(T_{F.SS})$ is defined as:

$$M_{F.OFF}(T_{F.SS}) = M_{F.OFF}(T^*_{F.OFF}) \left[\frac{T_{F.SS} - T_{RA}}{T^*_{F.OFF} - T_{RA}}\right]^{0.56} \left[\frac{T^*_{F.OFF} + 460}{T_{F.SS} + 460}\right]^{1.18}$$

For oil fueled vented heaters in which an imposing draft is maintained, as described in section 3.6 of this appendix, $M_{F.OFF}(T_{F.SS})$ is defined as:

$$M_{F.OFF}(T_{F.SS}) = M_{F.OFF}(T^*_{F.SS})$$

where:

$T_{F.SS}$ = as defined in 3.6 of this appendix
$T^*_{F.OFF}$ = flue gas temperature during the off-period measured in accordance with 3.6 of this appendix in degrees Fahrenheit
T_{RA} = as defined in 3.6 of this appendix

$$M_{T.OFF}(T_{F.OFF}) = \frac{1.325\, P_B V_T (100 - C_T)}{C_T (T_T + 460)}$$

p_B = barometric pressure measured in accordance with 3.6 of this appendix in inches of mercury
V_T = flow rate of tracer gas through the vented heater measured in accordance with 3.6 of this appendix in cubic feet per minute
C_T = concentration by volume of tracer gas present in the flue gas sample measured in accordance with 3.6 of this appendix in percent
T_T = the temperature of the tracer gas entering the flow meter measured in accordance with 3.6 of this appendix in degrees Fahrenheit
$(T_T + 460)$ = absolute temperature of the tracer gas entering the flow meter in degrees Rankine
$M_{F.SS}(T_{F.SS}) = Q_{in}[R_{T.F}(A/F) + 1]/[60HHV_A]$
Q_{in} = as defined in 3.1 of this appendix
$R_{T.F}$ = as defined in 4.1.7 of this appendix
A/F = as defined in 4.2.2 of this appendix
HHV_A = as defined in 4.2.2 of this appendix

4.5.2 *Optional procedure for determining off-cycle draft factor for flue gas flow for* vented heaters. For systems numbered 1 thru 10, calculate the off-cycle draft factor for flue gas flow (D_F) defined as:

$D_F = D_P$

For systems numbered 11 or 12: $D_F = D_P D_O$

where:

D_P = as defined in 4.5.1. of this appendix
D_O = as defined in 4.4 of this appendix

4.5.3 *Optional procedure for determining off-cycle draft factor for stack gas flow for vented heaters.* Calculate the off-cycle draft factor for stack gas flow (D_S) defined as:

For systems numbered 1 or 2: $D_S = 1.0$
For systems numbered 3 or 4: $D_S = (D_F + 0.79)/1.4$
For systems numbered 5 or 6 $D_S = D_O$
For systems numbered 7 or 8 and if $D_O(S/F) < 1$: $D_S = D_O D_F$
For systems numbered 7 or 8 and if $D_O(S/F) > 1$:

$$D_S = D_O D_F + [0.85 - D_O D_F]\,[D_O(S/F) - 1]/[S/F - 1]$$

where:

D_F = as defined in 4.5.1 of this appendix
D_O = as defined in 4.4 of this appendix

TABLE 1.—OFF-CYCLE DRAFT FACTORS FOR FLUE GAS FLOW (D_F) AND FOR STACK GAS FLOW (D_S) FOR VENTED HOME HEATING EQUIPMENT EQUIPPED WITHOUT THERMAL STACK DAMPERS

System number	(D_F)	(D_S)	Burner type	Venting system type [1]
1	1.0	1.0	Atmospheric.	Draft hood or diverter.
2	0.4	1.0	Power	Draft hood or diverter.
3	1.0	1.0	Atmospheric.	Barometric draft regulator.
4	0.4	0.85	Power	Barometric draft regulator.
5	1.0	D_e	Atmospheric.	Draft hood or diverter with damper.
6	0.4	D_e	Power	Draft hood or diverter with damper.

TABLE 1.—OFF-CYCLE DRAFT FACTORS FOR FLUE GAS FLOW (D_F) AND FOR STACK GAS FLOW (D_S) FOR VENTED HOME HEATING EQUIPMENT EQUIPPED WITHOUT THERMAL STACK DAMPERS—Continued

System number	(D_F)	(D_S)	Burner type	Venting system type *
7	1.0	D_e	Atmospheric.	Barometric draft regulator with damper.
8	0.4	D_eD_p	Power	Barometric draft regulator with damper.
9	1.0		Atmospheric.	Direct vent.

TABLE 1.—OFF-CYCLE DRAFT FACTORS FOR FLUE GAS FLOW (D_F) AND FOR STACK GAS FLOW (D_S) FOR VENTED HOME HEATING EQUIPMENT EQUIPPED WITHOUT THERMAL STACK DAMPERS—Continued

System number	(D_F)	(D_S)	Burner type	Venting system type *
10	0.4		Power	Direct vent.
11	D_e		Atmospheric.	Direct vent with damper.
12	0.4 D_e		Power	Direct vent with damper.

* Venting systems listed with dampers means electromechanical dampers only.

TABLE 2.—VALUES OF HIGHER HEATING VALUE (HHV_A), STOICHIOMETRIC AIR/FUEL (A/F), LATENT HEAT LOSS ($L_{L,A}$) AND FUEL-SPECIFIED PARAMETERA (A, B, C, AND D) FOR TYPICAL FUELS

Fuels	HHV_A (Btu/lb)	A/F	$L_{L,A}$	A	B	C	D
No. 1 oil	19,800	14.56	6.55	0.0679	14.22	0.0179	0.167
No. 2 oil	19,500	14.49	6.50	0.0667	14.34	0.0181	0.167
Natural gas	20,120	14.45	9.55	0.0919	10.96	0.0175	0.171
Manufactured gas	18,500	11.81	10.14	0.0965	10.10	0.0155	0.235
Propane	21,500	15.58	7.99	0.0841	12.60	0.0177	0.151
Butane	20,000	15.36	7.79	0.0808	12.93	0.0180	0.143

TABLE 3.—FRACTION OF HEATING LOAD AT REDUCED OPERATING MODE (X1) AND AT MAXIMUM OPERATING MODE (X2), AVERAGE OUTDOOR TEMPERATURES (TOA AND TOA*), AND BALANCE POINT TEMPERATURE (TC) FOR VENTED HEATERS EQUIPPED WITH EITHER TWO-STAGE THERMOSTATS OR STEP-MODULATING THERMOSTATS

Heat output ratio *	X1	X2	TOA	TOA*	TC
0.20 to 0.24	.12	.88	57	40	53
0.25 to 0.29	.16	.84	56	39	51
0.30 to 0.34	.20	.80	54	38	49
0.35 to 0.39	.30	.70	53	36	46
0.40 to 0.44	.36	.64	52	35	44
0.45 to 0.49	.43	.57	51	34	42
0.50 to 0.54	.52	.48	50	32	39
0.55 to 0.59	.60	.40	49	30	37
0.60 to 0.64	.70	.30	48	29	34
0.65 to 0.69	.76	.24	47	27	32
0.70 to 0.74	.84	.16	46	25	29

TABLE 3.—FRACTION OF HEATING LOAD AT REDUCED OPERATING MODE (X1) AND AT MAXIMUM OPERATING MODE (X2), AVERAGE OUTDOOR TEMPERATURES (TOA AND TOA*), AND BALANCE POINT TEMPERATURE (TC) FOR VENTED HEATERS EQUIPPED WITH EITHER TWO-STAGE THERMOSTATS OR STEP-MODULATING THERMOSTATS—Continued

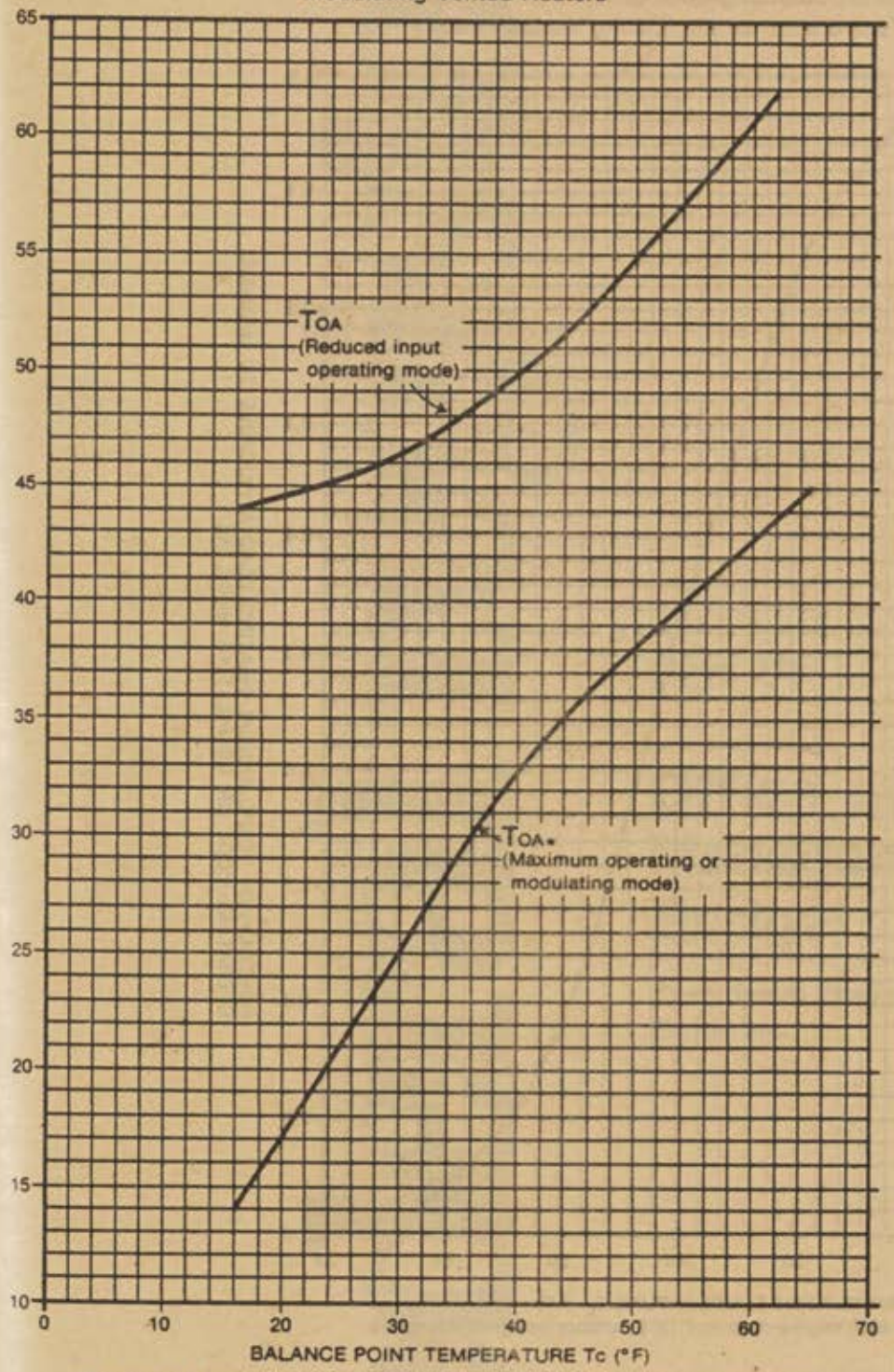
Heat output ratio *	X1	X2	TOA	TOA*	TC
0.75 to 0.79	.88	.12	46	22	27
0.80 to 0.84	.94	.06	45	20	23
0.85 to 0.89	.96	.04	45	18	21
0.90 to 0.94	.98	.02	44	16	19
0.95 to 0.99	.99	.01	44	13	17

* The heat output ratio means the ratio of minimum to maximum heat output rates as defined in 4.1.13.

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FIGURE 1

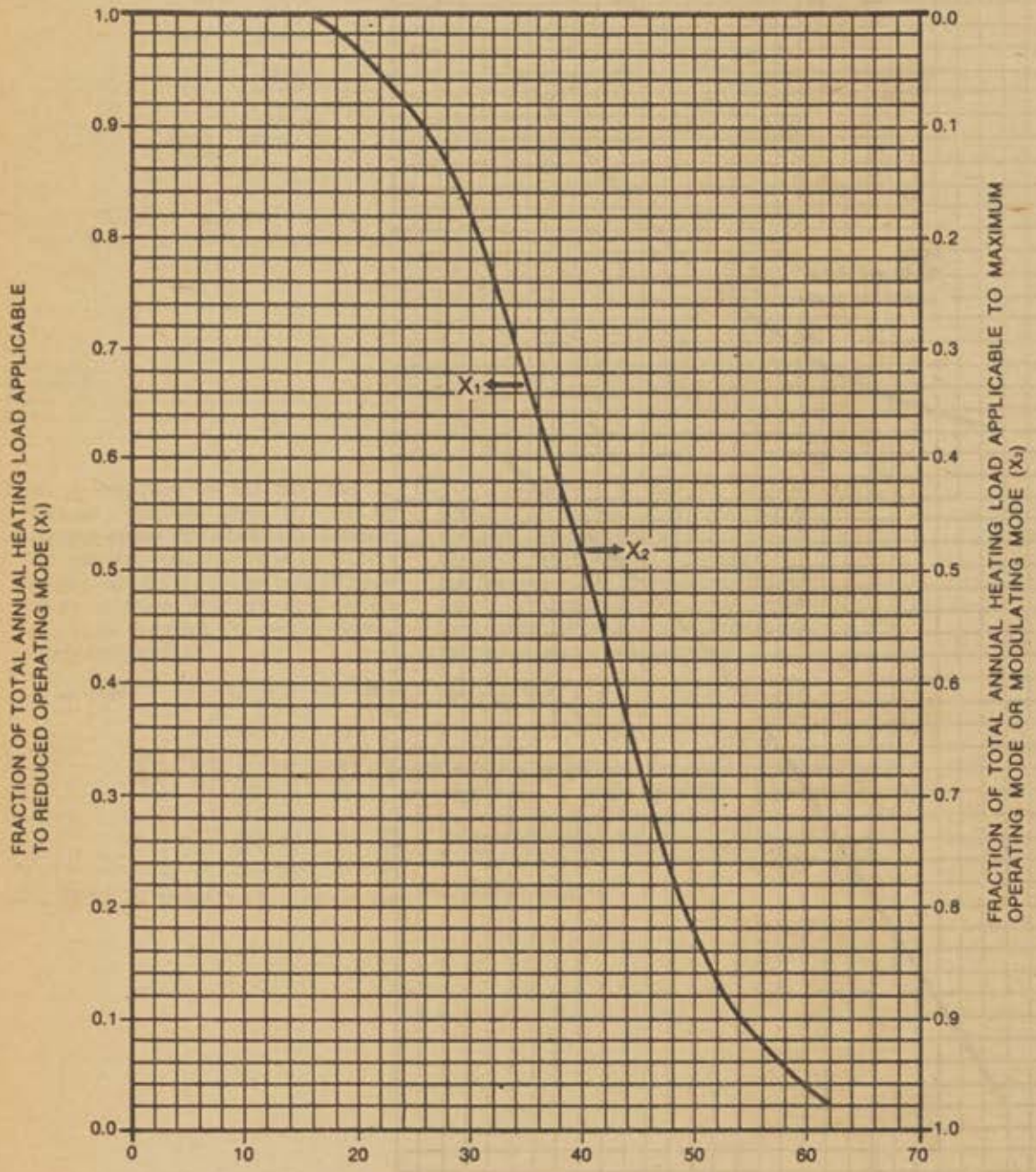
Average Outdoor Air Temperature vs. Balance Point Temperature for Modulating Vented Heaters



This figure is based on 4500 degree-days and 15°F outdoor design temperature.

FIGURE 2

Fraction of Total Annual Heating Load Applicable to Reduced Operating Mode (X_1) and to Maximum Operating Mode or Modulating Mode (X_2) vs. Balance Point Temperature for Modulating Vented Heaters



This figure is based on 4500 degree-days and 15° F outdoor design temperature.

[FR Doc. 83-16231 Filed 6-16-83; 8:45 am]
BILLING CODE 6450-01-C

federal register

Friday
June 17, 1983

Part VI

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

June 1, 1983.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of June 1, 1983 of 20 rescission proposals and 75 deferrals contained in the first eight special messages of FY 1983. These messages were transmitted to the Congress on October 1, and December 7, and 16, 1982, and January 5, February 1, March 9, April 21, and May 19, 1983.

Rescissions (Table A and Attachment A)

Twenty rescission proposals totaling $1,554.0 million are curerntly pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of June 1, 1983, while Attachment A shows the history and status of each rescission proposed during FY 1983.

Deferrals (Table B and Attachment B)

As of June 1, 1983, $3330.3 million in 1983 budget authority was being deferred from obligation and another $9.4 million in 1983 obligations was being deferred from expenditure. Attachment B shows the history and status of each defferal reported during FY 1983.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the **Federal Register** listed below:

Vol. 47, FR p. 44524, Thursday, October 7, 1982
Vol. 47, FR p. 55602, Friday, December 10, 1982
Vol. 47, FR p. 57230, Wednesday, December 22 1982
Vol. 48, FR p. 1266, Tuesday, January 11, 1983
Vol. 48, FR p. 5474, Friday, February 4, 1983
Vol. 48, FR p. 11244, Wednesday, March 16, 1983
Vol. 48, FR p. 18978, Tuesday, April 26, 1983
Vol. 48, FR p. 23374, Tuesday, May 24, 1983

David A. Stockman,
Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1983 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President.....	$1,554.0
Accepted by the Congress.....	-0-
Rejected by the Congress.....	-0-
Pending before the Congress.....	$1,554.0 a/

a/ These rescission proposals are still considered to be pending before the Congress, even though the 45-day withholding period has expired.

****

TABLE B

STATUS OF 1983 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President.....	$13,508.4
Routine Executive releases ($6,825.6 million) and adjustments ($627.5 million) through June 1, 1983	-6,198.1
Overturned by the Congress.....	-3,970.7
Currently before the Congress.....	$3,339.6 a/

a/ This amount includes $ 9.4 million in outlays for a Department of the Treasury deferral (D83-16B).

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF JUNE 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
FUNDS APPROPRIATED TO THE PRESIDENT							
Appalachian Regional Development Programs							
Appalachian Regional Development programs							
BA	R83- 2		15,133	2 1 83		15,133	4 13 83
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA			15,133			15,133	
DEPARTMENT OF AGRICULTURE							
Agricultural Research Service							
Buildings and facilities							
BA	R83- 3		1,927	2 1 83		1,927	4 13 83
Soil Conservation Service							
Watershed and flood prevention operations							
BA	R83- 4		68,995	2 1 83		68,995	4 13 83
Resource conservation and development							
BA	R83- 5		5,600	2 1 83		5,600	4 13 83
Agricultural Cooperative Service							
Salaries and expenses							
BA	R83- 6		779	2 1 83		779	4 13 83
DEPARTMENT OF AGRICULTURE TOTAL BA			77,301			77,301	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Construction							
BA	R83- 1		2,000	12 16 82		2,000	3 25 83
DEPARTMENT OF COMMERCE TOTAL BA			2,000			2,000	
DEPARTMENT OF EDUCATION							
Office of Elementary and Secondary Education							
Compensatory education for the disadvantaged							
BA	R83- 7		133,925	2 1 83		133,925	4 13 83
School assistance in federally affected areas							
BA	R83- 8		5,000	2 1 83		5,000	4 13 83
Special programs and populations							
BA	R83- 9		56,639	2 1 83		56,639	4 13 83
Indian education							
BA	R83- 10		16,128	2 1 83		16,128	4 13 83
Off. of Bilingual Educ. & Minority Lang. Affairs							
Bilingual eduation							
BA	R83- 11		43,523	2 1 83		43,523	4 13 83
Office of Postsecondary Education							
Guaranteed student loans							
BA	R83- 12		900,000	2 1 83		900,000	4 13 83
Higher and continuing education							
BA	R83- 13		68,941	2 1 83		68,941	4 13 83

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1983

AS OF JUNE 1, 1983 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Office of Educational Research and Improvement							
Educational research and statistics BA	R83- 14		6,225	2 1 83		6,225	4 13 83
DEPARTMENT OF EDUCATION TOTAL BA			1,230,381			1,230,381	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Payments for oper. of low income housing proj. BA	R83- 15		69,000	2 1 83		69,000	4 13 83
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA			69,000			69,000	
DEPARTMENT OF THE INTERIOR							
National Park Service							
Construction BA	R83- 16		63,600	2 1 83		63,600	4 13 83
DEPARTMENT OF THE INTERIOR TOTAL BA			63,600			63,600	
DEPARTMENT OF TRANSPORTATION							
Federal Highway Administration							
Federal-aid highways (trust fund) BA	R83- 17		23,200	2 1 83		23,200	4 13 83
Coast Guard							
Nat l recreat. boat. safety & facil. improv. BA	R83- 18		5,000	2 1 83		5,000	4 13 83
DEPARTMENT OF TRANSPORTATION TOTAL BA			28,200			28,200	
OTHER INDEPENDENT AGENCIES							
Corporation for Public Broadcasting							
Public broadcasting fund BA	R83- 19		45,000a	2 1 83			
OTHER INDEPENDENT AGENCIES TOTAL BA			45,000				
OFF-BUDGET FEDERAL ENTITIES							
Department of Agriculture							
Rural telephone bank BA	R83- 20		23,400	2 1 83		23,400	4 13 83
OFF-BUDGET FEDERAL ENTITIES TOTAL BA			23,400			23,400	
TOTAL BA			1,554,015			1,509,015	

a. This is a rescission of FY 1985 funds.

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-83
FUNDS APPROPRIATED TO THE PRESIDENT								
Appalachian Regional Development Programs								
Appalachian regional development programs								
BA	D83- 40	10,000		2 1 83				10,000
International Security Assistance								
Foreign military sales credit								
BA	D83- 21	165,000		12 7 82				
BA	D83- 21A		1,010,000	2 1 83	-525,000			550,000
Economic support fund								
BA	D83- 22	554,720		12 7 82				
BA	D83- 22A		1,347,130	2 1 83	-2,038,379		551,150	114,621
Military assistance								
BA	D83- 29	11,650		12 7 82				
BA	D83- 29A		221,350	2 1 83	-207,650		14,650	40,000
International Development Assistance								
Functional development assistance program								
BA	D83- 1	8,129		10 1 82	-8,129			
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL BA		749,499	2,578,480		-2,779,158		565,800	1,114,621
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization & Conservation Service								
Dairy and beekeeper indemnity programs								
BA	D83- 36	7,000		1 5 83		-7,000		
Soil Conservation Sevice								
Watershed and flood prevention operations								
BA	D83- 41	10,329		2 1 83				10,329
Animal and Plant Health Inspection Service								
Salaries and expenses								
BA	D83- 34	2,134		12 16 82				
BA	D83- 34A		4,066	2 1 83				6,200
Forest Service								
National forest system								
BA	D83- 42	108,035		2 1 83	-21,022			87,013
Timber salvage sales								
BA	D83- 2	10,002		10 1 82				
BA	D83- 2A		3,105	2 1 83				13,107
Expenses, brush disposal								
BA	D83- 3	44,575		10 1 82	-10,042		1,229	35,762
DEPARTMENT OF AGRICULTURE TOTAL BA		182,075	7,171		-31,064	-7,000	1,229	152,411
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs								
BA	D83- 43	181,900		2 1 83		-181,900		
Economic development revolving fund								
BA	D83- 37	25,350		1 5 83	-25,350			
International Trade Administration								
Operations and administration								
BA	D83- 44	20,100		2 1 83		-20,100		
Participation in U.S. expositions								
BA	D83- 4	3,356		10 1 82	-571			2,785
National Oceanic and Atmospheric Administration								
Operations, research, and facilities								
BA	D83- 71	2,965		4 21 83				2,965
Construction								
BA	D83- 45	3,000		2 1 83				3,000

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE		DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-83
Promote and develop fishery products and research	BA	D83- 5	30,619			10 1 82	-30,619			
National Bureau of Standards										
Scientific & technical research & services	BA	D83- 38	6,500			1 5 83				6,500
DEPARTMENT OF COMMERCE TOTAL	BA		273,790				-56,540	-202,000		15,250
DEPARTMENT OF DEFENSE-MILITARY										
Procurement										
Shipbuilding and conversion, Navy	BA	D83- 46	2,400,000			2 1 83	-2,400,000			
Military Construction										
Military construction, all services	BA	D83- 6	64,063			10 1 82				
	BA	D83- 6A		1,166,415		12 7 82	-840,175		42,197	432,500
Family Housing, Defense										
Family housing, Defense	BA	D83- 23	161,640			12 7 82	-108,640			53,000
DEPARTMENT OF DEFENSE-MILITARY TOTAL	BA		2,625,703	1,166,415			-3,348,815		42,197	485,500
DEPARTMENT OF DEFENSE-CIVIL										
Corps of Engineers										
Construction, general	BA	D83- 47	180,000			2 1 83				180,000
Wildlife Conservation, Military Reservations										
Wildlife conservation	BA	D83- 7	1,061			10 1 82	-6		-50a	1,005
DEPARTMENT OF DEFENSE-CIVIL TOTAL	BA		181,061				-6		-50	181,005
DEPARTMENT OF ENERGY										
Atomic Energy Defense Activities										
Atomic energy defense activities	BA	D83- 70	50,000			3 9 83				50,000
Energy Programs										
Energy supply R&D-operating expenses	BA	D83- 72	15,226			4 21 83	-5,000a			10,226
Energy supply R&D-plant and capital equip.	BA	D83- 48	91,107			2 1 83				
	BA	D83- 48A			b	5 19 83	-28,595		5,540	68,052
Fossil energy research and development	BA	D83- 8	20,136			10 1 82				
	BA	D83- 8A			b	2 1 83	-15,136			5,000
	BA	D83- 73	8,750			4 21 83				8,750
Fossil energy construction	BA	D83- 49	20,000			2 1 83				
	BA	D83- 49A		6,000		4 21 83				26,000
Energy conservation	BA	D83- 24	22,803			12 7 82	-22,803			
	BA	D83- 74	4,500			4 21 83				4,500
Strategic Petroleum Reserve	BA	D83- 50	57,400			2 1 83		-57,400		
Departmental Administration										
Depart. admin., operating expenses	BA	D83- 51	21,767			2 1 83	-11,173			10,594

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-83
Depart. admin., plant & capital equipment								
BA	D83- 52	12,693		2 1 83				12,693
DEPARTMENT OF ENERGY								
TOTAL BA		324,382	6,000		-82,707	-57,400	5,540	195,815
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D83- 9	9,714		10 1 82				9,714
Office of Assistant Secretary for Health								
Special foreign currency program								
BA	D83- 10	6,420		10 1 82				6,420
Social Security Administration								
Limitation on administrative expenses								
BA	D83- 53	9,633		2 1 83				9,633
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
TOTAL BA		25,767						25,767
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs								
BA	D83- 54	3,081,153		2 1 83		-3,081,153		
Payments for operation of low income housing								
BA	D83- 30	150,000		12 7 82	-150,000			
Community Planning and Development								
Community development grants								
BA	D83- 31	221,000		12 7 82	-221,000			
Urban development action grants								
BA	D83- 32	234,000		12 7 82				
BA	D83- 32A		10,000	1 5 83		-244,000		
Urban homesteading								
BA	D83- 33	8,000		12 7 82	-8,000			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
TOTAL BA		3,694,153	10,000		-379,000	-3,325,153		
DEPARTMENT OF THE INTERIOR								
Office of Water Research & Technology								
Salaries and expenses								
BA	D83- 25	2,545		12 7 82	-2,545			
National Park Service								
Land acquisition and state assistance								
BA	D83- 11	30,000		10 1 82				
BA	D83- 11A		3,000	2 1 83				33,000
Minerals Management Service								
Payments from proceeds, sale of water								
BA	D83- 39	48		1 5 83				48
Office of Territorial Affairs								
Administration of territories								
BA	D83- 55	3,188		2 1 83		-3,188		
DEPARTMENT OF THE INTERIOR								
TOTAL BA		35,781	3,000		-2,545	-3,188		33,048
DEPARTMENT OF JUSTICE								
Interagency Law Enforcement								
Organized crime drug enforcement								
BA	D83- 56	13,656		2 1 83				13,656

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-83
Federal Prison System								
Buildings and facilities								
BA	D83- 35	16,330		12 16 82				
BA	D83- 35A		51,507	5 19 83				67,837
DEPARTMENT OF JUSTICE TOTAL BA		29,986	51,507					81,493
DEPARTMENT OF STATE								
International Organizations and Conferences								
Contributions to international organizations								
BA	D83- 57	8,111		2 1 83				8,111
Other								
Emergency refugee and migration assistance fund								
BA	D83- 12	37,692		10 1 82			-1,844c	35,848
U.S. bilateral science and technology agreements								
BA	D83- 58	2,000		2 1 83				2,000
DEPARTMENT OF STATE TOTAL BA		47,803					-1,844	45,959
DEPARTMENT OF TRANSPORTATION								
Urban Mass Transportation Administration								
Urban mass capital fund								
BA	D83- 59	229,000		2 1 83		-229,000		
Federal Aviation Administration								
Construction, Metropolitan Washington Airports								
BA	D83- 59	500		2 1 83				500
Civil supersonic aircraft development termination								
BA	D83- 13	46		10 1 82				46
Facilities & equip. (Airport & airway trust fund)								
BA	D83- 14	158,485		10 1 82				
BA	D83- 14A		566,751	2 1 83				725,236
Coast Guard								
Natl recreat. boat. safety & facil. improv.								
BA	D83- 61	40,000		2 1 83				40,000
DEPARTMENT OF TRANSPORTATION TOTAL BA		428,031	566,751			-229,000		765,782
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
State and local government fiscal assistance fund								
BA	D83- 15	106,474		10 1 82				
BA	D83- 15A		305	12 7 82	-2,372		289	104,696
O	D83- 16	7,909		10 1 82				
O	D83- 16A		6,537	12 7 82				
O	D83- 16B		1,498	3 9 83	-20,938		14,378	9,384
Federal Law Enforcement Training Center								
Construction								
BA	D83- 17	3,078		10 1 82				3,078
DEPARTMENT OF THE TREASURY TOTAL BA		109,552	305		-2,372		289	107,774
TOTAL O		7,909	8,035		-20,938		14,378	9,384
NATIONAL AERONAUTICS & SPACE ADMINISTRATION								
Research and development								
BA	D83- 26	34,500		12 7 82				34,500

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1983

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 6-1-83
VETERANS ADMINISTRATION								
Construction, major projects								
BA	D83- 27	4,000		12 7 82				4,000
OTHER INDEPENDENT AGENCIES								
District of Columbia								
Loans to DC for capital investment								
BA	D83- 18	38,832		10 1 82	-38,832			
Interstate Commission on the Potomac River Basin								
Contrib. to Interst. Comm. on Potomac Riv. Basin								
BA	D83- 28	12		12 7 82	-12			
Pennsylvania Avenue Development Corporation								
Land acquisition and development fund								
BA	D83- 19	17,949		10 1 82				
BA	D83- 19A		4,409	12 16 82				22,358
Railroad Retirement Board								
Limitation on administration								
BA	D83- 20	240		10 1 82				
BA	D83- 20A		250	2 1 83				490
BA	D83- 75		2,750	5 19 83				2,750
Small Business Administration								
Business loan and investment fund								
BA	D83- 62	143,000		2 1 83		-143,000		
Surety bond guarantees revolving fund								
BA	D83- 63	3,000		2 1 83		-3,000		
Pollu. cont. equip. contract guar. revolv.								
BA	D83- 64	1,000		2 1 83		-1,000		
Motor Carrier Ratemaking Study Commission								
Salaries and Expenses								
BA	D83- 65	282		2 1 83				282
Tennessee Valley Authority [a]								
Tennessee Valley Authority fund								
BA	D83- 66	47,271		2 1 83				47,271
United States Information Agency								
Salaries and expenses (spec. for. curr. prog.)								
BA	D83- 67	1,344		2 1 83				1,344
Acquis. and construction of radio facilities								
BA	D83- 68	12,437		2 1 83				12,437
United States Railway Association								
Payments for purchase of Conrail securities								
BA	D83- 69	84,000		2 1 83	-83,600			400
OTHER INDEPENDENT AGENCIES TOTAL BA		349,367	7,409		-122,444	-147,000		87,332
TOTAL BA		9,095,450	4,397,038		-6,804,651	-3,970,741	613,161	3,330,257
TOTAL O		7,909	8,035		-20,938		14,378	9,384

a. This amount was released prior to transmittal of the special message reporting the withholding of $15,226,000.

b. This revision is a technical adjustment that did not increase the amount deferred.

c. This adjustment is being made to reflect actual unobligated balances available on October 1, 1982. All unobligated balances are being withheld from obligation.

END OF REPORT

[FR Doc. 83-16233 Filed 6-16-83; 8:45 am]

BILLING CODE 3110-01-C

federal register

Friday
June 17, 1983

Part VII

Department of the Interior

National Park Service

National Capital Parks Regulations; Demonstrations in the White House Area; Final Rule

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 50

National Capital Parks Regulations; Demonstrations in the White House Area

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends § 50.19 of Title 36 of the Code of Federal Regulations concerning demonstrations and special events in the National Capital Parks to regulate the use of signs and placards on the White House sidewalk. The final rule also amends § 50.19 of Title 36 of the Code of Federal Regulations and § 50.7(h) of the same title concerning storage of materials in park areas to prohibit the placement or storage of parcels, containers, packages, bundles or other property on the sidewalks surrounding the White House. Those changes are necessary in order to minimize potential threats to the structure and its occupants and visitors, as well, as, to provide opportunities to the visitor to view the White House, and to maintain the free flow of pedestrian and emergency traffic.

EFFECTIVE DATE: July 5, 1983.

FOR FURTHER INFORMATION CONTACT:

Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242, telephone (202) 426–6700;

Richard G. Robbins, Assistant Solicitor, National Capital Parks, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, telephone (202) 343–4338.

SUPPLEMENTARY INFORMATION:

I. Background

Recent events in the Memorial Core parks, as well as terrorist activities elsewhere, have highlighted security concerns for the White House and the President. Last December, an individual who had been a frequent demonstrator on the White House sidewalk backed a truck up to the Washington Monument and threatened to blow up the structure with 1,000 pounds of dynamite that he allegedly had stored in the truck. The tragedy ended as the individual attempted to leave the area in the truck, going in the direction of the White House.

Since the day of that incident, the National Park Service, along with other law enforcement agencies, has been discussing and reviewing regulations applicable to the White House area to determine if regulatory changes could aid in minimizing potential threats to the structure, its occupants and the visiting public.

During the process of review and drafting of new regulations, additional incidents occurred that increased even more the need for security precautions around the White House. In March, a large structure used by frequent protestors on the White House sidewalk was burned, damaging a granite post and the fence in front of the Old Executive Office Building, a few feet from the White House sidewalk. [The White House sidewalk is defined in the regulations as "the south sidewalk of Pennsylvania Avenue, N.W., between East and West Executive Avenues, N.W.," 36 CFR 50.19(a)(5)]. Also in March, an individual used another structure stored by demonstrators on the White House sidewalk to facilitate the scaling of the White House fence.

In addition to these events occurring around the White House, an increase in terrorist activities has heightened the concern for the safety of the President, the White House, and the general public utilizing the White House area. A bomb in front of the American Embassy in Beirut, Lebanon, killed scores of people in the beginning of April. Closer to home in April, a bomb exploded in front of the War College at Fort McNair in Washington.

In light of these incidents, as well as other continuing security concerns, the National Park Service, in consultation with the United States Secret Service, determined that two areas of major concern should be addressed immediately by regulatory changes—signs or placards stationed on the White House sidewalk and parcels, containers, packages, bundles, and other property placed or stored on the White House sidewalk and other sidewalks surrounding the White House.

The experience of the United States Park Police and the United States Secret Service has shown that signs, placards, and their component parts, the traditional means of demonstrating, can be used for purposes other than expressing a message. Sign supports have been used as weapons. Signs may be used to conceal explosives or other illegal items. Large, rigid signs have been used to facilitate the scaling of the White House fence. Although these may be unavoidable incidents of the right to demonstrate elsewhere, security concerns for the public, the President and the White House force the National Park Service to attempt to minimize the possibility of these incidents on the sidewalk in front of the White House, a mere eighty yards from the front entrance.

In addition, experience has shown that signs on the White House sidewalk can block a portion or all of the view of the White House through the fence. Complaints received by the National Park Service from the public indicate that the visitor's ability to view the White House is substantially diminished when a few demonstrators are allowed to carry their protest to the extent of having large signs that span the White House vista. Further, security personnel cannot adequately see to the outside of the fence.

Parcels and other property likewise can be used to conceal explosives or other devices, or to facilitate the scaling of the White House fence. In addition, they can block the view of the White House and, when accumulated, prevent the free flow of traffic past, and into, the White House.

It is the judgment of the National Park Service that certain restrictions can be placed upon the use of signs or placards and placement or storage of parcels and other property on the White House sidewalk which would enhance the park visitor's experience in viewing the White House and respond to security concerns without impairing the demonstrator's ability to convey a message.

Regulatory revisions concerning signs and other property on the sidewalks contiguous to the White House were published as an interim rulemaking on April 22, 1983 (48 FR 17352). The interim rule was challenged in *White House Committee for the ERA Vigil v. Watt*, Civil Action No. 83–1243 (D.D.C. filed 4/29/83) ("ERA Committee"). Plaintiffs alleged constitutional and Administrative Procedure Act ("APA") defects. The District Court found that good cause had not been shown for giving immediate effect to the regulation. On that basis, the court enjoined enforcement of the regulation as an interim rule until the publication of a final rule.

In response to the District Court's order, the National Park Service republished the regulation as a proposed rulemaking on May 17, 1983 (48 FR 22284). An additional comment period ending May 31, 1983 was given.

II. Effective Date

The Director of the National Park Service finds that good cause exists for suspending part of the 30-day delay of effectiveness provided for in 5 U.S.C. 553(d), as adopted by the Department of the Interior by policy. The need to address immediate security concerns in

the White House area provides this good cause.

III. Analysis of Comments

The National Park Service received fifteen comments on the proposed regulations. Seven commentators favored implementation of the regulations as proposed. In addition, the Washington Legal Foundation ("WLF") submitted comments which were dated May 31, 1983, but which were received several days after that date. WLF favored implementation of the regulations as proposed and concluded in a legal analysis that the regulations were constitutional. Eight commentators opposed some portion of the proposed regulations, most of these supporting other portions.

A. The American Civil Liberties Union ("ACLU") submitted extensive comments on the proposed regulations. In addition, the ACLU represented plaintiffs in the *ERA Committee* case and made comments and suggestions on the regulations in the hearing on that matter. In their comments, the ACLU agreed that the National Park Service has a legitimate interest in White House security, the flow of pedestrian and emergency traffic and aesthetics. However, the group objected generally to the proposed regulations as not serving those interests with their view of the required narrow specificity. The Washington Area Military and Draft Law Panel ("WAMDLP") generally took the same view.

Specifically, the ACLU questioned whether the proposed regulations adequately addressed legitimate security concerns. The group questioned whether the requirement that signs be carried and that they be carried by one individual served security interests in preventing the scaling of the White House fence and the concealing of contraband.

In response, it must be pointed out, first, that the ACLU has misread the proposed regulations. The proposed, as well as the final regulations, allow individuals to set down signs or placards. The final regulations make it clear that signs can be placed on certain portions of the sidewalk as long as they are no closer than three feet from the fence and are attended. References to the hand-holding of signs have been deleted from the final regulations. Second, the final rulemaking deletes the requirement that signs be carried or held by only one individual. The final regulations allow as many individuals who desire to hold a sign or placard to do so.

Specifically as to the governmental interest in preventing the scaling of the White House fence, the ACLU suggested that the proposed rule did not meet this interest. The group agreed that a sign could be used to scale the fence and further indicated that it would not oppose a regulation directed at signs large and sturdy enough to accomplish this purpose. In response to the suggestion by the ACLU, the National Park Service has modified the final regulation to allow large signs and placards up to 3' X 20' X ¼" on the White House sidewalk but restricts the materials that may be used to construct the signs. Such a restriction on materials of which signs can be made was suggested by the ACLU during the hearing on *ERA Committee*.

The ACLU also questioned whether the proposed regulations met the government's interest in preventing concealment of explosives or other contraband on the White House sidewalk. The ACLU pointed out that contraband can be concealed in property, as well as behind signs, and that no instances of concealment behind signs had been mentioned in the proposed rulemaking. The National Park Service finds this reasoning to be unpersuasive. We agree that contraband may be hidden in personal property—this is precisely the reason for the prohibition on placing property on the sidewalk. However, this is not a reason for failing to address the problem of possible concealment behind signs leaned against the White House fence. Also, the fact that an explosive has not been found behind a sign does not obviate any future possibility of this occurring.

The ACLU also indicated that contraband can be hidden behind a sign that is being carried. This may be true, but the National Park Service must rely on security judgments that indicate a lesser risk of an individual carrying or holding an explosive than an individual placing it behind his or another person's sign when the sign is not immediately attended. One purpose of requiring signs to be attended is to assure that demonstrators have control over their signs at all times to diminish the likelihood that others will use the signs of unsuspecting demonstrators for their own purposes.

The ACLU, as well as WAMDLP, Women Strike for Peace and SANE, criticized requirements in the proposed regulations that owners of parcels or other property placed on the White House sidewalk consent to a search of the property and remove such property after sixty minutes. The final regulation prohibits placing property on sidewalks contiguous to the White House. However, a proviso to the regulation states that momentary placement of property in the immediate presence of the owner is permitted, thus making it clear that the regulation will not be applied so as to prevent temporary placement of articles such as cameras or purses on the sidewalk.

In attempting to eliminate security concerns created by parcels and other property, the National Park Service considered several other alternatives, such as allowing parcels to be set down for a designated time period with no search requirement, retaining the current lack of regulations or promulgating a flat ban on setting down parcels. Retaining the present lack of regulation leaves no enhanced security protection. Providing a designated time limit with no provision for search is administratively very difficult to enforce. To do so would require a significant increase in the number of officers necessary to have a specific watch on parcels. Prohibiting altogether the setting down of parcels, even momentarily, could work a hardship, for example, on visitors who desired to set down a purse momentarily, or a demonstrator who desired to set down a duffel bag for an instance. Therefore, for administrative enforcement purposes, enhanced White House security, and accommodation of demonstrators and visitors, the National Park Service chose to prohibit all but momentary placement of property on the sidewalks contiguous to the White House.

The ACLU and WAMDLP further questioned the effectiveness of the proposed regulations in preventing interference with pedestrian and emergency traffic. The ACLU contended that signs and property leaned against the fence by a handful of demonstrators cannot "interfere unacceptably" with the flow of traffic when current regulations allow up to 750 persons to demonstrate on the White House sidewalk.

The National Park Service believes that the reality of demonstrations on the White House sidewalk shows the contrary to be true. Large demonstrations do occur on the sidewalk. However, these are generally short-term events. On the other hand, a handful of demonstrators has occupied the White House sidewalk daily for a year and a half. A handful of demonstrators has had signs spanning the length of the sidewalk, along with personal belongings which have included wicker-baskets full of clothes, cooking utensils, foodstuff, and sleeping materials. It has been the experience of the National Park Service that signs and placards attached to and leaned against

the White House fence and structures and storage of personal property have interfered with smooth pedestrian flow.

The ACLU further contended, along with Women Strike for Peace and WAMDLP, that the government's interest in providing an unobstructed view of the White House to thousands of visitors does not meet the constitutional standards for justification of the regulations. The National Park Service finds it ironic that commentators such as the ACLU and WAMDLP recognize the importance of the White House as a symbol for demonstrating groups but fail completely to attribute any importance to the structure as a symbol for thousands of domestic and international visitors. The ACLU indicates that "tourists do not have a constitutional right to an unobstructed view of the White House," and that demonstrators, having a constitutional right to demonstrate, can block the view, presumably without regard to any other rights of White House visitors.

The National Park Service disagrees with this analysis. The National Park Service is mandated to manage the nation's parks for the benefit of all the people of this country. The White House is perhaps the most visible and frequently visited of all of the Washington, D.C. parks. Every year, thousands of people visit the White House, usually going to the White House sidewalk. Since tours inside the White House are limited, the closest most of these visitors get to the White House is the sidewalk. For this reason, the National Park Service believes that there is a significant governmental interest in providing thousands of citizens each year with a place on the White House sidewalk where they can take a picture or just contemplate the structure. Therefore, the final regulations establish an open zone where signs and placards cannot be set down or kept stationary on the White House sidewalk. Such an open zone, accommodating both park visitors and moving demonstrators, was suggested by the ACLU in the hearing on *ERA Committee*.

The ACLU further expressed its opinion that demonstrations in front of the White House add to, rather than detract from, the visitor's White House experience. On the basis of complaints received by the National Park Service from outraged citizens, as well as editorials in local newspapers, it appears to the National Park Service that the public is in disagreement with the ACLU on this issue.

The ACLU and individual commentators identifying themselves as frequent White House demonstrators also expressed the view that the National Park Service's real and only purpose in promulgating these regulations is to clear the White House sidewalk of long-term demonstrators. This trivializes legitimate government concerns and honest efforts to address those concerns. The National Park Service believes that the final regulations, in large part drawn from suggestions of the ACLU and other commentators, are content-neutral, narrowly-drawn regulations tailored to meet significant government interests.

B. Women Strike for Peace ("WSP") and SANE suggested that the proposed regulations were vague, and, therefore, could have a chilling effect upon persons wishing to engage in "traditional protests." Women Strike for Peace further suggested that the proposed regulations would discourage and hamper traditional protests in front of the White House. That is not the intent of the regulations. Changes have been made in the final regulations which make specific those signs or placards that are permitted on the White House sidewalk, where they can be, and what can be done with them. The parcels regulation specifies the conduct prohibited—storing or placing parcels, containers, bundles, or other property on sidewalks contiguous to the White House. The National Park Service believes that persons of ordinary intelligence can clearly ascertain the conduct proscribed by the regulations.

The more general comment concerning the hampering of traditional protests is more troubling. Apparent in many of the commentators' letters is the view that the First Amendment guarantees demonstrators the right to demonstrate by whatever means they feel is most effective and most convenient. Two commentators even suggested that the National Park Service was wrong in interfering with Norman Mayer's demonstration involving a threat to set off a thousand pounds of dynamite on the Washington Monument grounds. Women Strike for Peace suggested that any restrictions on demonstrations in front of the White House would be wrong. However, this is not the view that the Supreme Court has taken of First Amendment guarantees. The Court has repeatedly held that the First Amendment does not guarantee the right to the most effective demonstration and that reasonable time, place and manner restrictions can be placed upon First Amendment activities to meet significant governmental interests. See, for example, *Heffron v. International Society for Krishna Consciousness*, 452 U.S. 640, 647, 654 (1981).

The National Park Service has the responsibility for managing the nation's parks for all citizens. Especially in Washington, it often has the added responsibility for providing security for historic structures and government officials. These responsibilities must be balanced with the need to give demonstrating groups an appropriate forum for the exercise of their First Amendment rights. Neither responsibility can eliminate the exercise of the other.

The National Park Service believes that these regulations address significant governmental interests in security, aesthetics and traffic flow while placing as few restrictions as possible on First Amendment activities. The regulations do not prevent persons from demonstrating in front of the White House. The restrictions are narrow, content-neutral, and leave open ample alternative avenues of communicating a message. The restrictions apply only on the sidewalks contiguous to the White House; they are not applicable to any other park in the Memorial Core. Therefore, the National Park Service does not believe that traditional protests will be discouraged or hampered by these regulations.

C. Several commentators who identified themselves as frequent White House demonstrators suggested that violence might result from a regulation that restricted people's "rights to voice and express their opinion in a nonviolent manner which they deem necessary." Except as a self-fulfilling prophesy, the comment has no logical or legal basis. Were that the case, there could never be any regulation of First Amendment conduct because there might be a violent reaction to the attempt of regulation. Such a premise ignores time, place and manner restrictions that the courts have historically recognized. While the National Park Service appreciates the commentators' concerns over violent demonstrations, it cannot foresake its responsibilities to the general public, the President and the White House because of such a potential.

D. Women Strike for Peace, SANE and several other commentators questioned the need for and value of restrictions on signs and parcels in meeting security concerns. The National Park Service must rely on common sense, experience and police judgment in determining security requirements around the White House. Common sense indicates that containers stored on the sidewalk and signs leaned against or fastened to the White House fence create a place for concealment of explosives or other

devices. Experience has indicated the illegal uses to which large wooden signs can be put. Police judgment indicates the need to see through the White House fence and around signs and placards. The National Park Service had extensive discussions with the Park Police, Secret Service and park officials in formulating these regulations. It also relied heavily upon expert opinion contained in testimony and affidavits submitted by government officials in the *ERA Committee* case. The National Park Service believes the best method of drafting regulations that address security concerns is to rely on the opinions of these experts.

E. Women Strike for Peace and other commentators suggested that the proposed regulations would work a hardship on the elderly, the physically-impaired, and other infirm persons who wish to demonstrate on the White House sidewalk, especially any requirement that would cause them to have to carry signs. The National Park Service has reviewed the regulations carefully with an eye toward minimizing the impact on these groups of persons. The National Park Service believes that the final regulations do minimize this impact.

Changes in the final regulations eliminate any confusion as to a requirement that signs be carried outside of the center portion of the White House sidewalk. The regulations would allow an individual to set down a sign on certain portions of the sidewalk as long as the sign is no closer than three feet from the fence and is attended. Other changes allow a sign to be carried or held by more than one individual. The restriction on the materials of which a sign can be made, and restrictions on the size of supports, also result in allowable signs being lightweight and easier to carry.

WSP also suggested that the ban on the storage of property on the White House sidewalk impacted these groups adversely. Because the ban on storage of property is intended to prevent means of concealment of explosives and other like devices, the National Park Service could not exempt certain groups and still maintain necessary security. In addition, the regulation allows momentary placement of property on the sidewalk to accommodate demonstrators and visitors. Further, a commentator representing the Gray Panthers indicated that the group did not disagree with restrictions on the placement of parcels, bags and other bagged property on the White House sidewalk.

F. The White House Vigil for the ERA, the plaintiff in the case challenging the interim regulations published in April, agreed with the prohibition against leaning very large signs constructed of wood or rigid materials against the White House fence. They agreed that unattended parcels or bundles should be banned. They also agreed that visitors should enjoy a clear view of the White House. However, they objected to any regulations that would prevent several of their members from carrying a large cloth banner on the White House sidewalk. The final regulations implemented here would allow the group to carry their banner on the sidewalk.

G. Two individual commentators suggested that space be set aside in a park area other than the White House sidewalk for demonstrations. The Court of Appeals for the D.C. Circuit has ruled on several occasions that the White House sidewalk is an especially important site for demonstrations and that any restrictions on those demonstrations would be unlikely to be approved by the court. Therefore, the National Park Service believes that legal precedent in the District of Columbia Circuit would prevent prohibiting demonstrations altogether on the White House sidewalk.

H. Another commentator supported the proposed regulations but suggested prohibiting demonstrations in the central portion of the White House sidewalk. This change, also suggested by the ACLU at the hearing on *ERA Committee*, has been incorporated, to a more limited degree, in the final regulations by prohibiting stationary signs or placards in the central portion of the sidewalk.

IV. Regulatory Changes

To accomplish the purpose of minimizing threats to the visiting public, the President and the White House, and for other purposes discussed above, the National Park Service is amending present regulations to prohibit certain signs or placards or supports on the White House sidewalk, to prohibit the attaching or leaning of permitted signs on the fence or other structures on the sidewalk, and to prohibit the holding or placing of signs in the center portion of the sidewalk.

Specifically, the regulations prohibit signs or placards on the White House sidewalk that are not made of cardboard, posterboard, or cloth, and those having dimensions greater than 3' in width, 20' in length, and ¼" in thickness. Suggested by the ACLU at the hearing on *ERA Committee*, the limitation on the materials of which a sign or placard can be made addresses the concern of the Secret Service that rigid signs may be used to facilitate the scaling of the White House fence, as occurred in March of this year. Additionally, the lightweight materials can be more easily removed in case of emergencies. The size restriction allows signs that are approximately two-thirds the width of the White House sidewalk and, therefore, easily seen by persons passing by. The White House Vigil for the ERA, in their comments on the proposed regulations, stated that they had done considerable research on the sign lettering most easily read by passersby and detemined that four inch lettering was the most effective. Using this as a basis, the National Park Service determined that a twenty foot long sign that was three feet wide would easily accommodate even a lengthy message. The National Park Service believes, though, that signs should not span the entire width of the sidewalk as pedestrian traffic could not be maintained. The limitation on height allows security personnel, as well as White House visitors, to see above and below the signs or placards. Law enforcement opinion is that the three foot limitation represents a reasonable height to accommodate these needs. Restricting thickness of signs to one quarter of an inch prevents individuals from using hollow signs inside of which explosives or other devices can be hidden. One-quarter inch is also the standard size of stiff cardboard.

The regulations also limit the size of sign supports. Large supports could also be used to facilitate the scaling of the White House fence, as well as, in the case of hollow supports, to conceal explosives. In addition, in past demonstrations, most notably, the Iranian demonstrations, large supports were used as weapons against the police, other demonstrators, and the public. Larger wooden supports or metal or plastic supports, could easily become lethal weapons on the sidewalk.

Further, the regulations require signs or placards to be attended and stationary signs to be no closer than three feet from the White House fence while they are on the White House sidewalk. (The three foot mark is easily identified as the pavement joints from the fence on the White House sidewalk are spaced one and one-half feet and, then, three feet apart.) The term "attended" is defined in the final regulations as being in physical contact with a sign or placard. The regulations also prohibit the attachment or leaning of the signs or placards on the White House fence or other structures on the sidewalk. The requirement that signs be attended and not leaned against or

attached to the fence or other structure addresses security and aesthetic concerns.

The White Houe fence rises out of a sloping concrete ledge ranging from one to three feet high. When signs or placards are leaned against the fence or are closer than a few feet from the fence, a substantial portion of the area behind them is concealed. Explosives or other like devices could be placed in these areas. In addition, a sign leaned against or close to the fence completely blocks the view of the visitor of the White House. Attaching signs or placards to the fence or other structures also blocks the view of security personnel, as well as the park visitor.

The requirement that signs or placards be attended and not leaned against the fence would not prevent a demonstrator from placing a sign on the sidewalk, outside of the center portion and at least three feet from the fence, as long as the person is in physical contact with the sign. Therefore, a person confined to a wheel-chair could hold a sign in his lap, or an older person who felt the need to rest could sit, outside of the center portion of the sidewalk, and hold a sign or placard, or a demonstrator could use a sandwich-board sign.

The requirement that signs be attended, though, would prevent a demonstrator from having more signs than he can watch. Unattended signs can be used by persons other than a demonstrator to conceal explosives or other illegal devices. Unattended signs cannot always be moved quickly in cases of emergencies. At times, one or two individuals have had as many as twenty-four 4' x 8' signs on the White House sidewalk. Proliferations of unattended signs can completely block the view of the White House, as well as interfere with pedestrian traffic.

The regulations prohibit stationary signs in the center portion of the White House sidewalk, defined as that space ten yards on either side of the center line of the sidewalk. This prohibition was also suggested by the ACLU at the hearing on *ERA Committee* to provide an area where the White House visitor could obtain an unobstructed view of 1600 Pennsylvania Avenue. The National Park Service agrees with this accommodation. Such an area is necessary for the thousands of visitors whose only view of the White House is from the White House sidewalk. In addition, this open space would allow security personnel an unobstructed view outside the fence. The regulation specifies that this prohibition would not prevent individuals from carrying signs through this area in the course of a march or picket line. The regulation does not prohibit speech in this area, but merely places reasonable restrictions on the manner of expressing views in the center portion of the White House sidewalk.

The regulations also prohibit the storage or placement of parcels, containers, bundles or other property on the sidewalks surrounding the White House. Demonstrators have brought and stored such items as chairs, suitcases, wicker-baskets full of clothes, cooking utensils and foodstuff on the White House sidewalk. Many of these items can be used to conceal explosives or other illegal devices. A flammable liquid and illegal flares were recently found in a structure used by demonstrators in front of the White House. Additionally, certain property, such as crates or wooden boxes, could be used to facilitate the scaling of the White House fence. Also, personal property of demonstrators, when accumulated, can and has blocked the view of the White House and interfered with pedestrian traffic.

The regulations contain a proviso that permits the momentary placement in the immediate presence of the owner of personal property, such as purses, camera bags, or duffel bags, on the sidewalks surrounding the White House. The regulations also permit the carrying or holding of property on the sidewalk. It is the judgment of law enforcement officials that there is less risk of explosives being contained in a parcel being held or carried than in a parcel set down on the sidewalk. Several commentators suggested that only unattended property be prohibited on the sidewalk. However, once a parcel or package is set down on a sidewalk as busy as the White House sidewalk is, it is difficult to tell whether it is attended or not. The National Park Service has carefully considered this prohibition and has determined that security and aesthetic concerns for the general public, the President and the White House outweigh demonstrators' or visitors' desires to have a close-by and convenient spot in which to store their personal property while they are demonstrating or visiting the White House.

In drafting these regulations, the National Park Service has attempted to reach a delicate balance between security concerns and the expression of First Amendment rights. The task was exceedingly difficult, especially in attempting to arrive at the appropriate specificity. Especially in attempting to fix size limitations, there were no magic numbers. The best the National Park Service could do was to consider comments from the public and relevant government agencies and attempt to arrive at reasonable numbers. In the area of sign size limitations, for example, the research done by the White House Vigil for the ERA on sign lettering, as discussed above, was very helpful. As a result, the final regulations, while perhaps not mathematically precise, represent the most reasonable provisions that the National Park Service could draft, considering the complex and competing interests involved in this area. Also, the National Park Service considered several alternatives with respect to the restrictions on parcels. The one hour "grace" period which was proposed was severely criticized and was fraught with law enforcement difficulties. After long deliberation, the ban which has been adopted appears to be the only practicable solution.

Impact Analysis

The National Park Service has determined that this document is not a major rule requiring preparation of a Regulatory Impact Analysis under Executive Order 12291. The National Park Service has also determined that the rule will not have a significant economic impact on a substantial amount of small entities and, therefore, does not require a small entity flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96-354. The rule merely places restrictions on the use of signs or placards and the stationing of parcels and other property on sidewalks contiguous to the White House. It will have no substantial impact on any aspect of the economy.

The National Park Service has further determined that this rule is not a major Federal action significantly affecting the quality of the human environment.

List of Subjects in 36 CFR Part 50

District of Columbia, National Parks, National Capital Parks.

Date approved: June 13, 1983.

J. Craig Potter,

Acting Assistant Secretary, Fish and Wildlife and Parks.

PART 50—NATIONAL CAPITAL PARKS REGULATIONS

In consideration of the foregoing, the interim rule amendments to 36 CFR Part 50 published April 22, 1983, at 48 FR 17352 are withdrawn and §§ 50.19 and 50.7 of Title 36 of the Code of Federal Regulations are amended.

1. The authority citation for Part 50 reads as follows:

Authority: Section 6 of the Act of July 1, 1898 (30 Stat. 571); secs. 1–3 of the Act of

August 25, 1916 (39 Stat. 535, as amended); sec. 16 of the Act of March 3, 1925 (43 Stat. 1126, as amended); Act of March 17, 1948 (62 Stat. 81); Act of August 8, 1953 (67 Stat. 495); Act of July 1, 1980 (94 Stat. 872); 16 U.S.C. 1–3; D.C. Code 8–137 (1981); D.C. Code 40–721 (1981).

2. Section 50.19 is amended by redesignating paragraphs (e) (9) through (11) as (e) (11) through (13) and adding new paragraphs (e)(9) and (e)(10) to read as follows:

§ 50.19 Demonstrations and special events.

* * * * *

(e) * * *

(9) No signs or placards shall be permitted on the White House sidewalk except those made of cardboard, posterboard or cloth having dimensions no greater than three feet in width, twenty feet in length, and one-quarter inch in thickness. No supports shall be permitted for signs or placards except those made of wood having cross-sectional dimensions no greater than three-quarter of an inch by three-quarter of an inch. Stationary signs or placards shall be no closer than three feet from the White House sidewalk fence. All signs and placards shall be attended at all times that they remain on the White House sidewalk. Signs or placards shall be considered to be attended only when they are in physical contact with a person. No signs or placards shall be tied, fastened, or otherwise attached to or leaned against the White House fence, lamp posts or other structures on the White House sidewalk. No signs or placards shall be held, placed or set down on the center portion of the White House sidewalk, comprising ten yards on either side of the center point on the sidewalk; Provided, however, that individuals may demonstrate while carrying signs on that portion of the sidewalk if they continue to move along the sidewalk.

(10) No parcel, container, package, bundle or other property shall be placed or stored on the White House sidewalk or on the west sidewalk of East Executive Avenue, N.W., between Pennsylvania Avenue, N.W., and E Street, N.W., or on the north sidewalk of E Street, N.W., between East and West Executive Avenues, N.W.; Provided, however, that such property, except structures may be momentarily placed or set down in the immediate presence of the owner on those sidewalks.

3. Section 50.7(h) is amended by redesignating the existing paragraph as paragraph (1) and by adding a paragraph (2) to read as follows:

§ 50.7 Federal property, miscellaneous provisions

* * * * *

(h) Storage. * * *

* * * * *

(2) No parcel, container, package, bundle or other property shall be placed or stored on the White House sidewalk, as that term is defined in § 50.19(a)(5) of this Part, or on the west sidewalk of East Executive Avenue, N.W. between Pennsylvania Avenue, N.W. and E Street, N.W., or on the north sidewalk of E Street, N.W., between East and West Executive Avenues, N.W.; Provided, however, that such property, except structures, may be momentarily placed or set down in the immediate presence of the owner on those sidewalks.

* * * * *

[FR Doc. 83-16453 Filed 6-16-83; 8:45 am]
BILLING CODE 4310-70-M

federal register

Friday
June 17, 1983

Part VIII

Department of Agriculture

Animal and Plant Health Inspection Service

Quarantined Areas

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 83-074]

Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Suspension of effective date of interim rule; notice and comments.

SUMMARY: This document suspends the effective date of an interim rule which was to amend the brucellosis regulations by quarantining the State of Texas. The effect of quarantining Texas would be to impose restrictions on the interstate movement of cattle from Texas. Further, a comment period is provided concerning the establishment of such a quarantine. It appears that such a quarantine is necessary to prevent the interstate dissemination of brucellosis and to protect the livestock of other states from this disease.

DATE: Written comments must be received on or before July 25, 1983.

ADDRESS: Written comments concerning this proposal should be submitted to T. O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Billy G. Johnson, VS, APHIS, USDA, Room 814, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8144.

SUPPLEMENTARY INFORMATION:

Background

An interim rule to amend the brucellosis regulations (contained in 9 CFR Part 78 and referred to below as the regulations) was published in the **Federal Register** on May 26, 1983 (48 FR 23624-23625), and provided that the entire State of Texas was to be quarantined because of brucellosis effective June 1, 1983. This quarantine was promulgated on an emergency basis. On May 31, 1983, the Federal District Court for the Western District of Texas, Austin Division, issued an order preventing the interim rule from becoming effective on June 1, 1983. At a hearing on May 31, 1983, the Court held that there was insufficient grounds for establishing the quarantine on an emergency basis, ruling that notice and the opportunity for public comment prior to establishing the quarantine is necessary.

Under these circumstances, this document suspends the effective date of the interim rule and gives notice that Veterinary Services is considering the establishment of a quarantine of Texas because of brucellosis. The document of May 26 provided for a 60 day comment period concerning this issue. The comment period will expire on July 25. Veterinary Services will consider all comments submitted during this 60 day comment period before deciding whether such a quarantine should become effective.

The regulations in 9 CFR Part 78 are designed to regulate the interstate movement of certain animals in order to prevent the dissemination of brucellosis, a contagious disease of cattle, other bovine, and swine. Among other things, these regulations impose restrictions on the interstate movement of cattle from quarantined areas. Section 78.22 provides for the listing of those areas within the United States which are quarantined because of brucellosis.

The regulations in Part 78 form the basis of the national program to eradicate brucellosis. This program is administered by means of individual cooperative agreements between the Animal and Plant Health Inspection Service of the U. S. Department of Agriculture (APHIS) and the individual States.

Brucellosis occurs in Texas, and Texas cooperates with APHIS in this program. Texas has promulgated certain rules and regulations designed, among other things, to prevent the interstate spread of brucellosis from Texas. However, there is a high incidence of brucellosis in Texas and the measures in effect in that State against brucellosis with respect to cattle are not deemed adequate to prevent the interstate spread of the disease. This is because Texas Animal Health Commission brucellosis regulations concerning cattle are not being enforced against all people in the State, since State Courts in Texas have held that these regulations are unenforceable (*R. J. Nunley* v. *Texas Animal Health Commission*, Cause No. 12506, Dist. Ct., Uvalde County, TX, 1979; and *Pan American Livestock Exposition, et al.* v. *Texas Animal Health Commission* and *R. J. Nunley*, Cause No. 314,470, Dist. Ct., Travis County, TX, 1982). Accordingly, it appears that a Federal quarantine of Texas is necessary in order to prevent the interstate spread of brucellosis.

Executive Order and Regulatory Flexibility Act

It is necessary to complete this rulemaking proceeding as quickly as possible in order to take action to prevent the interstate spread of brucellosis. This action makes it impracticable for the Agency to follow the procedure of Executive Order 12291 with respect to this action.

Also, the nature of this action also makes compliance with section 603 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required by section 604 of Pub. L. 96-354, the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

§ 78.22 [Amended]

Accordingly, 9 CFR 78.22 would be amended by replacing the word "none" which appears after the introductory paragraph, with the phrase "The entire State of Texas".

(Secs. 4-6, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-3, 33 Stat. 1264-1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, (21 U.S.C. 111-113, 114a-1, 115, 120, 121, 123-125, 134b, 134f); 7 CFR 2.17, 2.51, and 3.71.2(d))

Done in Washington, D.C., this 16th day of June, 1983.

Saul T. Wilson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-16533 Filed 6-16-83; 12:39 pm]

BILLING CODE 3410-01-M

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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.

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
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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.

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Last Listing June 16, 1983

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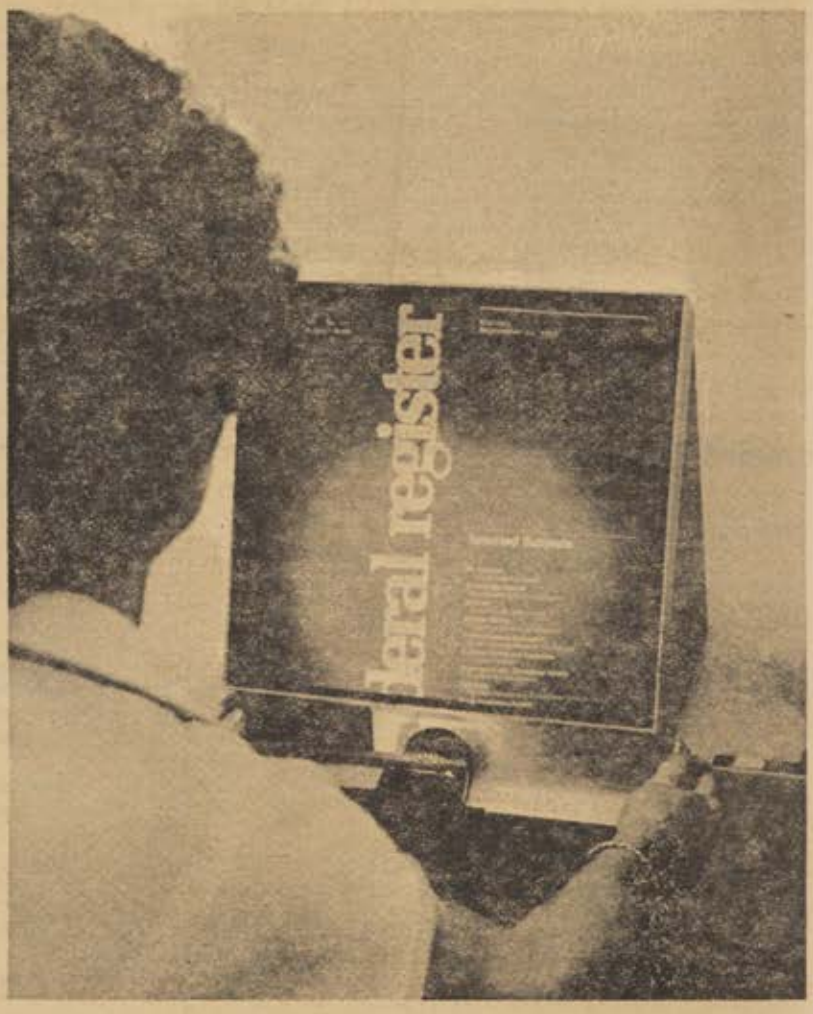
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