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Tuesday
June 28, 1983

Selected Subjects

Administrative Practice and Procedure
General Accounting Office

Air Carriers
Civil Aeronautics Board

Air Pollution Control
Environmental Protection Agency

Color Additives
Food and Drug Administration

Consumer Protection
Consumer Product Safety Commission

Customs Duties and Inspection
Customs Service

Fisheries
National Oceanic and Atmospheric Administration

Food Stamps
Food and Nutrition Service

Freedom of Information
Army Department

Fuel Additives
Environmental Protection Agency

Government Employees
Personnel Management Office

Loan Programs—Education
Veterans Administration

Medical Devices
Nuclear Regulatory Commission

CONTINUED INSIDE

Selected Subjects

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Milk Marketing Orders
Agricultural Marketing Service

Over-the-Counter Drugs
Food and Drug Administration

Railroads
Interstate Commerce Commission

Sugar
Foreign Agricultural Service

Surface Mining
Surface Mining Reclamation and Enforcement Office

Tobacco
Agricultural Marketing Service

Trade Practices
Federal Trade Commission

Vocational Education
Veterans Administration

Contents

Federal Register
Vol. 48, No. 125
Tuesday, June 28, 1983

Agricultural Marketing Service
RULES
Milk marketing areas:
29672 Southeastern Florida
29672 Oranges, grapefruit, tangerines, and tangelos grown in Fla.; correction
29672 Oranges and grapefruit grown in Tex.; correction
Tobacco inspection:
29670 Flue-cured, U.S. Types 11–14; official grade standards
PROPOSED RULES
Milk marketing orders:
29704 Great Basin

Agriculture Department
See Agricultural Marketing Service; Food and Nutrition Service; Foreign Agricultural Service.

Air Force Department
RULES
Recreation:
29687 Air Force Aero Club; CFR Part removed; correction
29688 Weather modification; correction

Army Department
RULES
29688 Freedom of Information Act; amendments
NOTICES
29725 Agency forms submitted to OMB for review (3 documents)

Civil Aeronautics Board
RULES
29678 Oversales; tariff filing requirements for foreign air transportation, etc.
PROPOSED RULES
Air carriers:
29707 Contracts of carriage with passengers; disclosure requirements; exemption for foreign ticket-sales locations, etc.
NOTICES
Foreign air carrier permits:
29721 Air Manila, Inc., et al.
Hearings, etc.:
29723 Panorama Air Tour
29723 Simmons Airlines, Inc.
29784 Meetings; Sunshine Act (2 documents)

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
RULES
29682 Citizens band base station antennas, omnidirectional; safety standard
NOTICES
29784 Meetings; Sunshine Act; (2 documents)

Customs Service
RULES
Articles conditionally free, subject to a reduced rate, etc.:
29683 Direct importation; treatment under Generalized System of Preference; articles originating in beneficiary originating country, etc.

Defense Department
See also Air Force Department; Army Department.
NOTICES
Meetings:
29726 Wage Committee

Drug Enforcement Administration
PROPOSED RULES
Prescriptions:
29713 Dispensing controlled substances in institutional practitioner emergency rooms; withdrawn

Economic Regulatory Administration
NOTICES
Electric energy transmission; exports to Canada or Mexico; authorizations, permits, etc.:
29727 Vermont Electric Power Co.
Natural gas; fuel oil displacement certification applications:
29726 Dauphin Manor et al.
29727 Milliken & Co. et al.
Remedial orders:
29728 Merit Petroleum, Inc.

Employment and Training Administration
NOTICES
Adjustment assistance:
29754 Allen Court Contractors, Ltd., et al.
29755 U.S. Steel Corp. et al.

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
Meetings:
29726 National Petroleum Council

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources; authority delegations:
29691 Iowa
Air programs; approval and promulgation: various States, etc.:
29690 Rhode Island
Air programs; fuel and fuel additives:
29692 Motorcycles 1984 model year; unleaded gasoline requirement excluded
Air quality implementation plans; approval and promulgation; various States:
29689 Connecticut

PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
29716 Virginia
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
29718 Tebuthiuron; correction
NOTICES
Air pollution; ambient air monitoring reference and equivalent methods applications, etc.:
29742 Lead concentration in ambient particulate matter by energy-dispersive X-ray fluorescence spectrometry
Toxic and hazardous substances control:
29743 Premanufacture notices receipts; correction

Equal Employment Opportunity Commission
RULES
29685 Employment discrimination complaints filed against Federal financial assistance recipients, procedures; limitations on Education Department's participation

Federal Aviation Administration
NOTICES
Committees; establishment, renewals, terminations, etc.:
29771 Regulatory Negotiation Advisory Committee

Federal Communications Commission
NOTICES
Meetings:
29743 National Industry Advisory Committee
29784–29786 Meetings; Sunshine Act (3 documents)

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
29730 Commonwealth Edison Co.
29731 Consumers Power Co.
29731 Detroit Edison Co.
29731, 29732 El Paso Natural Gas Co. (2 documents)
29733, 29734 Florida Power & Light Co. (2 documents)
29734 Montana-Dakota Utilities Co.
29734 Mountain Fuel Resources, Inc.
29735 Mountain Fuel Resources, Inc., et al.
29735 Northern States Power Co. (Minnesota)
29735 Panhandle Eastern Pipe Line Co.
29728 Pennzoil Co.
29736 Public Service Co. of Oklahoma
29738 Southwestern Power Administration
29737 Tampa Electric Co.
29738 Transwestern Pipeline Co.
29740 Washington Water Power Co.
Natural gas companies:
29729 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend (Arco Oil & Gas Co. et al.)

Federal Highway Administration
RULES
Motor carrier safety regulations:
29698 Minimum levels of financial responsibility; motor carriers of property, extension of reduced levels

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
29685 Coinsurance for private mortgage lenders; technical amendment
29685 Coinsurance for purchase or refinancing of existing multifamily housing projects; effective date

Federal Maritime Commission
NOTICES
29743 Agreements filed, etc.

Federal Reserve System
NOTICES
29744 Agency forms submitted to OMB for review
Applications, etc.:
29745 East Coast Bank Corp. et al.
Bank holding companies; proposed de novo nonbank activities:
29745 First City Corp.
Federal Open Market Committee:
29745 Domestic open market operations, authorization
29746 Domestic policy directives

Federal Trade Commission
RULES
Prohibited trade practices:
29681 Chicago Metropolitan Pontiac Dealers' Association, Inc.
29681 Competitive Edge, Inc.
29681 Herman Miller, Inc.
PROPOSED RULES
Prohibited trade practices:
29713 Christian Services International, Inc., et al., correction
29709 Ford Motor Co.

Food and Drug Administration
RULES
Color additives:
29684 D&C Red No. 19 and 37; provisional listing; closing date postponed
PROPOSED RULES
GRAS or prior-sanctioned ingredient:
29831 Vitamin D_2 and D_3; extension of time
Human drugs:
29788 Ophthalmic products (OTC); tentative final monograph
NOTICES
Meetings:
29746 Advisory committees, panels, etc.; correction

Food and Nutrition Service
RULES
Food stamp program:
29673 Work registration/job search demonstration project
NOTICES
Food stamp program:
29719 Research, demonstration and evaluation projects; inquiry

Foreign Agricultural Service
RULES
29824 Sugar to be re-exported in refined form

General Accounting Office
RULES
Personnel Appeals Board procedures:
29665 Ex parte communications, filing of pleadings on petitions, and compliance with orders

Health and Human Services Department
See Food and Drug Administration; Health Resources and Services Admistration National Institutes of Health.

Health Resources and Services Administration
NOTICES
Meetings; advisory committees:
29747 August
Organization, functions, and authority delegations:
29746 Regional Health Administrators

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
29740 Decisions and orders
Remedial orders:
29740 Objections filed

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing.
NOTICES
29747 Agency forms submitted to OMB for review

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

Internal Revenue Service
NOTICES
Authority delegations:
29772 Deputy Commissioner et al.
Employee benefit plans; prohibited transaction exemptions:
29779 Beneficial Corp. et al.

International Trade Administration
NOTICES
Countervailing duties:
29723 Footwear from India

International Trade Commission
NOTICES
Import investigations:
29750 Braiding machines; correction
29750 Multicellular plastic film; correction

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
29700 Chicago, Rock Island & Pacific Railroad Co.; track use by various railroads
NOTICES
Motor carriers:
29751 Agricultural cooperative transportation; filing notices
29751 Finance applications
29752 Permanent authority application
Railroad operation, acquisition, construction, etc.:
29753 Chattachoochee Valley Railway Co.

Justice Department
See also Drug Enforcement Administration; National Institute of Justice.
RULES
29685 Employment discrimination complaints filed against Federal financial assistance recipients, procedures; limitations on Education Department's participation
NOTICES
Pollution control; consent judgments:
29754 Wheeling-Pittsburgh Steel Corp.

Labor Department
See also Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
29756 Agency forms submitted to OMB for review

Land Management Bureau
RULES
Public land orders:
29693–29695, 29696 California (5 documents)
29697 Utah
29696 Washington
29694, 29697 Wyoming (2 documents)

Legal Services Corporation
PROPOSED RULES
29718 Recipient governing bodies; guidelines

National Council on the Handicapped
NOTICES
29786 Meetings; Sunshine Act

National Institute of Justice
NOTICES
Grants, competitive solicitation:
29754 Correctional systems, involvement of private enterprise in operating businesses and manufacturing concerns, etc.

National Institutes of Health
NOTICES
Meetings:
29747 Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee
29747 Clinical Applications and Prevention Advisory Committee

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
29703 Atlantic mackerel, squid and butterfish; foreign fishing

National Park Service
NOTICES
Concession contract negotiations:
29750 TWA Services, Inc.
Historic Places National Register; pending nominations:
29748 Georgia et al.

Meetings:
29750 Santa Monica Mountains National Recreation Area Advisory Commission

Nuclear Regulatory Commission
RULES
Byproduct materials, human uses:
29677 Medical uses group licensing; instantaneous imaging device
NOTICES
Applications, etc.:
29758 Dairyland Power Cooperative
29759 Florida Power & Light Co.
29760 GA Technologies, Inc.
29761 GPU Nuclear Corp. et al.
29762 I. Gonzalez-Martinez Oncologic Hospital
29764 Vermont Yankee Nuclear Power Corp.
Environmental statements; availability, etc.:
29764 Rochester Gas & Electric Corp.
29758 Export and import license applications for nuclear facilities or materials (Mitsui & Co. et al.)
Meetings:
29757 Reactor Safeguards Advisory Committee
29758 Reactor Safeguards Advisory Committee; cancellation
29763 Regulatory guides; issuance, availability, and withdrawal

Occupational Safety and Health Administration
RULES
Health and safety standards:
29687 Occupational noise exposure; hearing conservation amendment; correction

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
29779 Beneficial Corp. et al.

Personnel Management Office
RULES
Career and career-conditional employment, etc.:
29667 Panama Canal Commission employees in U.S. offices; noncompetitive appointment eligibility
Training programs:
29668 Employee agreements to continue in service after assignment in non-Government facility
NOTICES
Excepted service:
29765 Schedules A, B, and C; positions placed or revoked, update

Postal Rate Commission
NOTICES
29786 Meetings; Sunshine Act

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
29767 American Stock Exchange, Inc.
29768 New York Stock Exchange, Inc.

Surface Mining Reclamation and Enforcement Office
RULES
Permanent and interim regulatory programs:
29802 Surface coal mining operations on or near alluvial valley floors; permit requirements and performance standards

Tennessee Valley Authority
NOTICES
29771 Agency forms submitted to OMB for review

Transportation Department
See Federal Aviation Administration; Federal Highway Administration.

Treasury Department
See also Customs Service; Internal Revenue Service.
NOTICES
Notes, Treasury:
29772 J-1987 series

United States Information Agency
NOTICES
Art objects, importation for exhibitions:
29782 Giovanni Battista Piazetta: A Tercentary Exhibition
29783 Art of Aztec Mexico; Treasures of Tenochtitlan Exhibition

Veterans Administration
PROPOSED RULES
Vocational rehabilitation and education:
29716 Dependents' educational assistance; eligible child's period of eligibility
29714 Veterans education; monthly certifications of attendance for courses not leading to a standard college degree

---

Separate Parts in This Issue

Part II
29788 Department of Health and Human Services, Food and Drug Administration

Part III
29802 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Part IV
29824 Department of Agriculture, Foreign Agricultural Service

Part V
29831 Department of Health and Human Services, Food and Drug Administration

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Executive Orders

October 18, 1912 (Revoked in part by PLO 6394)..... 29693
August 13, 1914 (Revoked in part by PLO 6394)..... 29693
September 27, 1917 (Revoked in part by PLO 6394)..... 29693
May 14, 1915 (Revoked in part by PLO 6397)..... 29694

4 CFR

28..... 29665

5 CFR

315..... 29667
316..... 29667
410..... 29668

7 CFR

6..... 29824
29..... 29670
282..... 29673
905..... 29672
906..... 29672
1013..... 29672

Proposed Rules:

1136..... 29704

10 CFR

35..... 29677

14 CFR

250..... 29678

Proposed Rules:

253..... 29707

16 CFR

13 (3 documents)..... 29681
1204..... 29682

Proposed Rules:

13 (2 documents)..... 29709, 29713

19 CFR

10..... 29683

21 CFR

81..... 29684

Proposed Rules:

182..... 29831
184..... 29831
349..... 29788
1306..... 29713

24 CFR

255 (2 documents)..... 29686

28 CFR

42..... 29686

29 CFR

1691..... 29686
1910..... 29687

30 CFR

701..... 29802
785..... 29802
822..... 29802

32 CFR

518..... 29688
984..... 29687
988..... 29688

38 CFR

Proposed Rules:

21 (2 documents)..... 29714, 29716

40 CFR

52 (2 documents)..... 29689, 29690
60..... 29691
80..... 29692

Proposed Rules:

52..... 29716
180..... 29718

43 CFR

Public land orders:

2301 (Revoked in part by PLO 6398)..... 29696
2573 (Revoked by PLO 6396)..... 29695
4783 (Revoked by PLO 6399)..... 29696
6393..... 29693
6394..... 29693
6395..... 29694
6396..... 29695
6397..... 29694
6398..... 29696
6399..... 29696
6400..... 29697
6401..... 29697

45 CFR

Proposed Rules:

1607..... 29718

49 CFR

387..... 29698
1033..... 29700

50 CFR

611..... 29703
655..... 29703
656..... 29703
657..... 29703

Rules and Regulations

Federal Register
Vol. 48, No. 125
Tuesday, June 28, 1983

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

GENERAL ACCOUNTING OFFICE

4 CFR Part 28

General Accounting office Personnel Appeals Board; Procedures

AGENCY: General Accounting Office, Personnel Appeals Board.

ACTION: Final rule.

SUMMARY: This rule amends the Board's regulations: (1) To clarify procedures concerned with the filling of pleadings with the Board, (2) to clarify procedures concerned with assuring compliance with the Board's decisions and orders, (3) to clarify procedures concerned with the filing of representation petitions with the Board, and (4) to add a new Subpart I to part 28 of title 4 CFR, to establish policy and procedures governing ex parte communications with Board members and their staff.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Dennis D. Clark, Attorney-Advisor, Personnel Appeals Board, (202) 275–6137.

SUPPLEMENTARY INFORMATION: On December 7, 1982, the GAO Personnel Appeals Board published in the **Federal Register** (47 FR 54972) proposed amendments to its regulations: (1) To clarify existing procedures concerned with the filing of petitions with the Board, (2) to clarify existing procedures concerned with assuring compliance with the Board's orders, and (3) to add new regulations governing ex parte communications with Board members and their staff.

Section 28.19(b) has been amended to establish a 20-day time period, unless a shorter time is ordered, for a party to respond to motions.

In comments to the proposed amendments, one commentator suggested that the Board set forth more explicit rules concerning discovery procedures. This suggestion has been followed by adoption of a new paragraph (c) to § 28.19.

The first paragraph (f) of existing § 28.25 has been amended, and new paragraphs (g), (h), (i), and (j) have been added to that section, to provide more specific procedures to insure compliance with Board decisions and orders. Questions have arisen as to how an order of the Board would be enforced in the event of a failure to fully comply with the order.

Therefore, the amendment provides procedures for the Board, upon motion or on its own initiative, to require a showing of cause why there has not been compliance with the order. These procedures are similar to those in use by the Merit Systems Protection Board. One commentator expressed the view that the Board lacks authority to require a person to show cause why there was noncompliance. The Board disagrees and such procedures have been adopted.

The second paragraph (f) of existing § 28.25, affording an automatic delay in filing a compliance report pending judicial review, has been deleted. The propriety of a stay should be determined on an individual case basis.

Paragraph (a) of § 28.27 has been amended to set forth the statutory time limit for filing and appeal of a final Board decision to the United States Court of Appeals.

Amendments have been made to paragraph (b) of § 28.65 with respect to periods when representation petitions may be filed by employees, labor organizations, or the GAO. The changes make the regulation more comparable, although not identical, to similar regulations effective in the Executive Branch and the private sector. The fact that some of the "election bar" and "contract bar" provisions used in other sectors have not been adopted by rule by the Board should not necessarily be construed as a rejection of them by the Board. Rather, at this time, prior to any representation petitions or elections under Subchapters III and IV of Chapter 7 of Title 31, U.S.C., and with no history of exclusive bargaining representation or collective bargaining at GAO, the Board believes that adoption of any other "election bar" or "contract bar" rules is better left to consideration and adjudication in individual cases as the circumstances arise.

Finally, the Board has adopted a new Subpart I on ex parte communications. The proposed regulations have been changed, in response to comments, to make clear that the Board's General Counsel is a "party" when involved in a proceeding before the Board, and is not part of the "decision-making personnel" of the Board, and to delete reference to matters potentially before the Board.

List of Subjects in 4 CFR Part 28

Administrative practice and procedure, Equal employment opportunity Government employees, Labor management relations.

PART 28—[AMENDED]

Accordingly, 4 CFR Part 28 is amended as follows:

1. The authority citation for Part 28 reads as follows:

Authority: 31 U.S.C. 753.

2. The table of contents to Part 28 is amended by adding a new Subpart I immediately beneath "28.113 Performance based actions." the following:

* * * * *

Subpart I—Ex Parte Communications

28.117 Policy.
28.119 Explanation and definitions.
28.121 Prohibited communications.
28.123 Reporting of communications.
28.125 Sanctions.

§ 28.3 [Amended]

3. Paragraph (a) of § 28.3 is amended by removing the citation "Section 4 of the Act" and inserting in its place, the citation "31 U.S.C. 751".

4. Paragraph (c) of § 28.19 is redesignated paragraph (d). Paragraph (b) is revised and a new paragraph (c) is added to read follows:

§ 28.19 Board procedures—prehearing.

* * * * *

(b) All motions of the parties shall be filed with the Hearing Officer assigned by the Board after receipt of the petition, and copies shall be served simultaneously upon the other parties to the petition. Responses in opposition to such motions must be filed with the Hearing Officer and served simultaneously upon the other parties to the petition within 20 days of receipt of the motion, unless the Hearing Officer requires a shorter response time. A certificate of service will be filed with

all pleadings showing service by mail or personal delivery of the pleadings to the other parties. Additional responsive pleadings may be filed only with the approval of the Hearing Officer.

(c) Requests for discovery may be served upon a party following the filing of a Petition for Review. Objections to any or all portions of a request must be served within 10 days of receipt of the request. Otherwise, compliance with the request shall be made within 20 days of receipt. If the parties are unable to agree as to the scope of discovery, the Hearing Officer shall, upon the filing of a motion to compel, rule on such questions, having in mind the need to provide a full and fair consideration of the relevant and material facts of the case. Appropriate safeguards for the confidentiality of information discovered may be imposed by the Hearing Officer.

* * * * *

5. Section 28.21 is amended by revising paragraph (m), as follows:

§ 28.21 Board procedures—formal hearings.

* * * * *

(m) Within 20 days after receipt of a notice of final decision by the Board, the petitioner may submit a request for the award of reasonable attorney's fees and costs. GAO may file a response to the request within 20 days after its receipt. Motions of the parties shall be filed in accordance with § 28.19(b) of these regulations. Rulings of the Board on attorney's fees and costs shall be consistent with the standards set forth at 5 U.S.C. 7701(g). The Board's decision on attorney's fees and costs shall be a final decision, in accordance with § 28.27.

6. The first sentence of paragraph (c) of § 28.25 is amended, as follows:

§ 28.25 Board procedures—decisions and orders.

* * * * *

(c) A motion to reopen and reconsider a decision may be filed with the Board in person or by certified mail. * * *

* * * * *

7. Section 28.25 is further amended by revising the first paragraph (f), removing the second paragraph (f), and adding new paragraphs (g), (h), (i), and (j) as follows:

§ 28.25 Board procedures—decisions and orders.

* * * * *

(f) A person required to take any action under the terms of a Board decision or order shall carry out its terms promptly, and shall, within 30 days after the decision or order becomes final, provide the Board with compliance report specifying:

(1) The manner in which the provisions of the decision or order have been compiled with;

(2) The reasons any provisions have not yet been fully complied with; and

(3) The steps being taken to ensure full compliance.

A copy of the report shall be served on all parties to the proceeding.

(g) The Administrative Officer of the Board shall take all necessary action to ascertain whether the final decision of the Board is being complied with. If the Administrative Officer finds non-compliance, he/she shall undertake efforts to obtain compliance. If the Administrative Officer is unable to obtain satisfactory agency compliance with the final order, he/she shall report to the Board.

(h) Any person may petition the Board for enforcement of a final decision. The petition shall specifically set forth the reasons why the petitioner believes there is non-compliance.

(i) Upon receipt of a non-compliance report from its Administrative Officer or of a petition for enforcement of a final decision, the Board may issue a notice to any person to show cause why there was non-compliance.

(j) Following a show cause proceeding, the Board may seek judicial enforcement of its decision or order.

8. Section 28.27 is amended by revising paragraphs (a) and (b), as follows:

§ 28.27 Board procedures—judicial review.

(a) *Appeals other than discrimination complaints.* A final decision by the Board under subsections 4(b) (1), (2), (3), (6), and (7) of the Act may be appealed to the United States Court of Appeals for the Circuit in which the petitioner resides or to the United States Court of Appeals for the District of Columbia within 30 days after the date the petitioner receives notice from the Board of the final decision.

(b) *Judicial review of discrimination complaints.* The provisions for review of discrimination complaints are provided in § 28.51.

* * * * *

§ 28.51 [Amended]

9. Section 38.51 is amended in paragraphs (a) and (b) to add the words "or applicant" after the word "employee" in each paragraph.

10. Section 28.65 is amended by revising paragraph (b), as follows:

§ 28.65 Who may file petitions.

* * * * *

(b) Notwithstanding the provisions of paragraph (a) of this section, no petition may be filed which seeks representation rights for employees in a unit—

(1) Where an election has been held within the previous 12 calendar months and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative or

(2) Where an existing collective bargaining agreement is in effect, unless the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration of the collective bargaining agreement or

(3) Where an excellent collective bargaining agreement is in effect for more than three years, then the petition for recognition shall be filed not more than 105 days and not less than 60 days before the third anniversary and each subsequent anniversary of the collective bargaining agreement.

11. A new Subpart I is added to Part 28 to read as follows:

Subpart I—Ex Parte Communications

§ 28.117 Policy.

It is the policy of the Board to strictly regulate ex parte communications between members of the Board and their decision-making personnel and any interested party to a proceeding before the Board.

§ 28.119 Explanation and definitions.

(a) Ex parte communications are oral or written communications between decision-making personnel of the Board and an interested party to a proceeding without providing the other parties to the proceeding a chance to participate. Not all ex parte communications are prohibited, however, only those which involve the merits of the case or those which violate other rules requiring submissions to be in writing. Accordingly, interested parties may make inquiries about such matters as the status of a case, when it will be heard, and the method for transmitting evidence to the Board. Such communications should be directed to the Administrative Officer to the Board. Parties may not inquire about such matters as what defense they should use, whether their evidence is adequate, make a submission orally which is required to be in writing, or otherwise

inquire as to the merits of a pending case.

(b) In this Subpart—

(1) "Interested party" includes:

(i) Any party, including the General Counsel of the Board, or representative of a party involved in a proceeding before the Board;

(ii) any person desiring to intervene in any proceeding before the Board; or

(iii) Any other person who might be affected by the outcome of a proceeding before the Board.

(2) "Decision-making personnel" means the Board, a panel of Board members, a Board member, a Hearing Officer and/or an employee of the Board, other than the General Counsel of the Board, who reasonably can be expected to participate in the decision-making process of the Board.

§ 28.121 Prohibited communications.

Ex parte communications concerning the merits of any matter before the Board for adjudication or which would otherwise violate rules requiring written submissions are prohibited from the time the interested party involved has knowledge that the matter may be considered by the Board until the Board has rendered a final decision on the case.

§ 28.123 Reporting of communications.

Any communication made in violation of this section shall be made a part of the record in the proceeding and an opportunity for rebuttal allowed. If the communication was oral, a memorandum stating the substance of the discussion shall be placed in the record.

§ 28.125 Sanctions.

The following sanctions shall be available for violations of this Subpart:

(a) The Board, a panel of Board members, a Board member or a Hearing Officer, as necessary, may, in the interest of justice, require the offending party to show cause why his/her claim, interest, motion or petition should not be dismissed, denied or otherwise adversely affected.

(b) The Board, a panel of Board members, a Board member or a Hearing Officer, as necessary, may invoke such sanctions against any offending party as may be appropriate under the circumstances.

Edward C. Gallas,

Chairman.

[FR Doc. 83-17320 Filed 6-27-83; 8:45 am]

BILLING CODE 1610-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 315 and 316

Career and Career-Conditional Employment; Temporary and Term Employment

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: These regulations establish an authority under which persons having at least 1 year of service under permanent appointments in positions located in United States offices of the Panama Canal Commission may be given noncompetitive career-conditional, career, temporary, or term appointments in the competitive service. The regulations are needed to afford new appointees in these positions, which have been removed from the competitive service by law (22 U.S.C. 3651), benefits comparable to those already earned by current employees appointed when the positions were still in the competitive service.

EFFECTIVE DATE: July 28, 1983.

FOR FURTHER INFORMATION CONTACT: William Bohling, Noncompetitive Staffing Branch, Staffing Group, (202) 632-6000.

SUPPLEMENTARY INFORMATION: The Panama Canal Act of 1979, now codified in title 22, United States Code, provided for establishment of the Panama Canal Employment System (PCES). Under 22 U.S.C. 3651, the PCES covers all positions in the Panama Canal Commission, including those located in the United States which were formerly filled in the competitive service. However, the intent of the law is to minimize reduction of benefits for employees affected by implementation of the PCES. In line with this intent, 22 U.S.C. 3652(d)(2) authorizes the President to extend to any employee the rights and privileges which are provided by applicable laws and regulations for citizens of the Unites States employed in the competitive service. Under this authority, OPM proposed regulations to grant persons appointed to permanent positions in U.S. offices of the Panama Canal Commission noncompetitive appointment eligibility similar to that earned by employees in those same offices who were appointed when the positions were in the competitive service. The proposed regulations were published in the **Federal Register** on January 25, 1983 (48 FR 3374–3375), for a 60-day comment period. Only one comment was received, from a Federal agency supporting the proposal.

Therefore, except for a minor editorial change, the final regulations are the same as those proposed on January 25, 1983. Under these regulations, basic eligibility for noncompetitive appointment will be established after 1 year of satisfactory service under a permanent appointment in offices of the Panama Canal Commission in the United States. Eligible employees who are entitled to veterans preference or who have 3 years of substantially continuous service under a qualifying appointment may be noncompetitively appointed at any time. Other eligible employees may be noncompetitively appointed within 3 years after separation from the qualifying appointment.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only the procedures used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Parts 315 and 316

Government employees.

Offices of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the U.S. Office of Personnel Management is adding 5 CFR 315.609 and revising 5 CFR 316.302(c)(3) and 316.402(b)(2), to read as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

§315.609 Appointment based on service in United States positions of the Panama Canal Commission.

(a) *Agency authority.* An agency may appoint noncompetitively, for other than temporary or term employment, a United States citizen who has served under nontemporary appointment in a continuing career position of the Panama Canal Commission located in the United States.

(b) *Service requirement.* An agency may appoint such an individual under this section only when, immediately prior to separation from a qualifying appointment with the Panama Canal Commission in the United States, the individual served continously for at least 1 year under such qualifying appointment or under a combination of such appointment and nontemporary

appointment in the Canal Zone Merit System or the Panama Canal Employment System.

(c) *Time limits.* (1) There is no time limit on the appointment under this section of an employees who:

(i) Is a preference eligible; or

(ii) Has completed at least 3 years of service, which did not include any break in service longer than 30 days, under one or more nontemporary appointments in Panama Canal Commission positions located in the United States or in positions under the Canal Zone Merit System and/or the Panama Canal Employment System.

(2) An agency may appoint under this section an employee who does not meet the conditions in (c)(1) of this section only if no more than 3 years have elapsed since the individual's separation from a qualifying appointment.

(d) *Tenure on appointment.* (1) On appointment under paragraph (a) of this section, an individual whose qualifying service does not include any break in service of more than 30 days and totals at least 3 years becomes a career employee.

(2) All other individuals appointed under this section become career-conditional employees.

(e) *Acquisition of competitive status.* A person appointed under paragraph (a) of this section automatically acquires a competitive status:

(1) On appointment, if he or she has satisfactorily completed a 1-year trial period, which did not include more than 22 workdays in nonpay status, during qualifying employment with the Panama Canal Commission.

(2) On satisfactory completion of probation in accordance with § 315.801(a)(3) if he or she had not completed such a 1-year trial period.

PART 316—TEMPORARY AND TERM EMPLOYMENT

§316.302 Selection of term employees.

* * * * *

(c) An agency may give a term appointment without regard to the existence of an appropriate register to:

* * * * *

(3) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606, 315.608, or 315.609, of this chapter;

* * * * *

§ 316.402 Authorities for temporary appointments.

* * * * *

(b) *Noncompetitive temporary limited appointments.* An agency may give a temporary limited appointment without regard to the existence of an appropriate register to:

* * * * *

(2) A person eligible for career or career-conditional appointment under §§ 315.601, 315.605, 315.606, 315.607, 315.608, or 315.609, of this chapter.

* * * * *

(22 U.S.C. 3651, 3652)

[FR Doc. 83-17152 Filed 6-27-83; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 410

Agreement To Continue in Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The regulations implementing the Goverment Employees Training Act are changed to improve the administration of employee agreements to continue in service after being assigned to training in a non-Government facility. The law establishes the Government's right to require an agreement from employees that they will continue in the service of the Government for a specified period before they are assigned to training in a non-Government facility. The regulations clearly state that a written agreement must be obtained before an employee is assigned to non-Government training. Service in a nonpay status is not countable toward completion of the obligation unless it is at the convenience of the agency. Agencies are required to provide due process in making certain determinations affecting employees.

EFFECTIVE DATE: July 28, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Constance Guitian, (202) 653-6171.

SUPPLEMENTARY INFORMATION: On March 12, 1982, the Office of Personnel Mannagement published proposed rules on this subject (47 FR 10855). Ten comments were received on the regulations covering three areas: (1) Time to be served by the employee; (2) procedures for transferring the obligation; and (3) waiver criteria in relation to due process.

Time

One agency and a union thought the regulation could benefit from restating the service requirements of the law. This has been done by adding a new subparagraph to to 5 CFR 410.508(a).

Another agency did not think a service requirement of three times the length of the training period is long enough for very short expensive training. The law and this final regulation (5 CFR 410.508(a)(2)) state that three-to-one is the *minimum* requirement. The agency is free to impose a higher requirement according to the situation, taking into consideration such factors as the cost of training.

Another union wanted the time the employee is obligated to work to start on the day training begins rather than the day it ends. The law expressly states (in 5 U.S.C. 4108(a)) that the obligated service begins "after the end of the training period." It cannot be changed by regulation.

Another union expressed concern that "WAE" (intermittent) employees who are not in control over time spent in nonpay status would be discriminated against by only allowing furlough time to be counted toward the completion of the agreement. We have changed the wording of the final regulation (5 CFR 410.508(a)(3)) so as to count "service in a nonpay status which is at the convenience of the agency." This covers the situation encountered by both furloughed employees and intermittent employees carried in a nonpay status at the convenience of the Government.

As the result of final Office of Personnel Management review, it has been decide to make the exceptions to the written agreement internally consistent by limiting the exception for manufacturer's training to instances not exceeding 80 hours of training.

Transfer

Two agencies expressed concern that the regulations require more frequent and difficult determinations than previously. That is not the case. Formerly, the agency had to determine that the employee would use the training in the new position before transferring the obligation. Under the new regulation (5 CFR 410.509(a)), the transfer would be automatic unless the losing agency has reason to believe the training would not be used in the employee's new position. Since, as both agencies point out, in most cases the employee will use the training, no determination would ordinarily be required.

One union expressed uncertainty as to whether one provision (5 CFR 410.509(a)(3)) meant recovery of expenses would be effected before an employee transfers to a position where the training would not be used or simply that the agency would notify the employee before the transfer of its intention to recover. The word order has been changed to make clear that the latter is the meaning of the regulation.

One agency suggested that transfers of the obligation become automatic. The law provides the agency with the right to recover the additional expenses in the case of transfer. While the regulations impose conditions on recovery, they cannot deprive the agency of a right granted in the law. That agency further noted that it might be considered discriminatory to collect from an employee who transfers to another agency and not from one who is assigned to another job within the agency and also does not use the training in the new position. Attention is invited to 5 CFR 410.303 which deals with an agency's proper utilization of trained employees.

That agency also wanted a regulation authorizing a continued service agreement for employees attending extended *Government* training. The regulations cannot exceed the authority of the law and the law (5 U.S.C. 4108) only authorizes a continued service agreement for non-Government training.

Waiver and Due Process

Two agencies and a private citizen commented that due process procedures would make it harder for the agency to recover the additional expenses because employees would automatically appeal. These provisions are necessary nonetheless because without them the head of the agency may be subject to personal liability suits.

The criteria for waiving recovery in whole or in part (in 5 CFR 410.509(b)) have been made specific rather than general ("equity and good conscience" and "public interest" where the former criteria). This change should make the processing of appeals less complicated than they would otherwise have been. Yet two agencies found the new criteria too broad. If some agencies think the criteria for waiver of recovery are still too broad, they can further define the criteria. For example, an agency may decide that an employee has completed most but not all of an agreement when more than 80 percent of the agreement has been met. Another agency may *decide* to set a dollar limit for recovery of additional expenses such as when no more than $100 is to be recovered. In terms of severe financial hardship, an agency can issue a policy statement to the effect that expenses such as children's education do not qualify in determining whether there is severe financial hardship. In view of the above, the Office of Personnel Management is not changing the language which was published in its proposed rulemaking for this subsection.

An agency which believes that a case not covered by the waiver criteria in 5 CFR 410.509(b) warrants a waiver may request that OPM grant an exception under the general authority given the President by 5 U.S.C. 4102(b), and delegated to OPM by E.O. 11348, to exempt an agency from such a constraint.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because these regulations affect only Federal employees and their employing agencies.

List of Subjects in 5 CFR Part 410

Government employees.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 410—TRAINING

Accordingly, the Office of Personnel Management amends 5 CFR Part 410 as follows:

(1) Section 410.508 is revised to read as follows:

§ 410.508 Agreements to continue in service.

(a) For the purpose of administering section 4108 of title 5, United States Code:

(1) There must be a written continued service agreement before assignment to training by, in, or through a non-Government facility unless the training meets the conditions of paragraph (b) or (c) of this section;

(2) The time the employee must agree to serve must be at least three times the length of the training period in non-Government facilities except as provided in paragraph (d) of this section;

(3) The period of time an employee is required to agree to continue in the service of the agency begins on the first workday after the end of the training covered by the agreement and does not include any service in nonpay status except for service in nonpay status which is at the agency's convenience; and

(4) "Additional expenses incurred by the Government in connection with his training" means expenses of training paid under section 4109(a)(2) of title 5, United States Code, but not salary, pay, or compensation.

(b) An employee selected for training by, in, or through a non-Government facility that involves no expense to the Government other than his or her pay is excepted from the requirement in section 4108(a) of title 5, United States Code, for entering into a written agreement.

(c) The head of the agency may except from the requirement in section 4108(a) of title 5, United States Code, for entering into a written agreement:

(1) An employee selected for training not in excess of 80 hours (short-term training) provided by a manufacturer as a part of the normal service incident to initial purchase or lease of a product under a procurement contract;

(2) An employee selected for training by, in, or through a non-Government facility that does not exceed 80 hours within a single program; and

(3) An employee selected for training which is given through a correspondence course.

(d) When an agency pays only the expenses of an employee's training that are authorized by section 4109(a)(2) of title 5, United States Code, the head of the agency may reduce to 1 month or to a period equal to the length of the training period covered by the payment, whichever is greater, the period of time the employee is required by section 4108(a) of title 5, United States Code, to agree to continue in the service of his or her agency.

(2) Section 410.509 is revised to read as follows:

§ 410.509 Failure to fulfill agreements to continue in service.

(a)(1) Each written agreement required under section 4108(a) of title 5, United States Code, shall specify that the employee must repay the additional expenses if he or she voluntarily separates from the Government. The percentage of the additional expenses to be repayed may not exceed the proportion of the agreement not completed. The agency shall provide procedures to enable the employee to obtain a reconsideration of the amount to be recovered or to appeal for a waiver of the agency's right to recover.

(2) Except as provided in paragraph (a)(3) of this section, when the employing agency receives a request for transfer to another Government agency of an employee subject to an agreement, it will notify the gaining agency that the employee is still subject to a continued service agreement and transfer the agreement to the gaining agency. The gaining agency must then assure that the agreement is fulfilled.

(3) If the employing agency finds that the employee would not use the training in the new position, it must give the employee notification before the

effective date of the transfer of its intention to recover the additional expenses. The agency must provide an opportunity for the employee to respond to the agency findings that he or she would not use the training in the new position before it can proceed to recover the appropriate amount of training expenses. The percentage of the additional expenses recovered cannot exceed the proportion of the agreement not completed. The completion of recovery relieves the employee of the obligation to continue in the service of the Government.

(b) The head of an agency, or a representative especially designated by him or her for this purpose, must provide procedures for an employee's response to an agency request for repayment of the additional expenses and for an employee's appeal for a waiver of the agency's right of recovery under section 4108(c) of title 5, United States Code, before the agency can recover the appropriate payment and may waive, in whole or in part, the right of the agency to recover when he or she finds that:

(1) The employee has completed most, but not all, of the required period of service;

(2) The employee resigned because of his or her own illness or the serious illness of a member of his or her immediate family; or

(3) The employee is unable to make payment because of severe financial hardship.

(5 U.S.C. 4101 *et seq.*)

[FR Doc. 83-17153 Filed 6-27-83; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

U.S. Types 11–14, Flue-Cured Tobacco Official Standard Grades

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations modify the Official Standard Grades for Flue-Cured Tobacco, U.S. Types 11–14, grown in the States of Virginia, North Carolina, South Carolina, Georgia, and Florida. This modification will: (1) Delete certain grades determined to be no longer necessary; (2) add certain grades which will more accurately describe tobacco as it is presently prepared for market; and (3) combine certain color factors to reflect noticeable deviations from colors contained in the current official standards. These revisions, based on recommendations from various segments of the flue-cured industry and the Department's continuous review and evaluation of current grade standards, were proposed to more accurately describe tobacco as it is presently prepared for market.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Lioniel S. Edwards, Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250 (202) 447–2567.

SUPPLEMENTARY INFORMATION: A notice was published on April 13, 1983 (48 FR 15921) that the Department was considering a modification of the Official Standard Grades for Flue-Cured Tobacco, U.S. Types 11–14, pursuant to authority contained in the Tobacco Inspection Act of 1935, as amended (49 Stat. 731 7 U.S.C. 511 *et. seq.*).

The following modifications were proposed: (1) To establish grades C5LP and C5FP in an effort to provide factors to describe the prematurely ripe and pale-colored tobacco from the cutters group which have taken on the characteristics of the primings group; (2) to establish grades X4LL for the lugs, and C4LL for the cutters to more accurately describe the whitish-lemon color produced during wet growing seasons; (3) to establish "whitish-lemon (LL)" as a new definition in the regulations; (4) in establish grades B4DK, B5DK, and B6DK to more accurately describe the darker colors of tobacco both from previous crop years and that tobacco which has been marketed over the past few years; (5) to establish the color symbol "dark red variegated (DK)" as a new definition to the regulations; (6) to establish X4S as a new grade to describe 4th quality slick lugs; (7) to establish the grade C4KF to more accurately describe this variegated orange color found primarily in the cutters group; and (8) delete grades B4R, H1F, H2F, M4F, M5F, M4KR, M4KM, M5KM, M4GK, and M5GK based on the fact that the volume of tobacco classified in these grades has diminished to the extent that retention of these grades is clearly unwarranted.

Four comments in response to the proposed modifications were received by the Department. Three commentors supported the proposal as published. One commentor suggested that the color symbol "DK"-dark red variegated be changed to "KD" to be more consistent with the color symbols "KL," "KF," "KM," and "KR." After a thorough analysis and evaluation of this recommendation, the Department concurs that symbol "KD" would be more consistent with the sequence of color symbols currently used in the Official Standard Grades for Flue-Cured tobacco.

Upon further reconsideration, the proposed modifications are amended with minor modifications to change all references of the color symbol "DK-dark red variegated" to "KD-variegated dark red" and change the location at which new grades C4LL, C5LP, C5FP, and X4LL appear within the regulations.

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be a "nonmajor" rule because it does not meet any of the criteria established for major rules under the executive order. Initial review of the regulations contained in 7 CFR Part 29, for need, currency, clarity, and effectiveness has been completed.

Additionally, in conformance with the provisions of Pub. L. 96–354, Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Tobacco warehousemen and producers fall within the confines of "small business" as defined in the Regulatory Flexibility Act. A number of firms which are affected by these adopted regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. William T. Manley, has certified that this action will have no significant economic impact upon all entities, small or large, and will in no way affect the normal competition in the market place.

List of Subjects in 7 CFR Part 29

Administrative practices and procedures, Tobacco.

PART 29—TOBACCO INSPECTION

Accordingly, the Department hereby amends the regulations under the Tobacco Inspection Act contained in 7 CFR Part 29, Subpart C, as follows:

1. § 29.1007 is revised to read as follows:

§ 29.1007 Color symbols.

As applied to flue-cured tobacco, color symbols are L—lemon, F—orange, FR—orange red, R—red, V—greenish, K—variegated, KR—variegated red or scorched, G—green, GR—green red, GK—green variegated (may be scorched), GG—gray green, KL—variegated lemon, KF—variegated orange, KV—variegated greenish, KM—variegated (scorched) mixed, KD—

variegated dark red, and LL—whitish-lemon.

2. § 29.1008 is revised to read as follows:

§ 29.1008 Combination symbols.

A color or group symbol used with another symbol to form the third factor of a grademark to denote a particular side or characteristic of the tobacco. As applied to flue-cured tobacco, the combination symbols are XL—lug side, PO—oxidized primings, XO—oxidized lugs or cutters, BO—oxidized leaf or smoking leaf, GL—thin-bodied nondescript, GF—medium-bodied nondescript, LP—lemon (primings side), and FP—orange (primings side).

§ 29.1025 [Amended]

3. § 29.1025 is amended to remove from therein the words, "Mixed (M)."

§ 29.1034 [Removed]

4. § 29.1034 Mixed group "M" is removed in its entirety.

§§ 29.1035 through 29.1075 [Redesignated as §§ 29.1034 through 29.1074]

5. Current §§ 29.1035 through 29.1075 are redesignated as §§ 29.1034 through 29.1074, respectively, to maintain alphabetical sequence.

6. A new § 29.1075 is added to read as follows:

§ 29.1075 Variegated dark red (KD).

A dark brownish-red discoloration which usually results from excessive sunbaking during the growing process or from storing cured tobacco over extended periods of time. Any leaf of which 20 percent or more of its surface is dark brownish-red may be described as variegated dark red.

§ 29.1079 [Redesignated as § 29.1080]

7. Current § 29.1079 is redesignated § 29.1080 to maintain alphabetical sequence of the definitions contained in 7 CFR Part 29.

8. A new § 29.1079 is added to read as follows:

§ 29.1079 Whitish-lemon (LL)

A whitish-yellow color which usually results during wet growing seasons when rain leaches or washes out the yellow color from the leaf. Any leaf of which 20 percent or more of its leaf surface has whitish-yellow color may be described as whitish-lemon.

§ 29.1121 [Amended]

9. Amend the last line of § 29.1121 by including the word ' "KD," ' after ' "KF." ' The amended portion of § 29.1121 should read "* * * the color symbol "K," "KL," "KF," "KD," or "KV."

§ 29.1162 [Amended]

10. § 29.1162 Leaf (B Group) is amended by removing the part entitled "B4R—Fair Quality Red Leaf" and the paragraph directly thereunder.

§ 29.1162 is further amended to add three new grades following the paragraph under the heading "B6KF—Poor Quality Variegated Orange Leaf" to read as follows:

B4KD Quality Variegated Dark Red Leaf
Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5KD Low Quality Variegated Dark Red Leaf
Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6KD Poor Quality Variegated Dark Red Leaf
Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

§ 29.1163 [Amended]

11. § 29.1163 is amended by removing the heading "H1F—Choice Quality Orange Smoking Leaf," and the heading "H2F—Fine Quality Orange Smoking Leaf," and the paragraphs immediately thereunder.

§ 29.1164 [Amended]

12. § 29.1164 is amended to add two new grades following the paragraph under the heading "C5L—Low Quality Lemon Cutters," to read as follows:

C4LL Fair Quality Whitish-Lemon Cutters
Ripe, open leaf structure, thin, lean in oil, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C5LP Low Quality Lemon Cutters (Primings Side)
Prematurely ripe, open leaf structure, thin, lean in oil, pale color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

§ 29.1164 is further amended to add a new grade following the paragraph under the heading "C5F—Low Quality Orange Cutters" to read as follows:

C5FP Low Quality Orange Cutters (Primings Side)
Prematurely ripe, open leaf structure, medium body, lean in oil, pale color intensity, normal width, 16 inches or over length. Uniformity, 70 percent; injury tolerance 30 percent, or which not over 10 percent may be waste.

§ 29.1164 is further amended to add a new grade following the paragraph under the heading "C4KL—Fair Quality Variegated Lemon Cutters" to read as follows:

C4KF Fair Quality Variegated Orange Cutters
Unripe, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

§ 29.1165 [Amended]

13. § 29.1165 Lugs (X Group) is amended to add a new grade following the paragraph under the heading "X5L—Low Quality Lemon Lugs," to read as follows:

X4LL Fair Quality Whitish-Lemon Lugs
Ripe, open leaf structure, thin, lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.

§ 29.1165 is further amended to add a new grade following the paragraph under the heading "X3S—Good Quality Slick Lugs," to read as follows:

X4S Fair Quality Slick Lugs
Unripe, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.

§ 29.1167 [Removed and Reserved]

14. § 29.1167 is removed in its entirety and noted as "[Reserved]."

15. § 29.1181 is amended to reflect the above additions and deletions. For purposes of clarity, the entire summary has been retyped and is to be printed as follows:

§ 29.1181 Summary of standard grades.

2 GRADES OF WRAPPERS

A1L		A1F		

23 GRADES OF LEAF

B1L	B1F	B1FR		
B2L	B2F	B2FR		
B3L	B3F	B3FR		B3K
B4L	B4F	B4FR		B4K
B5L	B5F	B5FR	B5R	B5K
B6L	B6F	B6FR		B6K

14 GRADES OF SMOKING LEAF

H3L	H3F		
H4L	H4F	H4FR	H4K
H5L	H5F	H5FR	H5K
H6L	H6F	H6FR	H6K

10 GRADES OF CUTTERS

C1L	C1F
C2L	C2F
C3L	C3F
C4L	C4F
C5L	C5F

10 GRADES OF LUGS

X1L	X1F
X2L	X2F
X3L	X3F
X4L	X4F
X5L	X5F

8 GRADES OF PRIMINGS

P2L	P2F
P3L	P3F

19 GRADES OF VARIEGATED

B3KL	B3KF							
B4KL	B4KF	B4KD	B4KV	C4KL	C4KF	X4KL	X4KF	X4KV
B5KL	B5KF	B5KD	B5KV					
B6KL	B6KF	B6KD	B6KV					

15 GRADES OF GREEN

B4G		B4GK		C4G	C4GK	X4G	X4GK	P4G
B5G	B5GR	B5GK	B5GG			X5G		P5G
B6G		B6GK						

7 GRADES OF VARIEGATED MIXED

B3KM		X3KM
B4KM	C4KM	X4KM
B5KM		
B6KM		

6 Grades of Variegated Red or Scorched

B3KR		X3KR
B4KR	C4KR	X4KR
B5KR		

6 GRADES OF SLICK

B3S		X3S
B4S	C4S	X4S
B5S		

2 GRADES OF WHITISH-LEMON

X4LL	C4LL

2 GRADES OF CUTTERS (PRIMINGS SIDE)

CSLP	CSFP

8 GRADES OF PRIMINGS—Continued

P4L	P4F
P5L	P5F

6 GRADES OF GREENISH

B3V		X3V
B4V	C4V	X4V
B5V		

13 GRADES OF NONDESCRIPT

N1L	N1KV	N1GG
N1XL	N1GL	N1PO
N1K	N1GF	N1XO
N1R	N1GR	N1BO
		N2

1 GRADE OF SCRAP

S

Special factors "U" (unsound) and "W" (doubtful-keeping order) may be applied to all grades. The special factors "dirt" or "sand" may be applied to any grade in the Primings group, including first quality Nondescript from the Primings group. Tobacco not covered by the standard grades is designated "No-G," "No-G-F," or "No-G-Nested."

§ 29.1225 [Amended]

16. Section 29.1225 is amended as follows:

(a) Paragraph under the heading "Groups": Remove the words "M-Mixed Group."

(b) Paragraph under the heading "Color Symbols": Add at the end thereof the words "KD—Variegated dark red, LL—Whitish-lemon."

(c) Paragraph under the heading "Combination Symbols": Add at the end thereof the words "LP—Lemon (primings side). FR—Orange (primings side)."

Dated: June 22, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services

[FR Doc. 83-17392 Filed 6-27-83; 8:45 am]

BILLING CODE 3410-02

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amdt. 23]

Orange, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Grade Requirements

Correction

In FR Doc. 83-15726, beginning on page 27221, in the issue of Tuesday, June 14, 1983, make the following correction:

On page 27221, in the third column, in Table 1, the entry for "Valencia and other late type." should read as follows:

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Valencia and Other late type.	6/13/83 to 8/21/83	U.S. No. 2 Russet.	2⁵⁄₁₆
	On and after 8/22/83.	U.S. No. 1	2⁵⁄₁₆

BILLING CODE 1505-01-M

7 CFR Part 906

Oranges and Grapefruit Grown in Texas; Relaxation of Handling Requirements

Correction

In FR Doc. 83-16134, beginning on page 27532, in the issue of Thursday, June 16, 1983, on page 27533, in the first column, in § 906.365(c), in the fourth and fifth lines "(insert date of signature of this final rule)" should read "June 10, 1983".

BILLING CODE 1505-01-M

7 CFR Part 1013

[Milk Order No. 13; Docket No. A0-286-A30]

Milk in the Southeastern Florida Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action adopts a change in the Southeastern Florida milk order which ensures that the Southeastern Florida Class I price for milk transferred for fluid use from a pool plant located outside Florida to a plant regulated under another Federal order would not be lower than the other order's Class I price at the location of the pool plant. The change, based on a proprietary handler's proposal, was considered at a public hearing held at Philadelphia, Pennsylvania, on August 24, 1982. The change is necessary to reflect current marketing conditions and to insure orderly marketing conditions in the Southeastern Florida and other marketing areas.

Cooperative associations representing producers supplying more than two-thirds of the volume of milk produced for sale in the market have approved the issuance of the amended order.

EFFECTIVE DATE: August 1, 1983.

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

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

Prior documents in this proceeding:

Notice of Hearing: Issued August 4, 1982; published August 10, 1982 (47 FR 34573).

Suspension of rule: Issued September 27, 1982; published September 30, 1982 (47 FR 42962).

Partial decision: Issued October 13, 1982; published October 18, 1982 (47 FR 46289).

Order amending the Middle Atlantic Order: Issued November 12, 1982; published November 17, 1982 (47 FR 51731).

Recommended decision: Issued March 10, 1983; published March 15, 1983 (48 FR 10848).

Extension of Time for Filing Exceptions: Issued March 30, 1983; published April 5, 1983 (48 FR 14613).

Final Decision: Issued May 13, 1983; published May 18, 1983 (48 FR 22303).

Findings and Determinations

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

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

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

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

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

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

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

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

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

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

List of Subjects in 7 CFR Parts 1013

Milk marketing orders, Milk, Dairy products.

Order Relative to Handing

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

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

In § 1013.52(a), the text preceding the table is revised to read as follows:

§ 1013.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk and other source milk at a plant located outside the State of Florida or within the State of Florida but outside of the defined marketing area shall be adjusted at the rates set forth in the following schedule: *Provided,* That the resulting adjusted price for fluid milk products transferred from a pool plant to a plant regulated under another Federal order shall not be less than the Class I price under such other Federal order that is applicable at the location of the transferor plant:

* * * * *

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

Effective date: August 1, 1983.

Signed at Washington, D.C., on June 22, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 83-17314 Filed 6-27-83; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Part 282

[Amdt. No. 249]

Food Stamp Program: Work Registration/Job Search Demonstration Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On April 19, 1983 (48 FR 16687), the Department of Agriculture proposed Food Stamp Program rules to expand the Department's Food Stamp Program Work Registration/Job Search Demonstration Project. The rule proposed that the expanded project test additional approaches for implementing the work registration and job search provisions established in the Food

Stamp Act of 1977, as amended. The new approaches would be evaluated by an independent contractor to determine their cost effectiveness and cost efficiency.

Comments were solicited on this proposed rule through May 19, 1983. This final action addresses the comments received and explains the basis and purpose of any changes to the proposed regulations.

EFFECTIVE DATE: This action is effective on June 29, 1983. State welfare agencies participating in the expanded Work Registration/Job Search Demonstration Project shall implement those provisions of the project which are authorized by this final rule no later than July 1, 1983.

FOR FURTHER INFORMATION CONTACT: If you have any questions, please contact Marilyn Carpenter, Chief, Legislative Policy Planning and Demonstration Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, Alexandria, Virginia. Phone (703) 756–3383.

SUPPLEMENTARY INFORMATION:

Classification

Justification for Establishing Effective Date

Robert E. Leard, Administrator of the Food and Nutrition Service, pursuant to 5 U.S.C. 553, has determined that good cause exists for making this rule effective less than 30 days after publication. The contract with the independent evaluator establishes that the formal operational and data collection phase of the expanded Work Registration/Job Search Demonstration Project begins July 1, 1983. This phase of the project is critical to the project's evaluation effort. Any delay beyond July 1, 1983, will compromise the evaluation. In addition, State agencies affected by this final rule are already aware of all of its provisions since no significant changes to the proposed rule were made. Further, because demonstration sites have already implemented those parts of the project currently authorized by program regulations and few demonstration provisions remain to be implemented, the implementation burden on State agencies should be minimal.

Executive Order 12291

This action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified "not major." The final rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. Because this rule will not have a major effect on the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, or 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 rulemaking has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service (FNS), has certified that the rule will not have a significant economic impact on a substantial number of small entities. This final action may have a limited impact on small businesses and organizations to the extent that additional job inquiries may be made by food stamp work registrants in those sites selected for demonstration operations. The primary impact will be on State governments (or county governments within States to the extent that they administer the Food Stamp Program) which have volunteered to conduct the demonstration project and on food stamp work registrants within the project sites.

Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1940 (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and have been assigned No. 0584–0254. The Department received OBM approval on January 20, 1983, to extend the time period to which these requirements apply.

Introduction

Final regulations published jointly by the Departments of Agriculture and Labor on September 18, 1981 (46 FR 46282), established procedures for conducting a Food Stamp Program Work Registration/Job Search Demonstration Project. On April 19, 1983, the Department of Agriculture published a proposed rulemaking (48 FR 16687) that would revise these procedures. An explanation of the rationale and purposes for this rule was provided in the preamble to the April 19, 1983, rulemaking. Therefore, this preamble deals only with significant changes from the proposed rulemaking including those comments and suggestions sent in by nine commenters that responded to the proposed rule.

State Agency Operated Work Registration and Job Search

Section 282.13(d) of the current demonstration regulations states, in part, that operators for the Work Registration/Job Search Project would be selected by the Food and Nutrition Service (FNS) and the Department of Labor (DOL). Project operators would be selected from applications submitted by State Employment Security Agencies (SESA's) and State agencies. The proposed rule deleted the joint Department selection requirement and the provision regarding SESA applications.

Three commenters were opposed to the proposed deletion of the provision regarding SESA applications. One of the commenters stated that other work programs require close coordination with State employment services.

As stated in the preamble to the proposed rule, the Department believes that work registration and job search activities should be more closely integrated with other Food Stamp Program activities. The demonstration project will evaluate the degree of success and cost-effectiveness of State agencies being responsible for conducting such activities. Sites in the project would have the flexibility of administering work registration and monitoring job search activities potentially through agencies other than SESA's supervised by the Department of Labor. It should be emphasized that State agencies are not precluded from subcontracting with SESA's. In fact, one of the State agencies participating in this expanded project has already done so. The final rule, therefore, does not change with regard to this provision.

Noncompliance/Sanctions

Current program rules (7 CFR 273.7(g)) provide that if a household member fails to comply with work registration requirements, including the job search requirements, then the entire household is ineligible to participate in the Food Stamp Program for 60 days. Eligibility may be reestablished during a disqualification period if the member who caused the disqualification complies with or becomes exempt from the work registration requirement or is no longer a member of the household. The 60 day timeframe is established by the Food Stamp Act of 1977, as amended, for voluntary quit. The Department has always applied the same disqualification period to all components of the work registration

requirements. The proposed rule changed the 60 day disqualification period for voluntary quit to 90 days and extended the 90 day disqualification period to all other work registration requirements. The voluntary quit 90 day provision is required by section 158 of the Food Stamp Act Amendments of 1982 (Pub. L. 97-253, 96 Stat. 763, September 28, 1982).

One commenter believed the 90 day sanction provision was directly at variance from standards established by Congress for the current ongoing Food Stamp Program. Another commenter believed that the 90 day disqualification period was arbitrary and suggested that disqualification be imposed indefinitely until the noncompliant household member complied with regulatory requirements.

The proposed demonstration project rule reflected the legislative change regarding voluntary quit. This provision in the final rule remains unchanged. The application of the voluntary quit sanction to all the other work registration requirements reflects the ongoing program premise and also remains unchanged.

Voluntary Quit

Current program regulations (7 CFR 273.7(n)) state that where the head of an applicant household quits his/her most recent job within the last 60 days of application without good cause, the entire applicant household shall not be eligible to participate in the Food Stamp Program for a period of 60 days beginning with the month of the quit. The proposed rule stated that where the head of a participating household voluntarily quits his/her job without good cause, the entire household would be disqualified from participation. One commenter stated the rule needs to be more specific in stipulating the policies for applying sanctions to households with members who fail to comply with the voluntary quit. The Department agrees that clarification is needed.

As stated earlier, the proposed rule provides that applicant households whose primary wage earner voluntarily quits a job without good cause would be ineligible to participate in the Food Stamp Program for 90 days. Under current ongoing program rules, the State agency must determine whether a voluntary quit by the primary wage earner in an applicant household has occurred within the last 60 days. This 60 day time period was specified by the Department to provide some time limit within which to make this determination. The 60 days was selected because it was consistent with the legislated 60 day disqualification period.

Now that the disqualification period has been changed from 60 to 90 days, the time period within which to determine if a voluntary quit by the primary wage earner of an applicant household has occurred will also be changed from 60 to 90 days. This language was inadvertently left out of the proposed rule. This final rule thus specifies that a State agency will determine if the primary wage earner in an applicant household has voluntarily quit a job without good cause in the last 90 days. If such a quit is established, the household shall be denied participation for a period of 90 days (or three months) beginning with the month of the quit. These procedures, except for the 90-day timeframes, are those used in the ongoing program.

If the State agency determines that the primary wage earner in a participant household has voluntarily quit a job without good cause the household shall be disqualified for a period of 90 days beginning the first of the month following the expiration of the adverse action notice period unless a fair hearing is requested. As established in the initial Work Registration/Job Search Demonstration Project, a State agency shall apply the good cause criteria related to voluntary quit (7 CFR 273.7(n)(3)) and the verification criteria related to voluntary quit (7 CFR 273.7(n)(4)).

Strikers

The proposed rule extended the definition of a voluntary quit without good cause (and the attendant period of ineligibility) to include Federal, State, or local government employees who have been dismissed from their jobs because of participation in a strike against the government entity involved. This provision is pursuant to Section 158(b) of the Food Stamp Act Amendments of 1982. One commenter stated that pursuant to some State labor relations statutes, public employees may strike under specified circumstances. State employees could be improperly terminated by their employer, according to the commentor, for exercising their right to strike. The commenter stated that such employees would be further penalized by the proposed provision on strikers. The Department wishes these demonstration projects to be consistent with regular program rules as much as possible. Because Section 158(b) of the 1982 amendments to the Food Stamp Act requires the above mentioned extension of the definition of voluntary quit, and Section 158(b) is being implemented in the regular program (see 48 FR 23257), the final rule implementing the demonstration project remains unchanged in this regard.

Continuous Job Search

Current program rules (7 CFR 273.7(f)(2)) require that work registrants make 24 job contacts within an eight-week period. The proposed rule would allow State agencies, contingent upon FNS approval, to establish the number of job contacts based upon factors such as the local unemployment rate. The Department does not agree with the commenter who suggested that the proposed requirement implies a waiver of the provision exempting persons as non-job ready. Section 282.13(c)(1) of the proposed rule states that the ongoing work registration/job search regulations govern the demonstration project unless either specifically provided for or inconsistent with project rules. The ongoing rules require that State agencies determine the job search category of each work registrant (7 CFR 273.7(f)(1)).

This commenter also expressed concern with the proposed provision allowing State agencies to determine the number of job contacts. As stated in the preamble to the proposed rule, so that the continuous job search requirement can be tested, the Department does not want to establish standards for use in this demonstration project. This test will enable the Department to obtain data which can be used to advise States on factors regarding this provision such as its cost-effectiveness. Additionally, as the proposed rule stated, the number of job contacts for demonstration project purposes would be contingent upon FNS approval. No change was made to the continuous job search provision in the final rule.

Job Finding Club/Workfare (Model I)

Political subdivisions operating a Food Stamp Workfare Program have the option under current workfare requirements (7 CFR 273.22) of requiring food stamp work registrants to job search for a period of up to 30 days prior to their participation in workfare. The site administering Model I under the expanded demonstration project is operating a workfare program as part of its regular program operations and the Job Finding Club as an alternative to the job search activity.

One commenter recommended that those work registrants reassigned from a Job Finding Club to workfare under this model should be advised of obligations unique to workfare at the onset of the workfare assignment. Policy established in the initial and the expanded Work Registration/Job Search Demonstration Project requires that sites inform

households containing persons subject to the work registration requirement of the work registrant's rights and responsibilities. This policy includes informing work registrants in the site administering Model I of their workfare rights and responsibilities. The final rule, therefore, has not been changed.

The same commenter recommended that the proposed child care exemption for job search be amended to conform with that of the workfare regulations. Currently the child care exemption in the ongoing work registration rules is for those household members responsible for the care of a dependent child under twelve. Also a second parent or caretaker of a child under eighteen is exempt if another parent is registered for work. The proposed rule provides a child care exemption only for parents with children under six years. The proposed child care exemption provision was mandated by Section 1311 of the Food Stamp Act Amendments of 1981 (Pub. L. 97-98, 95 Stat. 1282, Dec. 22, 1981). Workfare rules allow a good cause for noncompliance when the parent or other responsible household member must care for a child between the ages of six and twelve because adequate child care is not available. To revise the proposed exemption in accordance with the workfare provision would be inconsistent with the work registration/job search legislation.

Applicant Job Search

The proposed rule stated that State agencies would be allowed the option of applying job search requirements at the time households apply for participation in the Food Stamp Program. This provision is permitted by the Food Stamp Act Amendments of 1982. One commenter recommended the following provisions for incorporation in the final regulation: a household must be interviewed on the same day as application filing; a determination must be made on the date of application as to whether an individual is exempt; specify what a reasonable number of job contacts is; specify what verification can be accepted; and specify that households applying for expedited service are exempt from applicant job search.

The final rule remains unchanged with regard to the applicant job search provision. State agencies are expected to continue to process all applications as expeditiously as possible and within the timeframes established in § 273.2(g). The Department does not believe it is necessary to specify when an interview must be conducted or what a reasonable number of job contacts is since State agencies are bound to comply with application processing standards. For the purposes of this demonstration project, each State agency would be allowed to set up its own system for applicant reporting of job contacts, including what constitutes adequate verification. Setting standards in this regard would not allow the evaluation of different procedures. Finally, as in the initial Work Registration/Job Search Demonstration Project, expedited service cases are exempt from the work registration/job search provisions except as specified in 7 CFR 273.2(i)(4)(i) by virtue of the short application processing timeframes.

Implementation

As stated in the preamble to the proposed rulemaking, the expanded demonstration project will operate for a period of approximately 18 months. Early in 1983, sites implemented those parts of the project which are already authorized by current program regulations. Provisions other than those currently authorized shall be implemented no later than July 1, 1983, in order to coincide with the formal operational and data collection phase of the beginning of the project.

List of Subjects in 7 CFR Part 282

Food stamps, Government contracts, Grant programs—social programs, Research.

Part 282 is amended as follows:

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

In § 282.13:

1. Paragraph (c) is redesignated as paragraph (c)(1) and a new paragraph (c)(2) is added;

2. In paragraph (d), the second and third sentences are removed and a new second sentence is added in their place;

3. (a) In paragraph (e)(1) remove the word "five" in the last sentence.

(b) Paragraph (e)(6) is revised.

(c) New Paragraphs (e)(7), (e)(8), and (e)(9) are added;

4. (a) In introductory paragraph (f), a new sentence is added to the end of the paragraph.

(b) In paragraph (f)(2)(i), remove the words "on more than two occasions per month," from the second sentence.

5. Paragraphs (h), (i), and (j) are redesignated as paragraphs (i), (j), and (k) respectively, and a new paragraph (h) is added; and

6. Newly redesignated paragraph (k) is revised.

§ 282.13 Work Registration/Job Search Demonstration Project.

* * * * *

(c)(1) *Regulatory requirements.* * * *

(2) *Other requirements.*

Other provisions which shall govern the operation of this project include:

(i) *Reregistration for employment.* Household members not exempt by § 273.7(b)(1) shall be required to reregister for employment once every 12 months as a condition of eligibility.

(ii) *Voluntary quit.* Applicant households whose primary wage earners voluntarily quit their job without good cause within the last 90 days, will have their application denied for a period of 90 days beginning with the month of the quit. Participant households whose primary wage earners voluntarily quit their most recent jobs without good cause shall be determined ineligible for participation in the Program for a period of 90 days beginning with the month in which the notice of adverse action period has expired. Additionally, employees of the Federal government, or of a State or local government, who participate in a strike against such government and are dismissed from their jobs because of participation in the strike shall be considered to have voluntarily quit their jobs without good cause.

(iii) *Noncompliance/sanctions.* Households containing members who have refused or failed without good cause to comply with any work registration or job search requirement shall be determined ineligible to participate for 90 days.

(iv) *Work registration exemption.* Household members responsible for the care of children shall be considered exempt only when the children are under six years old.

(d) *Areas of operation.* * * * The expanded Work Registration/Job Search Project shall be operated in seven project sites for a period of approximately eighteen months beginning no earlier than January 1, 1983.

(e) *Demonstration Models.* * * *

(6) At those sites chosen to operate Model F, the basic requirements for work registrants shall be unchanged. System responsibilities, however, shall be changed to the extent that ongoing responsibilities assigned to the SESA in § 273.7 shall be assumed by the State welfare agency.

(7) At those sites chosen to operate Model G, work registrants in the treatment group shall be required to conduct applicant job search as discussed in paragraph (h) of this section and shall be subject to the

ongoing job search requirements. System responsibilities shall be changed to the extent that ongoing responsibilities assigned to the SESA in § 273.7 shall be assumed by the State welfare agency. Additionally, sites operating Model G may require each work registrant to contact potential employers throughout the work registrant's certification period. This continuous job search requirement shall be based on the capabilities and characteristics of the participant, which may include his or her age, physical condition, ability or inability to speak English, current enrollment in job training programs, and recent employment history, as well as the distance he or she lives from potential employers and the job market situation in the area. The number of required contacts shall be determined by the State welfare agencies with prior FNS approval.

(8) At those sites chosen to operate Model H, work registrants in the treatment group shall be subject to the ongoing job search requirements and to the requirements of the Job Finding Club as discussed in paragraph (f) of this section.

(9) At those sites chosen to operate Model I, work registrants in the treatment group shall be subject to the requirements of the Job Finding Club as discussed in paragraph (f) of this section. If a work registrant is unable to find a job while participating in the Job Finding Club, he or she will be required to participate in the Workfare Program as discussed in § 273.22.

(f) *Job Finding Club* * * * System responsibilities at certain sites shall be changed to the extent that ongoing responsibilities assigned to the SESA in this paragraph shall be assumed by the State welfare agency.

* * * * *

(h) *Applicant Job Search*

(1) The State agency may require Program applicants to conduct job search. Failure to comply with the applicant job search requirement, without good cause, shall result in a household's application being denied for a period of 90 days beginning with the date of application. The household shall be advised of the reason for the denial and of its right to reapply and/or to request a fair hearing. If the applicant's noncompliance is determined after certification, then disqualification shall be calculated as for any other participating household as described in § 273.7(g).

(2) The State agency shall process all applications in accordance with the timeframes established in § 273.2(g). The State agency, however, may delay disposition of the application pending receipt of proof of compliance with the applicant job search requirement. In this situation, the application would be processed in accordance with the procedures discussed in § 273.2(h)(2) for delays caused by the household.

* * * * *

(k) *Monitoring and evaluation.* FNS shall establish procedures for monitoring State agencies' compliance with the requirements of § 272.13. FNS shall assume primary monitoring responsibility for all site operations. The evaluation of the project shall be conducted by an independent contractor. The State agency shall, upon reasonable notification, provide the evaluation contractor with access to all information pertaining to project operations.

(91 Stat. 958, as amended (7 U.S.C. 2011–2029))

(Catalog of Federal Domestic Assistance Program, No. 10.551 Food Stamps)

Dated: June 23, 1983.

John H. Stokes III,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83-17498 Filed 6-27-83; 8:45 am]

BILLING CODE 3410-30-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Group Licensing for Certain Medical Uses

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: the Nuclear Regulatory Commission (NRC) is amending its regulations to add a device used for instantaneous imaging to its list of devices that may be used by licensed physicians. The hand-held device uses the low energy radiation from an iodine-125 sealed source to produce images of bones or foreign bodies. NRC is adding the device to its list so that physicians, who are adequately trained and licensed to use similar devices, may use the device without having to amend their licenses.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Deborah A. Bozik, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 427–4566.

SUPPLEMENTARY INFORMATION: On March 30, 1983, the Nuclear Regulatory Commission (the Commission) published in the **Federal Register** (48 FR 13189) a proposed rule to add a medical device to the group of devices listed in §35.100(f) of its regulations (Group IV). Group VI provides for the use of sources and devices containing byproduct material for certain medical activities. The hand-held device uses the low energy radiation from a iodine-125 sealed source of up to 500 millicuries and fiber optics to produce a visible image on a phosphor screen of the extremity of a person being examined. As stated in the March 30 notice, a key reason the Commission selected Group VI of § 35.100(f) is because characteristic of the device resemble the bone mineral analyzer, which also contains an iodine-125 sealed source, and the strontium-90 ophthalmic applicator, which also is portable, both of which are listed in Group VI. The purpose of the rule is to reduce administrative costs by eliminating the need for licensees, already authorized for Group VI, to seek an amendment to their license in order to use the imaging device.

Comments on the Proposed Rule

The public was invited to submit written comments on the proposed rule by April 29, 1983 and 11 comment letters were received. All the commenters supported the rule and raised one of the following topics:

- The suitability of placing the device in Group VI; and
- The extent of physician training and experience needed to safely use the device.

Regarding the suitability of placing the device in Group VI, two commenters pointed out that, except for the bone mineral analyzer, the items in Group VI are used for radiation therapy; while the imaging device is a diagnostic instrument. The commenters suggested that most potential users of the device are not authorized for Group VI and, therefore, would not benefit from the proposed rule. The key reasons the Commission selected Group VI for the imaging device were stated in the March 30, 1983 Federal Register Notice. For example, the same facilities and equipment needed to leak test the sealed source contained in the bone mineral analyzer are needed to leak test the sealed source in the imaging device. Also, the control and accountability constraints required by individual licenses for the portable Sr-90 ophthalmic applicator are appropriate to control the hand-held imaging device. Two commenters suggested that the Commission create a new medical use group for diagnostic devices. In fact, a

revision of Part 35 which contains a provision for a Group VII for diagnostic sealed sources and devices is now under consideration by the Commission. In the interim, the Commission considers Group VI to be the most suitable of the existing medical use groups.

The topic of the extent of physician training and experience needed to safely operate the imaging device was mentioned in seven letters. One commenter suggested that the training and experience requirements for Group VI users would be excessive for physicians wishing to use the imaging device. Several commenters offered their opinion of what constituted adequate training and experience. While physicians already licensed as Group VI users will automatically be qualified to use the imaging device, the Commission will also establish the minimum requirements for physician training and experience to use only the imaging device. The Commission will consider the commenters' suggestions plus the advice of its Advisory Committee on the Medical Users of Isotopes in determining the minimum licensing requirements.

The Commission's Advisory Committee on the Medical Uses of Isotopes was polled regarding the ability of Group VI licensees to use the device safely. Responses were obtained from 10 of the 11 committee members and medical consultants. All responses confirmed that Group VI licensees have adequate training, facilities, and program controls to use the device safely. The poll also contained questions regarding the minimum training and experience needed to use only the device. The Commission will consider the responses to this topic and the suggestions from the public comment letters in setting minimum licensing requirements.

As a result of this amendment to the Commission's regulations, patients and physicians will have available to them a new device without the administrative costs and delays associated with the otherwise necessary amendment of individual licenses. Since the rule relieves licensees from restrictions under regulations currently in effect, it is effective immediately.

Environmental Impact: Negative Declaration

The Commission has determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in 10 CFR Part 51, that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment and that, therefore, an environmental impact statement is not required. The environmental impact appraisal and negative declaration on which this determination is based are available for public inspection at the NRC Public Document Room 1717 H Street NW., Washington, D.C.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

Regulatory Analysis

The Commission has prepared a regulatory analysis on this rule. The analysis examines the costs and benefits of the alternatives considered by the Commission. The regulatory analysis is available for inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. Single copies of the analysis may be obtained from the person indicated under the "FOR FURTHER INFORMATION CONTACT" heading.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The regulatory analysis prepared in connection with this rule discloses that the approximately 350 Group VI medical licensees may experience some beneficial impact from the rule. The rule will spare each of these licensees, regardless of size, the cost of preparing a license amendment (estimated at about 2 to 5 hours of licensee effort, at an administrative and clerical cost estimated at $335 to prepare the paperwork), the $40 amendment fee, and the delay (length and cost undetermined) associated with the amendment of the license if the licensee decides to use the device.

In the notice of proposed rulemaking, the Commission specifically requested comment on the economic impact of this action on small entities. No comments were received in response to this request.

List of Subjects in 10 CFR Part 35

Byproduct material, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 35.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

1. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 35.2, 35.14(b), (e) and (f), 35.21(a), 35.22(a), 35.24, and 35.31 (b) and (c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 35.14(b)(5) (ii), (iii) and (v) and (f)(2) 35.27 and 35.31(d) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 35.100 is amended by adding a new paragraph (f)(9) to read as follows:

§ 35.100 Schedule A—Groups of medical uses of byproduct material.

* * * * *

(f) * * *

(9) Iodine-125 as a sealed source in a portable device for bone imaging and foreign body detection.

Dated at Bethesda, Maryland, this 13th day of June 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-17339 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 250

[Economic Regulations Amdt. No. 20 to Part 250, Docket No. 41220, Reg. ER-1337]

Oversales

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is revising its oversales rule to reflect the end of the Board's domestic tariff authority, and to simplify the rule's tariff filing requirements for foreign air transportation. The changes, which do not affect the substantive requirements of the rule, are made at the Board's initiative.

DATES:

Adopted: June 16, 1983.

Effective: July 28, 1983.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825

Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: EDR-453, 48 FR 4479, February 1, 1983, proposed to revise the Board's oversales and denied boarding compensation rule (14 CFR Part 250). The NPRM would remove all references to domestic tariff filing, simplify the tariff filing requirements for foreign air transportation, codify an exemption granted in an earlier Board order and rewrite some sections for clarity. No comments were filed in response to the NPRM. The Board is therefore adopting the proposed changes with some minor editorial changes for the reasons discussed below.

Part 250 requires carriers to file with the Board (1) tariffs providing for the Board-mandated denied boarding compensation, (2) copies of their boarding priority rules, and (3) a copy of the explanatory handout given to bumped passengers. In addition, the rule contains a number of references to tariffs. Under section 1601 of the Federal Aviation Act, as amended, U.S. carriers have not been permitted to file these or any other tariffs for their domestic operations since January 1, 1983. Because the tariff provisions do not affect the substantive requirements of the rule, U.S. carriers have been required to continue to provide all the consumer protections stated in the rule. These protections include volunteer solicitation, payment to passengers denied boarding involuntarily, and Board-mandated notices. The tariff-filing requirements for carriers in foreign air transportation were not affected by the sunset of domestic tariffs.

This final rule conforms Part 250 to remove references to domestic tariff filing. Section 250.4 has been retitled *Denied boarding compensation tariffs for foreign air transportation*, to reflect the new limitations on tariff filing. A new phrase is added in paragraph (a) of that section limiting the tariff filing to carriers operating flights in foreign air transportation departing from the United States. No change is made in paragraph (c), so that carriers that comply fully with the rule on their inbound foreign flights may still file tariffs.

Sections 250.3(b) and 250.9(b) required carriers to file their boarding priority rules and a copy of the informational handout given to bumped passengers. These tariff filing requirements have been eliminated in this final rule because, with the general reduction in tariff filing requirements, they are no longer necessary. The Board can ensure compliance with the substantive elements of these sections through normal enforcement methods such as spot checks, and investigation of passenger complaints.

In addition, the Board is codifying in part an exemption granted in Order 80-5-200 (May 29, 1980) that permits airlines to substitute free transportation for their Board-mandated denied boarding compensation if three conditions are met. That exemption required, first, that the involuntarily bumped passenger agree to the substitution—the passenger may insist on receiving the monetary compensation; second, that the transportation vouchers be equal to or greater in value than the monetary compensation that would otherwise be due; and third, that the carrier file tariffs stating that it offers such a substitution. The language of the proposed rule has been clarified to refer to the value of the transportation benefit offered.

This final rule codifies the first two elements of the exemption and eliminates the tariff filing requirement for domestic air transportation. A new paragraph (b) is added in § 250.5, *Amount of denied boarding compensation for passengers denied boarding and boarding priorities*, as follows:

(b) Carriers may offer free or reduced rate air transportation in lieu of the cash due under paragraph (a) of this section, if (1) the value of the transportation benefit offered is equal to or greater than the cash payment otherwise required, and (2) the carrier informs the passenger of the amount of cash compensation that would otherwise be due and that the passenger may decline the transportation benefit and receive the cash payment.

This new paragraph is consistent with the notice provided in the written handout given to passengers pursuant to § 250.9.

Carriers in foreign air transportation that are subject to § 250.4 and that wish to offer transportation vouchers must incorporate this practice in their tariffs. A sentence has been added at the end of § 250.4(a) to the language in the NPRM to clarify this requirement.

A number of minor editorial changes have also been made. In § 250.1, *Definitions*, the definitions of "Airport", "Comparable air transportation", and "Confirmed reserved space" have been rewritten for clarity. The phrase "that is served by the former" is removed from the definition of "Airport" because it is redundant. A reference to tariffs has been removed from the definition of "Confirmed reserved space".

The definition of "Carrier" in 250.1 has been changed to remove the reference to direct air carriers holding certificates pursuant to section 401(d)(7) of the Act. Until 1982, the Board certificated air carriers to provide service between specific points. Since the Board's authority to name points ended on January 1, 1982, the Board certificates carriers to provide air transportation between any points in the United States, it possessions and territories. All outstanding section 401(d)(7) certificates have been reissued accordingly. See Order 81-12-131. A reference to section 401(d)(8) is added in the definition of "Carrier" to conform the rule to changes made by the Airline Deregulation Act of 1978. That section gives the Board authority to grant temporary, experimental certificates to U.S. carriers providing service to foreign points. The reference has been added to make it clear that Part 250 applies to all carriers holding scheduled certificates under section 401.

Paragraph (c) of § 250.4 is amended to clarify that Part 250's tariff-filing requirements relate only to tariffs filed with the Board, and not those filed in other countries. Paragraph (a) of § 250.6 has been rewritten for clarity and a reference to tariffs has been deleted. References to "the airport" of the passenger's next stopover or destination have been added to § 250.6(d) so that the language of the exception will be consistent with that of the general rule, which is found in § 250.5.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that none of these changes will have a significant economic impact on a substantial number of small entities. Board rules governing oversales and denied boarding compensation apply only to operations with large aircraft and operators of such aircraft are not considered small entities for the purposes of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 250

Air carriers, Consumer protection, Denied boarding compensation, Reporting and recordkeeping requirements.

PART 250—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 250, *Oversales*, as follows:

1. The authority for Part 250 is:

Authority: Secs. 204, 401, 402, 404, 407, 411, 416, 1002 of Pub. L. 85-726, as amended, 72 Stat. 743, 754, 757, 758, 760, 766, 769, 771, 788; 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1482.

2. Section 250.2b is amended by removing gender-specific references so that it reads:

§ 250.2b Carriers to request volunteers for denied boarding.

(a) In the event of an oversold flight, every carrier shall request volunteers for denied boarding before using any other boarding priority. A "volunteer" is a person who responds to the carrier's request for volunteers and who willingly accepts the carriers' offer of compensation, in any amount, in exchange for relinquishing the confirmed reserved space. Any other passenger denied boarding is considered for purposes of this part to have been denied boarding involuntarily, even if that passenger accepts the denied boarding compensation.

(b) If an insufficient number of volunteers come forward, the carrier may deny boarding to other passengers in accordance with its boarding priority rules. However, the carrier may not deny boarding to any passenger involuntarily who was earlier asked to volunteer without having been informed about the danger of being denied boarding involuntarily and the amount of Board-mandated compensation.

3. Section 250.4 in the Table of Contents is revised to read:

PART 250—OVERSALES

Sec.

* * * * *

250.4 *Denied boarding compensation tariffs for foreign air transportation.*

* * * * *

4. The definition of "Airport", "Carrier", "Comparable air transportation" and "Conformed reserved space" in § 250.1, *Definitions*, are revised to read:

§ 250.1 Definitions.

"Airport" means the airport at which the direct or connecting flight, on which the passenger holds confirmed reserved space, is planned to arrive or some other airport serving the same metropolitan area, provided that transportation to the other airport is accepted (i.e., used) by the passenger.

"Carrier" means (a) a direct air carrier, except a helicopter operator, holding a certificate issued by the Board pursuant to sections 401(d)(1), 401(d)(2), 401(d)(5), or 401(d)(8) of the Act, or an exemption from section 401(a) of the Act, authorizing the transportation of persons, or (b) a foreign route air carrier holding a permit issued by the Board pursuant to section 402 of the Act, or an exemption from section 402 of the Act, authorizing the scheduled foreign air transportation or persons.

"Comparable air transportation" means transportation provided to passengers at no extra cost by a carrier as defined above.

"Confirmed reserved space", means space on a specific date and on a specific flight and class of service of a carrier which has been requested by a passenger and which the carrier or its agent has verified, by appropriate notation on the ticket or in any other manner provided therefor by the carrier, as being reserved for the accommodation of the passenger.

* * * * *

§ 250.3 [Reserved]

5. Paragraph (b) of §250.3, *Boarding priority rules*, is removed and reserved.

6. Section 250.4 is retitled and revised to read:

§ 250.4 Denied boarding compensation tariffs for foreign air transportation.

(a) Every carrier operating flights in foreign air transportation departing from the United States shall file tariffs governing such transportation that provide compensation for passengers holding confirmed reserved space who are denied boarding involuntarily from an oversold flight that departs without those passengers. The tariffs shall incorporate the amount of compensation described in § 250.5 and the exceptions to eligibility for compensation described in § 250.6. Carriers subject to this section that offer free or reduced rate air transportation in lieu of the cash payment as provided in § 250.5(b) shall file a tariff stating that acceptance by the passenger of the alternative compensation is voluntary and that the value of the transportation benefit offered is equal to or greater than the cash payment otherwise required.

(b) The tariffs shall specify that the carrier will tender the appropriate compensation on the day and the place the involuntary denied boarding occurs.

(c) A carrier that does not provide the protections of this part on its inbound foreign flights may not file tariffs with the Board concerning its oversales practices for those flights.

7. Section 250.5 is amended by designating the current text as paragraph (a) adding a new paragraph (b), as follows:

§ 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

(a) Subject to the exceptions provided in § 250.6, a carrier as defined in § 250.1, shall pay compensation to passengers denied boarding involuntarily from an oversold flight at the rate of 200 percent of the sum of the values of the passenger's remaining flight coupons up to the passenger's next stopover, or if none, to the passenger's final destination, with a maximum of $400. However, the compensation shall be one-half the amount described above, with a $200 maximum, if the carrier arranges for comparable air transporation, or other transportation used by the passenger that, at the time either such arrangement is made, is planned to arrive at the airport of the passenger's next stopover or if none, at the airport of the passenger's destination, not later than 2 hours after the time the direct or connecting flight on which confirmed space is held is planned to arrive in the case of interstate and overseas air transportaion, or 4 hours after such time in the case of foreign air transportation.

(b) Carriers may offer free or reduced rate air transportation in lieu of the cash due under paragraph (a) of this section, if (1) the value of the transportation benefit offered is equal to or greater than the cash payment otherwise required, and (2) the carrier informs the passenger of the amount of cash compensation that would otherwise be due and that the passenger may decline the transportation benefit and receive the cash payment.

8. Section 250.6 is amended by removing references to tariffs and gender-specific language, so that it reads as follows:

§ 250.6 Exceptions to eligibility for denied boarding compensation.

A passenger denied boarding involuntarily from an oversold flight shall not be eligible for denied boarding compensation if:

(a) The passenger does not comply fully with the carrier's contract of carriage or tariff provisions regarding ticketing, reconfirmation, check-in, and acceptability for transportation;

(b) The flight for which the passenger holds confirmed reserved space is unable to accommodate that passenger because of substitution of equipment of lesser capacity when required by operational or safety reasons;

(c) The passenger is offered accommodations or is seated in a section of the aircraft other than that specified on the ticket at no extra charge, except that a passenger seated in a section for which a lower fare is charged shall be entitled to an appropriate refund; or

(d) The carrier arranges comparable air transportation, or other transportation used by the passenger at no extra cost to the passenger, that at the time such arrangements are made is

planned to arrive at the airport of the passenger's next stopover or, if none, at the airport of the final destination not later than 1 hour after the planned arrival time of the passenger's original flight or flights.

9. Paragraph (b) of § 250.9 is amended by removing the tariff-filing requirement so that it reads:

§ 250.9 Written explanation of denied boarding compensation and boarding priorities.

(a) * * *

(b) The statement shall read as follows:

* * * * *

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-17393 Filed 6-27-83; 8:34 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-1248]

Herman Miller, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on June 30, 1967 (32 FR 10975), so as to allow the company to specify the customers to which its dealers can serve.

DATES: Consent Order issued June 30, 1967. Modifying Order issued June 9, 1983.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliott Feinberg, Washington, D.C. 20580. (202) 634-4604.

SUPPLEMENTARY INFORMATION: In the Matter of Herman Miller, Inc., a corporation. Codification, appearing at 32 FR 10975, is modified by deleting the following: Subpart—Combining or Conspiring: Section 13.450 To limit distribution or dealing to regular established or acceptable channels or classes.

List of Subjects in 16 CFR Part 13

Office furnishings, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13)

The Order Modifying Cease and Desist Order Issued June 30, 1967 is as follows:

By a petition dated January 11, 1983, and a supplement thereto dated February 18, 1983, respondent Herman Miller, Inc. ("Herman Miller") requests that the Commission reopen the proceeding in Docket No. C-1248 and delete subparagraphs 1., 2. and 3.(a) of the second unnumbered paragraph of the order issued by the Commission on June 30, 1967. Pursuant to § 2.51 of the Commission's Rules of Practice, the petition was placed on the public record for comments. No comments were received.

Upon consideration of Herman Miller's request and supporting materials, and other relevant information, the Commission now finds that changed conditions of fact and law, and the public interest, warrant reopening and modification of the order.

Accordingly,

It is ordered that this matter be, and it hereby is, reopened and that subparagraphs 1., 2. and 3.(a) of the second unnumbered paragraph of the Commission's order be, and they are hereby, deleted.

By direction of the Commission.

Issued: June 9, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-17384 Filed 6-27-83; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-3110]

Chicago Metropolitan Pontiac Dealers' Assoc., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires a Wheaton, Ill. Pontiac dealers' association, among other things, to cease failing to make clear and conspicuous credit disclosures in T.V. advertisements promoting consumer credit. Under the order, credit terms are required to be displayed in the video portion of the ad for at least five seconds, and rates of finance charges must be quoted as an "annual percentage rate." Further, the association is prohibited from using certain credit terms in advertisements promoting credit sales unless those advertisements also include statutorily required information in the manner prescribed by the Truth In Lending Act and its implementing Regulation Z.

DATE: Complaint and Order issued June 9, 1983.[1]

FOR FURTHER INFORMATION CONTACT: John M. Peterson, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603, (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Wednesday, Feb. 23, 1983, there was published in the **Federal Register**, 48 FR 7582, a proposed consent agreement with analysis In the Matter of Chicago Metropolitan Pontiac Dealers' Association, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: Section 13.533 Corrective actions and/or requirements; § 13.533-37 Formal regulatory and/or statutory requirements. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: Section 13.1852 Formal regulatory and statutory requirements; § 13.1852-75 Truth In Lending Act; § 13.1905 Terms and conditions; § 13.1905-60 Truth In Lending Act.

List of Subjects in 16 CFR Part 13

Consumer credit, Trade practices, Advertising.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et seq.*)

Emily H. Rock,

Secretary.

[FR Doc. 83-17385 Filed 6-27-83; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket C-3111]

The Competitive Edge, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement requires an Albuquerque, N.M. advertising agency, among other things, to cease failing to make clear and conspicuous credit disclosures in T.V. advertisements promoting consumer credit. Under the order, credit terms are required to be displayed in the video portion of the ad for at least five seconds, and rates of finance charges must be quoted as an "annual percentage rate." Further, the corporation is prohibited from using certain credit terms in advertisements promoting credit sales unless those advertisements also include statutorily required information is the manner prescribed by the Truth In Lending Act and its implementing Regulation Z.

DATE: Complaint and Order issued June 9, 1983.[1]

FOR FURTHER INFORMATION CONTACT: John M. Peterson, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, IL 60603. (312) 353–8522.

SUPPLEMENTARY INFORMATION: On Wednesday, Feb. 23, 1983, there was published in the **Federal Register**, 48 FR 7582, a proposed consent ageement with analysis In the Matter of The Competitive Edge, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements; § 13.533 Corrective actions and/or requirements; 13.533–37 Formal regulatory and/or statutory requirements. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: Section 13.1852 Formal regulatory and statutory requirements; § 13.1852–75 Truth In Lending Act; § 13.1905 Terms and Conditions; § 13.1905–60 Truth In Lending Act.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

List of Subjects in 16 CFR Part 13

Advertising, Consumer credit, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46 Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, *et seq.*)

Emily H. Rock,

Secretary.

[FR Doc. 83-17386 Filed 6-27-83; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1204

Omnidirectional Citizens Band Base Station Antennas; Amendment of Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission amends the Safety Standard for Omnidirectional Citizens Band Base Station Antennas to specify that it is applicable to all omnidirectional citizens band base station antennas that are consumer products and that are manufacturered or imported on or after May 24, 1983. The Commission issued the final standard on August 19, 1982, at a time when the standard was subject to veto by Congress. Because the date of expiration of the period for exercise of the Congressional veto could not be determined with precision when the standard was issued, the Commission stated that it would be applicable to all antennas manufactured or imported on or after February 25, 1983, or the day following expiration of the period for exercise of the Congressional veto, whichever is later. That period expired on May 23, 1983, with no action by Congress. The standard became effective on May 24, 1983.

DATE: The amendment issued below shall become effective on June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Wade Anderson, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 19, 1982 (47 FR 36186), the Commission issued on a final basis the Safety Standard for Omnidirectional Citizens Band Base Station Antennas to reduce or eliminate risks of injury to consumers from electric shock which may result if a base station antenna contacts an electric power line when the antenna is being installed or taken down. The standard contains performance requirements intended to assure that if the antenna contacts a power line of 14.5 kV rms or less, line to ground, it will not transmit a harmful amount of electric current to a person holding the antenna mast.

In the same notice, the Commission also issued final certification regulations to establish requirements applicable to manufacturers and importers when conducting tests to ensure that their antennas comply with the standard and when issuing certificates of compliance with the standard.

The standard and certification regulation were issued under the authority of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051 *et seq.*). Section 36 of the CPSA (15 U.S.C. 2083) provides that Congress may veto a consumer product safety standard "within 90 calendar days of continuous session of the Congress which occurs after the promulgation" of such a standard.

Thus, at the time the Commission issued the final standard, the possibility existed that the standard might not ever become effective. Moreover, the date of expiration of the period for exercise of the Congressional veto cannot be calculated precisely in advance.

For these reasons, § 1204.1(c)(1) of the standard stated that except as provided in § 1204.1 (c)(2), "the standard applies to all omnidirectional CB base station antennas that are consumer products and are manufactured on or after February 25, 1983, or the day after the expiration of the period provided in 15 U.S.C. 2083 for the exercise of a Congressional veto of the standard, whichever date is later."

In the preamble to the standard, the Commission stated that it would confirm the effective date of the standard and certification rule by a subsequent notice in the **Federal Register.**

The 90 calendar day period of continuing session of Congress following promulgation of the standard ended on May 23, 1983, with no action by Congress. Consequently, the standard and certification regulation became effective on May 24, 1983, and applicable to all omnidirectional citizens band base station antennas that are consumer products and that are manufactured or improted on or after that date.

The amendment of the standard issued below clarifies provisions of § 1204.1(c)(1) by specifying that May 24, 1983, is the date on which the standard became effective. However, this

amendment does not change the effective date of the standard from the one described in the notice by which the standard was issued on a final basis. For this reason, the amendment issued below makes no "material change" to the standard.

A proceeding for the amendment of a consumer product safety standard which makes no material change to that standard is exempted from the requirements of sections 7 and 9(a) through (g) of the CPSA (15 U.S.C. 2056, 2058(a) through (g)) by provisions of section 9(h) of the CPSA (15 U.S.C. 2058(h)).

Because the amendment issued below is one which simply clarifies the language of one section of the standard without making any change to its provision, the Commission finds for good cause, in accordance with provisions of the Administrative Procedure Act (5 U.S.C. 553 (b)(B) and (d)(3)) that notice of proposed rulemaking, opportunity for public comment, and delayed effective date are unnecessary in this proceeding. Therefore, the amendment shall be effective upon publication.

List of Subjects in 16 CFR Part 1204

Communications equipment, Consumer protection, Electronic products, Radio.

Conclusion

PART 1204—[AMENDED]

The Commission amends Part 1204 of Title 16 of the Code of Federal Regulations by revising § 1204.1(c)(1) to read as follows:

PART 1204—SAFETY STANDARD FOR OMNIDIRECTIONAL CITIZENS BAND BASE STATION ANTENNAS

Subpart A—The Standard

§ 1204.1 Scope of the standard.

* * * * *

(c) *Scope.* (1) Except as noted below, the standard applies to all omnidirectional CB base station antennas that are consumer products and are manufactured or imported on or after May 24, 1983.

(Sec. 9(h), Pub. L. 92-573, 86 Stat. 1207, as amended Pub. L. 95-319, 92 Stat. 386, Pub. L. 95-631, 92 Stat. 3742, Pub. L. 96-373, 94 Stat. 1366, Pub. L. 97-35, 95 Stat. 703, 15 U.S.C. 2058(h))

Dated: June 23, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83-17405 Filed 6-27-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 83-144]

Customs Regulations Amendment Relating to the Generalized System of Preferences

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the definition of the term "imported directly," to expand that definition to allow treatment under the Generalized System of Preferences (GSP) for eligible articles which: (1) Originate in a beneficiary developing country, (2) are shipped to a developed country and auctioned there, and (3) then are shipped to the United States.

By allowing those eligible articles to be entered free of Customs duty, the beneficiary developing countries of which they are products will obtain the intended benefit established by the GSP.

EFFECTIVE DATE: This rule is effective as to merchandise entered or withdrawn from warehouse, for consumption on or after June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Francis W. Foote, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5727).

SUPPLEMENTARY INFORMATION:

Background

Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461-2465), authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free treatment for eligible articles imported directly from designated beneficiary developing countries (BDCs). BDCs and articles eligible for GSP treatment are designated by the President by Executive Order in accordance with the provisions of the Trade Act. The Customs Regulations issued to administer the GSP are contained in §§ 10.171-10.178 (19 CFR 10.171-10.178).

A notice was published in the **Federal Register** on April 7, 1983 (48 FR 15153), inviting public comments on Customs intention to expand the definition of "imported directly" in § 10.175, Customs Regulations (19 CFR 10-175), to encompass the traditional marketing procedure established for "Cameroon wrapper tobacco," as described in detail in that document. All information contained in the Supplementary Information Background section of that notice is hereby incorporated by reference in this document.

Discussion of Comments

Four comments were received in response to the notice. Three commenters were generally in favor of the proposal and one was opposed.

One commenter in favor of the proposal requested that an explanatory comment be published with the final rule to clarify that the new provisions would apply to shipments of all merchandise meeting the new criteria rather than only to the "Cameroon wrapper" tobacco specifically discussed in the notice. Another commenter, although also in favor of the proposal, requested that the words "except for sale other than at retail" be deleted from proposed new paragraph (d)(3) in order to avoid the implication that the sale of merchandise while in a customs bonded warehouse in an intermediate country would mean that the merchandise had entered the commerce of that country. This comment was based on the fact that under § 10.175(c) the purchase and resale of merchandise within a free trade zone maintained in a beneficiary developing country does not constitute entry of that merchandise into the commerce of that country. This commenter further suggested that the proposed new rule should specify an effective date coextensive with the effective date of Executive Order 12311 which gave GSP treatment to the subject tobacco so that all wrapper tobacco entered, or withdrawn from warehouse for consumption, on or after July 4, 1981, would be eligible for GSP treatment in accordance with the intent behind the Executive Order. The third commenter not opposed to the proposal suggested that, in order to ensure uniformity in the application of the GSP, Customs should specify what constitutes evidence sufficient to establish that a shipment complies with the requirements of the new provision.

The commenter opposed to the proposal questioned whether the legislative history relating to the GSP indicated a Congressional intent to confer duty-free treatment on the subject tobacco and whether it was proper to redefine the statutory term "imported directly" in the regulations. This commenter further suggested: (1) That it would be difficult to maintain

control over GSP merchandise to ensure that merchandise is not processed beyond the limits set forth in § 10.175, and (2) that the proposed rule will significantly increase the administrative workload of Customs.

With respect to the first comment, the new provisions will not apply only to "Cameroon wrapper" tobacco since no such limitation is contained in the proposed text. As concerns the proposal to delete the words "except for sale other than at retail" from proposed new paragraph (d)(3), these words should be retained so that the new provisions will conform to the limited factual situation which gave rise to the proposal, and in this regard it should also be noted that a customs bonded warehouse is not necessarily to be equated with the "free trade zone" mentioned in present § 10.175(c).The proposal to specify a retroactive effective date is not acceptable since such retroactivity would apply equally to merchandise other than wrapper tobacco; thus, the effect would be far broader than that intended by the commenter and would impose an inordinate administrative burden on Customs which would be required to reliquidate prior entries of other types of merchandise falling within the criteria set forth in the new rule. As concerns the suggestion that Customs specify what constitutes evidence to ensure compliance with the new provision, it is believed that it would be preferable to allow a certain amount of flexibility so that the district director of Customs will have discretion whether to allow GSP treatment based on the particular facts and evidence involved in each individual case.

With respect to the negative comment received, it is noted that the Congressional intent was to confer duty-free treatment on merchandise to be designated by the President as eligible for GSP treatment; the fact that the President designated wrapper tobacco as an eligible article under his delegated authority to do so is wholly consistent with the legislative intent behind the GSP. As concerns the definition of "imported directly", it is to be noted that this term appears in 19 U.S.C. 2463 (b) but is not defined therein; the Secretary of the Treasury is authorized under that subsection to prescribe regulations to carry out its provisions and, therefore, the existing regulatory provisions and the new proposal under consideration are entirely appropriate. The alleged difficulties in maintaining control over GSP merchandise are equally applicable to the present GSP regulations and no particular problems appear to have been experienced with the existing provisions. Finally, Customs has determined that the rule, as adopted, will not result in a significant increase in the administrative workload of Customs.

After consideration of the comments, as discussed above, and further review of the matter, Customs has determined to adopt the proposal without modification.

Inapplicability of Delayed Effective Date

Because the next annual sale of Cameroon wrapper tobacco eligible to receive GSP treatment under the criteria specified in this rule is to occur during June 1983, Customs has determined that good cause exists for dispensing with a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule 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, 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 10

Customs duties and inspection, Generalized System of Preferences, Imports, Tobacco.

Amendment to the Regulations

Part 10, Customs Regulations (19 CFR Part 10), is amended as set forth below.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: June 7, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.175 is amended as follows:

§ 10.175 Imported directly defined.

1. In paragraph (b), add "or (d)" after the phrase "paragraph (c)";

2. In paragraph (c)(5), replace the period with "; or"; and

3. Add a new paragraph (d), to read as follows:

* * * * *

(d) If shipped from the beneficiary developing country to the United States through the territory of any other country, provided that the eligible article:

(1) Is wholly the growth or product of the beneficiary developing country;

(2) Remains under the control of the customs authorities of the intermediate country;

(3) Does not enter into the commerce of the intermediate country except for sale other than at retail, and the district director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the latter's sales agent;

(4) Has not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition; and

(5) Complies with the origin requirements for goods exported to the United States under the Generalized System of Preferences, as stated in the Certificate of Origin Form A, which shall be issued by the beneficiary developing country. In addition, the beneficiary developing country shall provide, upon request, evidence sufficient to satisfy the appropriate Customs official that the shipment complies with the requirements of this paragraph.

(R. S. 251, as amended, sec. 624, 46 Stat. 759, sec. 503(b), 88 Stat. 2069, as amended (19 U.S.C. 66, 1624, 2463(b))

[FR Doc. 83-17391 Filed 6-27-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Red No. 19 and D&C Red No. 37 For Use in Externally Applied Drugs and Cosmetics; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Red No. 19 and D&C Red No. 37 for use as color additives in externally applied drugs and cosmetics. The new closing date will be August 30, 1983.

This brief postponement will provide additional time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Red No. 19 and D&C Red No. 37.

DATES: Effective June 28, 1983, the new closing date for D&C Red No. 19 and D&C Red No. 37 will be August 30, 1983.

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

SUPPLEMENTARY INFORMATION: FDA established the current closing date of June 28, 1983, for the provisional listing of D&C Red No. 19 and D&C Red No. 37 for use in externally applied drugs and cosmetics by a rule published in the **Federal Register** of April 29, 1983 (48 FR 19365). The agency extended the closing date until June 28, 1983, to provide time for determining the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Red No. 19 and D&C Red No. 37. Previously in the **Federal Register** of March 1, 1983 (48 FR 8443), FDA had published a rule establishing the April 29, 1983, closing date for the provisional listing of D&C Red No. 19 and D&C Red No. 37 to provide time for consideration of studies submitted by the Cosmetic, Toiletry, and Fragrance Association, Inc. (CTFA), and in the **Federal Register** of March 27, 1981 (46 FR 18954), FDA had published a rule establishing a closing date of February 28, 1983, for the provisional listing of D&C Red No. 19 and D&C Red No. 37 for cosmetic and general drug uses. The agency extended the closing date until February 28, 1983, to provide time for the completion of chronic toxicity studies and the review and evaluation of these studies. In the **Federal Register** of February 4, 1983 (48 FR 5262), FDA terminated the provisional listing of D&C Red No. 19 and D&C Red No. 37 for coloring ingested drugs and cosmetics.

As noted in the **Federal Register** of August 6, 1973 (38 FR 21199), D&C Red No. 19 and D&C Red No. 37 are the subject of a petition (CAP 9C0091) submitted by the Toilet Goods Association, Inc. (now CTFA), for use in coloring drugs and cosmetics. As discussed in the **Federal Register** of February 4, 1983 (48 FR 5262), the petitioner has amended its color additive petition by withdrawing its request to list these color additives for coloring ingested drugs and cosmetics but has continued to seek permanent listing of these color additives for use in external cosmetic and drug products that are not subject to incidental ingestion. Prior to February 4, 1983, the petitioner submitted analyses of the safety and legal issues involved in the decision on whether to list the external uses of these color additives, including data regarding skin penetration. However, the agency found the skin penetration data did not provide an adequate basis upon which to determine whether these color additives were in fact absorbed through the skin.

Thus, on November 24, 1982, CTFA asked the agency to review new skin penetration studies on these color additives. CTFA said it would be able to submit these studies to the agency by February 10, 1983. Because of unforeseen events, CTFA was unable to submit these new data until February 16, 1983. The agency agreed to review these data before reaching a conclusion on the safety of D&C Red No. 19 and D&C Red No. 37 for use in externally applied drugs and cosmetics.

The agency is now considering the scientific and legal aspects of the CTFA submissions in support of the external uses of these color additives. Although D&C Red No. 19 and D&C Red No. 37 have been shown to be animal carcinogens upon ingestion, the agency believes that somewhat different questions are raised by the request to list these color additives for noningested use. FDA finds that additional time is needed to determine the applicability of the statutory standard for the listing of color additives for noningested use to D&C Red No. 19 and D&C Red No. 37. It has taken FDA more time to evaluate the data involved in making this decision than the agency anticipated. This postponement will also provide additional time for the agency to prepare and to publish a **Federal Register** document setting forth its final decision on the petition for the permanent listing of these color additives for external use. The continued use of these color additives in externally applied products for the short time needed for adequate evaluation of the data and for preparation of the **Federal Register** document will not pose a hazard to the public health.

Because of the short time until the June 28, 1983 closing date, FDA concludes that notice and public procedure on these amendments are impracticable.

This final rule will permit the uninterrupted use of these color additives until August 30, 1983. To prevent any interruption in the provisional listing of D&C Red No. 19 and D&C Red No. 37 and in accordance with 5 U.S.C. 553(d) (1) and (3), this final rule is being made effective June 28, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376 (b), (c), and (d)) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing date for "D&C Red No. 19" and "D&C Red No. 37" in paragraph (b) to read "August 30, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, by revising the closing date for "D&C Red No. 19" and "D&C Red No. 37" in paragraph (d) to read "August 30, 1983."

Effective date. This final rule shall be effective June 28, 1983.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403, (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note))

Dated: June 15, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-17409 Filed 6-27-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 255

[Docket No. R-83-953]

Coinsurance for Private Mortgage Lenders; Technical Amendment

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

ACTION: Technical amendment.

SUMMARY: This document amends 24 CFR Part 255 of HUD regulations to include OMB control numbers at the place where current information collection requirements are described.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Benjamin McKeever, Regulations Division, Office of the General Counsel, (202) 755-7084. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and assigned the control numbers listed.

Text of the Amendment

PART 255—[AMENDED]

§ 255.102 [Amended]

Accordingly, 24 CFR Part 255 is amended as follows:

1. After the text of § 255.102, add the following statement:

* * * * *

(Approved by the Office of Management and Budget under OMB Control Numbers 2502-0272 and 2502-0273.)

§ 255.201 [Amended]

2. After the text of § 255.201, add the following statement:

* * * * *

(Approved by the Office of Management and Budget under OMB Control Numbers 2502-0272 and 2502-0273)

Dated: June 23, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-17356 Filed 6-27-83; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 255

[Docket No. R-83-953]

Coinsurance for the Purchase or Refinancing of Existing Multifamily Housing Projects—Announcement of Effective Date

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

ACTION: Notice of announcement of effective date for interim rule.

SUMMARY: This notice announces the effective date for the interim rule published in the **Federal Register** on May 25, 1983 (48 FR 23386). The rule amends 24 CFR Part 255. Part 255 sets forth a program of coinsurance for the purchase or refinancing of existing multifamily housing projects. The effective date provision of the rule states that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, subject to waiver, and announced that future notice of the effectiveness of the rule would be published in the **Federal Register**.

The Chairman and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance, and Urban Affairs have, upon the Secretary's request, granted waivers of the requirements of section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3) which provides for a delay in effectiveness of rules for a period of 30 calendar days of continuous session of Congress after publication, unless so waived. Accordingly, this interim rule will become effective on June 28, 1983. However, public comments have been invited and will be considered in the adoption of a final rule. The public comment period closes on July 25, 1983.

The granting of waivers, as described above, does not indicate approval of the regulations by Congress or the Committees or by the individual members granting them. Under Section 7(o)(5) of the Department of HUD Act, "Congressional inaction on any rule or regulation shall not be deemed and expression of approval of the rule or regulation involved." The foregoing provision refers to inaction on a joint resolution of disapproval or other legislation which is intended to modify or invalidate the rule or regulation or any portion thereof, and the principal that such inaction does not imply Congressional approval applies, a *fortiori*, to a waiver of the nature requested and granted in this instance.

DATE: The effective date for the rule is June 28, 1983.

FOR FURTHER INFORMATION CONTACT: James Hamernick, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone No. (202) 755-5720. (This is not a toll-free number.)

Dated: June 23, 1983.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 83-17355 Filed 6-27-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[Attorney General Order No. 992-83]

28 CFR Part 42

29 CFR Part 1691

Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance; Limitations on Participation of the Department of Education

AGENCY: Department of Justice and Equal Employment Opportunity Commission.

ACTION: Rule related—notice.

SUMMARY: This notice limits the participation of the Department of Education (ED) in some of the procedures issued by the Department of Justice and the Equal Employment Opportunity Commission for complaints of employment discrimination filed against recipients of Federal financial assistance, until court approval is obtained in *Adams, et al.* v. *Bell, et al.*, C.A. No. 3095-70 and *Women's Equity Action League, et al.*, v. *Bell, et al.*, C.A. 74-1720 (D.D.C., Order of December 29, 1977, as modified by D.D.C., Order of March 11, 1983) to allow ED to comply fully with those procedures.

FOR FURTHER INFORMATION CONTACT:

Stuart Frisch, Acting Assistant Legal Counsel for Coordination, Office of Legal Counsel, Equal Employment Opportunity Commission, 2401 "E" Street, NW., Washington, D.C. 20607; (202) 634-7581; or

David L. Rose, Chief, Federal Enforcement Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530; (202) 633-3831.

SUPPLEMENTARY INFORMATION: On January 25, 1983, the Department of Justice (DOJ) and the Equal Employment Opportunity Commission (EEOC) jointly published a rule entitled, "Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Funds." The rule requires Federal agencies that grant financial assistance to refer to EEOC certain complaints of employment discrimination against individuals, filed on or after March 28, 1983, for investigation and conciliation, unless special circumstances warrant the agency's processing of particular complaints.

By virtue of an order of the United States District Court in *Adams, et al.* v. *Bell, et al.*, C.A. No. 3095–70 and *Women's Equity Action League, et al.* v. *Bell, et al.*, C.A. No. 74–1720 (D.D.C., Order of December 29, 1977, as modified by D.D.C., Order of March 11, 1983) ("*Adams*"), the Department of Education (ED) is obliged to process complaints of discrimination within time limits specified by the Court. These time limits do not have general applicability to EEOC or to other agencies that grant financial assistance, nor are they required by the procedures of the new rule. Defendants in *Adams* filed an appeal on May 10, 1983. Until the court allows ED to comply fully with the rule, ED's participation in the rule is limited as follows:

Section 5 (28 CFR 42.605, 29 CFR 1691.5):

1. ED shall refer to EEOC all "joint complaints solely alleging employment discrimination against an individual," in order to preserve the complainants' rights under Title VII of the Civil Rights Act of 1964, as amended. Section 5(e) (28 CFR 42.605(e), 29 CFR 1691.5(e)). ED shall determine that "special circumstances" exist in all such complaints. In accordance with the rule, ED shall therefore, investigate all of those complaints. EEOC will ordinarily defer its investigation pending investigation by ED of charges that it has received independently of ED's referral. EEOC shall defer its investigation pending investigation by ED of charges it has not received independently.

2. ED shall not determine that "special circumstances" warrant referral to EEOC of any complaint alleging a pattern or practice of employment discrimination. Section 5(f) (28 CFR 42.605(f), 29 CFR 1691.5(f)).

3. ED shall not determine that "special circumstances" warrant referral to EEOC of the employment discrimination portion of any complaint alleging discrimination in employment and in other practices of a recipient. Section 5(g) (28 CFR 42.605(g), 29 CFR 1691.5(g)).

These limitations shall remain in effect until the court modifies the order in *Adams* in a way that would allow ED to refer joint complaints to EEOC for investigation.

For the Department of Justice.

For the Commission.

Dated: June 18, 1983.

Wm. Bradford Reynolds,

Assistant Attorney General.

Dated: June 16, 1983.

Clarence Thomas,

Chairman.

[FR Doc. 83-17280 Filed 6-27-83; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Noise Exposure; Hearing Conservation Amendment; Corrections

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Corrections to revised hearing conservation amendment.

SUMMARY: This notice announces corrections to the revised Hearing Conservation Amendment to the occupational noise exposure standard which was published as a final rule in the **Federal Register** on March 8, 1983 (48 FR 9738).

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, OSHA, Office of Public Affairs, U.S. Department of Labor, Room N–3637, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION: On March 8, 1983 OSHA published as a final rule (48 FR 9738) a revised hearing conservation amendment to the occupational noise exposure standard. The hearing conservation amendment had been originally promulgated on January 16, 1981 (46 FR 4078). The amendment was subsequently stayed for administrative reconsideration and clarification; parts of the amendment went into effect in August 1981 and the administrative stays were continued and comments requested on other portions of the amendment (46 FR 42622). The final rule published on March 8, 1983 revised the hearing conservation amendment, revoking certain provisions of the original amendment, amending other provisions and making some changes of a clarifying nature.

As a result of the revision, and the revocation of certain provisions, the amendment was renumbered and relettered to reflect these changes. The amendatory language in the March 8, 1983 **Federal Register** document is corrected to reflect the Agency's intention to delete paragraphs (q)-(s) which were redesignated as paragraphs (n)-(p). In addition, it is necessary to make a correction to one of the provisions of Appendix E, to make the Appendix consistent with the terms of paragraph (h)(5)(ii) of the hearing conservation amendment, and to make a technical correction in Appendix F.

Accordingly, 48 FR 9738–9785 are corrected as follows:

1. On page 9776, middle column, the amendatory language which presently reads "Paragraphs (c) through (p) and Appendices A through I of 29 CFR 1910.95 are revised to read as follows:" is corrected to read "Paragraphs (q)-(s) of 29 CFR 1910.95 are removed and paragraphs (c)-(p) and Appendices A through I of 29 CFR 1910.95 are revised to read as follows:".

2. On page 9781, middle column, the second sentence in paragraph (3) of Appendix E is amended by removing the term "10 dB" and inserting "15 dB or greater" in its place.

3. On page 9781, third column, paragraph (ii) of Appendix F is corrected by removing "(i)(A) from the value found in step (i)(B)." and inserting "(i)(B) from the value found in step (i)(A)." in its place.

(Secs. 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657); Secretary of Labor's Order No. 8–76 (41 FR 25059); 29 CFR Part 1911)

Signed at Washington, D.C., this 24th day of June, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 83-17535 Filed 6-27-83; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 984

Air Force Aero Club; Correction

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule; correction.

SUMMARY: At 48 FR 20408, May 6, 1983, Part 984 was removed. Subchapter S—Recreation should have been removed also. This action is necessary because the parts concerning recreation under this subchapter have been removed. This is an administrative action to assure that the regulations in the Air Force portion of the Code of Federal Regulations are properly maintained.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Winnibel F. Holmes, Air Force Federal Register Liaison, AF/DASJR, Washington, D.C. 20330, phone (202) 697–1861.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–12181, appearing on page 20408, in the issue of May 6, 1983, the amendatory language now reading "Accordingly, 32 CFR is amended by removing Part 984.", is corrected to read "Accordingly, 32 CFR is amended by removing and reserving Subchapter S and by removing Part 984."

SUBCHAPTER S—[RESERVED]

PART 984—[REMOVED]

(10 U.S.C. 8012.)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–17374 Filed 6–27–83; 8:45 am]

BILLING CODE 3910–01–M

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32 CFR Part 988

Weather Modification; Correction

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule; correction.

SUMMARY: In 44 FR 54479, September 20, 1979, Part 988 was published as a new part under an added Subchapter T—Environmental Protection. The new subchapter was inadvertently omitted from title 32, the Code of Federal Regulations Parts 800–999. This action is taken to correct that error.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Winnibel F. Holmes, Air Force Federal Register Liaison, AF/DASJR, Washington, D.C. 20330, phone (202) 697–1861.

SUPPLEMENTARY INFORMATION: In FR Doc. 79–29235, beginning on page 54479, in the issue of September 20, 1979, make a correction by adding the following subchapter designation before this part heading:

SUBCHAPTER T—ENVIRONMENTAL PROTECTION

(10 U.S.C. 8012.)

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–17375 Filed 6–27–83; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

32 CFR Part 518

[Army Reg 340–17]

Release of Information and Records From Army Files

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is amending its rule for administering the Freedom of Information Act by incorporating as Army policy, Department of Defense Privacy Board Decision Memorandum 83–1 guidance concerning the release of servicemembers' names and addresses.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Walker, Administrative Management Directorate, Office of the Adjutant General, Headquarters, Department of the Army, ATTN: DAAG–AMR–S, 2461 Eisenhower Avenue, Alexandria, VA 22331; telephone (703) 325–6163.

SUPPLEMENTARY INFORMATION: The Department of the Army has determined that the release of servicemembers' names and unit or home addresses for the primary purpose of commercial solicitation is normally not in the public interest. Requesters who seek lists or compilations of unit or home addresses of military personnel for this purpose normally will be refused such lists pursuant to Exemption 6 of the Freedom of Information Act. Coordination of requests for organizational rosters of active duty personnel with the Department of the Army's Military Personnel Center is required as part of the Army's Operations Security (OPSEC) program.

List of Subjects in 32 CFR Part 518

Information, Archives and records, Privacy, Freedom of information.

Dated: June 20, 1983.

John O. Roach,

Department of the Army Liaison Officer With the Federal Register.

PART 518—[AMENDED]

32 CFR Part 518 is amended to read as follows:

* * * * *

Subpart C—Exemptions

* * * * *

1. Section 518.8 is amended by adding paragraph (f)(2)(iii) to read as follows:

§ 518.8 Exemptions.

* * * * *

(f) * * *

(2) * * *

(iii) A requester whose primary purpose for requesting servicemembers' names and addresses in commercial solicitation normally should not be viewed as acting in the public interest. Names and addresses (unit or home) of active duty, reserve or retired servicemembers generally are exempt from disclosure where the requester's primary purpose in seeking the information is to use it for commercial solicitation of those servicemembers. In the rare case where a requester does establish some public interest involving his or her intention to engage in commercial solicitation, that interest must be weighed against the invasion of privacy which will result from disclosure of the requested information.

* * * * *

Subpart E—Release and Processing Procedures

* * * * *

2. Section 518.14 is amended by adding paragraph (a)(3)(v) to read as follows:

* * * * *

§ 518.14 General provisions.

(a) * * *

(2) * * *

(v) Requests for organizational rosters of active duty personnel will not be released to members of the general public prior to coordination with the USA Military Personnel Center. This coordination is required to evaluate what damage may occur to the national security if significant quantities of information, i.e., unit addresses, troop lists, manpower lists, are disclosed to the public. Telephone numbers are Autovon 221–9310/9311.

* * * * *

[FR Doc. 83–17279 Filed 6–27–83; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL 2340-6]

Approval and Promulgation of Implementation Plans; (Connecticut Revision—Sulfur-In-Fuel Regulations)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is today approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut under its Sulfur Energy Trade (SET) program. The intended effect of the rulemaking is to promulgate a change in the sulfur-in-oil SIP limit for Simkins Industries, Inc., in New Haven, Connecticut so it may burn 2.2% sulfur oil under restricted operating conditions.

EFFECTIVE DATE: June 28, 1983.

ADDRESSES: Copies of the Connecticut submittals are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2313, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L St., NW., Room 9401, Washington, D.C.; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06106.

FOR FURTHER INFORMATION CONTACT: Sarah Simon, Air Management Division, Room 2312, JFK Federal Building, Boston, Massachusetts 02203 (617) 223-5633.

SUPPLEMENTARY INFORMATION: The Connecticut Department of Environmental Protection (DEP) has requested approval of a sulfur-in-oil relaxation for Simkins Industries in New Haven, Connecticut. The State's revision is based on an approval under its Sulfur Energy Trade (SET) Program. The revision will allow Simkins to burn oil containing 2.2% sulfur under restricted operating conditions. The SET revision allows operation of only one of Simkins two boilers at any one time, which, when combined with fuel use reductions already in place, will result in a net actual increase of about 31 tons of sulfur dioxide (SO_2) above a base year of 1976.

As detailed in the SIP, the SET program provides a method for calculating a new, allowable sulfur limit each year based on oil conservation at the facility (premise) and establishes a well-defined procedure to ensure that these limits comply with Clean Air Act requirements. EPA proposed to approve the generic procedures of the SET program on May 1, 1981 (46 FR 24597). At that time we also proposed to approve revised sulfur-in-oil limitations for all Connecticut sources under 250 million British Thermal Units per hour (MBTU/hr.) such as Simkins, which would later be approved by the DEP Commissioner under the SET program. EPA approved the SET program on August 28, 1981 (46 FR 43418) and set up a streamlined procedure for final federal approval of most of the individual source revisions. We also approved a regulation directly governing this program [Connecticut Regulation 19-508-19(a)(3)(i)] on November 18, 1981 (46 FR 56612). Under the approved procedures referenced above, this action is the Final Rulemaking for this particular source.

Simkins has no boilers which are rated at over 250 MBTU/hr., but it is a major SO_2 source (capable of emitting more than 100 tons per year). The DEP reviewed the impacts of the revision for this premise by using the conservative, screening analysis methodology spelled out in the Connecticut Ambient Impact Analysis Guideline (approved at 46 FR 43418, August 28, 1981). The full record of the modeling review is on file at the DEP office.

To summarize briefly, the modeling used DEP's PMTPTA-CONN model with appropriate background levels and indicated that the revision will not cause any violation of the sulfur dioxide or total suspended particulate (TSP) National Ambient Air Quality Standards (NAAQS). In addition, the source is more than 20 kilometers (km.) from any state border or Prevention of Significant Deterioration (PSD) baseline areas and has minimal impact beyond 10 km. EPA has determined that the revision will not violate any PSD increments.

The DEP has complied with all procedures required by State Regulation 19-508-19(a)(3)(i) and the SIP narrative for sources such as Simkins that have no boilers greater than 250 MBTU/hr. and has determined what sulfur limit is allowable under the SET program. The DEP has notified the public of the Simkins application and DEP's proposed decision, has held a hearing, and has submitted the documents and determinations required by the SET program and federal SIP approval.

There was only one comment letter received by the State on this SET action proposal. This was written by the Connecticut Fund for the Environment (CFE). This letter alleged that the State's public notice of the Simkins application was inadequate and misleading, and it raised concerns about the potential adverse effects of burning higher sulfur fuel. The State responded to the notice problem when it completed its review, gave notice of its proposed findings, held a hearing.

The commenter appeared at the hearing to reiterate concerns about burning higher sulfur fuel and particulate non-attainment. She said that state action should be delayed until after the resolution of a federal suit concerning the general program and that the state must review secondarily-formed sulfates.

EPA responds that the state is only amending its SO_2 SIP with this revision, and its action applies to one source whose impacts will not violate or exacerbate *any* NAAQS within Connecticut or elsewhere. In addition, general issues concerning the SET SO_2 SIP revisions were resolved in litigation in favor of EPA's original determinations on the SET program and the 1% statewide revision. [See *CFE v. EPA*, 696 F. 2d 179 (2d. Cir., 1982), *CFE v. EPA*, 696 F. 2d 169 (2d. Cir., 1982)]. TSP issues should be addressed through an independent process for the TSP SIP. EPA's evaluation memo contains a more detailed response and is available at the locations listed above.

The public has had full opportunity to review the DEP action for these relatively small sources in accordance with the procedures spelled out in EPA's SET program approval.

EPA concurs in the State's assessment that this revision is an enforceable SIP revision that will not violate NAAQS or other federal requirements.

Action: EPA is approving the Simkins revision, which raises the Simkins sulfur-in-oil limit to 2.2% and restricts operating conditions.

EPA finds good cause for making this action effective immediately, because the new sulfur limit is already in effect under state law and imposes no additional regulatory burden. The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court for the appropriate circuit by (60 days from today). This action

may not be challenged later in proceedings to enforce its requirements. [See Section 307(b)(2).]

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities (46 FR 8709).

List of Subjects in 40 CFR Part 52

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

Dated: June 21, 1983.

William D. Ruckelshaus,

Administrator.

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

PART 52—[AMENDED]

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

Subpart H—Connecticut

1. Section 52.370, paragraph (c)(28) is added as follows:

§ 52.370 Identification of plan.

* * * * *

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

* * * * *

(28) Revision for Simkins Industries, Inc., in New Haven submitted by the Commissioner of the Connecticut Department of Environmental Protection on January 19, 1983, allowing the facility to burn higher sulfur oil under the Sulfur Energy Trade Program.

[FR Doc. 83-17316 Filed 6-27-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-1-FRL 2343-8]

Approval and Promulgation of Implementation Plans; Rhode Island; New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revision to Air Pollution Control Regulation 9 and Section VI, Part II, "Stationary Source Permitting and Enforcement," of the narrative portion of the Rhode Island State Implementation Plan (SIP) submitted on May 14, 1982 and July 1, 1982, respectively. These revisions were made to satisfy the requirements of the Clean Air Act and EPA regulations for preconstruction permitting of new major sources and major modifications in nonattainment areas. The revisions also add rules for banking emission reductions to Regulation 9 which are consistent with EPA's emission trading policy. The intended effect of this action is to propose approval of revisions to Regulation 9 and the SIP narrative giving Rhode Island authority for the new source review (NSR) requirements of Part D of the Clean Air Act and authority to establish a system for banking emission reductions under the SIP.

EFFECTIVE DATE: July 28, 1983.

ADDRESSES: Copies of the Rhode Island submittals are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460; Office of the Federal Register, 1110 L Street, NW., Room 8401, Washington, D.C. 20408; and the Department of Environmental Management, 75 Davis Street—Room 204, Cannon Building, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (617) 223-5131, FTS 223-5131.

SUPPLEMENTARY INFORMATION: On February 3, 1983 (48 FR 4834), EPA published a Notice of Proposed Rulemaking (NPR) for revisions to Air Pollution Control Regulation 9 and Section VI, Part II, "Stationary Source Permitting and Enforcement" of the narrative portion of the Rhode Island SIP. The revisions were made to satisfy the requirements of the Clean Air Act and EPA regulations for the preconstruction permitting of new major sources and major modifications in nonattainment areas. Additionally, the revisions to Regulation 9 add rules for banking emission reductions to the Rhode Island SIP.

No comments were received on EPA's NPR, cited above. The revisions and the rationale for EPA's proposed action are explained in that NPR and will not be restated here.

Action: EPA is: (1) Approving revisions to Air Pollution Control Regulation Number 9 (except the revision to the definition of "Stationary source" found in Section 9.1.1) and Section VI, Part II of the narrative as submitted by the Rhode Island Department of Environmental Management (DEM) on May 14, 1982 and July 1, 1982 and (2) removing the conditions imposed on its approval of Rhode Island's NSR plan (46 FR 25446) because those conditions have been satisfied by the revisions made to Subsections 9.1.5, 9.1.7, 9.1.8, and 9.1.9 submitted on May 14, 1982 by the DEM.

As explained in the NPR, EPA is taking no action on the revised definition of "Stationary source" in Subsection 9.1.1 of Regulation 9 submitted on May 14, 1982 by the DEM. The definition of "Stationary source" approved by EPA on May 7, 1981 (46 FR 25446) for NSR purposes remains in effect under the federally-approved SIP for Rhode Island.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see Sec. 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

(Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a))

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

Dated: June 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subpart 00—Rhode Island

1. Section 52.2070 is amended by adding paragraph (c)(18) as follows:

§ 52.2070 Identification of plan.

* * * * *

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

* * * * *

(18) Revisions to Air Pollution Control Regulation Number 9, Approval to Construct, Install, Modify, or Operate (except to Subsection 9.1.1), and Section VI, Part II, "Stationary Source Permitting and Enforcement" of the narrative as submitted by the Department of Environmental Management on May 14, 1982 and July 1, 1982 for review of new major sources and major modifications in nonattainment areas. Also included

are revisions to add rules for banking emission reductions.

§ 52.2081 [Reserved]

2. Section 52.2081 is removed and reserved.

[FR Doc. 83-17356 Filed 6-27-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 60

[A-7-FRL 2389-6]

Standards of Performance for New Stationary Sources (NSPS); Delegation of Authority to the State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: This notice announces extensions of a delegation of authority which was initially issued to the State of Iowa by EPA on June 6, 1975, regarding the requirements of the federal Standards of Performance for New Stationary Sources, 40 CFR Part 60. The extension was requested by the State of Iowa. The extension added six (6) source categories to the delegation of authority. Except for one major source category, the delegation now includes all delegable requirements of the federal NSPS regulations as promulgated by the agency through January 27, 1982.

EFFECTIVE DATE: June 28, 1983.

ADDRESSES: All requests, reports, applications, submittals and such other communications that are required to be submitted under 40 CFR Part 60 (including the notifications required under Subpart A of the regulations) for affected facilities in Iowa should be sent to the Iowa Department of Environmental Quality (IDEQ), Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50316.

Note.—On July 1, 1983, the IDEQ will undergo a name change and will become the Iowa Department of Water, Air, and Waste Management).

A copy of all Subpart A related notifications must also be sent to the attention of the Director, Air and Waste Management Division, U.S. EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles W. Whitmore, Chief, Technical Analysis Section, Air Branch, U.S. EPA, Region VII, at the above address.

SUPPLEMENTARY INFORMATION: Section 111(c) of the Clean Air Act allows the Administrator of the Environmental Protection Agency (EPA) to delegate to any state the authority to implement and enforce the requirements of the federal Standards of Performance for New Stationary Sources (NSPS). If authority is delegated to a state agency, the EPA retains concurrent authority to implement and enforce the requirements of said regulations.

On June 6, 1975, the agency delegated to the State of Iowa the authority to implement and enforce the standards, as promulgated by the agency through April 1, 1974, for eleven (11) source categories (see 41 FR 56889, December 30, 1976). On August 25, 1980, the agency revised the initial delegation to include all requirements of said regulations, as amended through December 31, 1979, for the original eleven source categories and for fifteen (15) additional source categories (see 45 FR 75758, November 17, 1980, for a complete listing of the affected source categories). The delegation which occurred on August 25, 1980, revised the conditions of the original delegation and, as such, supersedes the original delegation.

On November 4, 1982, and February 4, 1983, the State of Iowa again requested extension of the delegation to include the standards affecting six (6) additional source categories. The State of Iowa has revised Subrule 400–4.1(2), Chapter 4, of the Iowa Administrative Code, to incorporate the standards of 40 CFR Part 60 as amended by the agency through January 27, 1982. In consideration of the information provided in the above-mentioned letters (and in consideration of the opinions expressed in a legal memorandum dated April 11, 1983, which clarified the state's intent regarding the adoption of certain revisions made to the standards of 40 CFR Part 60, Subpart GG), the agency granted the extension requests on March 31, and May 10, 1983.

Note.—As of January 27, 1982, the agency had promulgated standards of performance affecting 33 source categories. The State of Iowa has not adopted the standards of Subpart DD—Grain Elevators).

The actions taken by the agency on March 31, 1983, and May 10, 1983, extended the delegation to include the following additional provisions, as in effect through January 27, 1982:

Subpart K—Petroleum Liquid Storage Vessels constructed after 6/11/73;
Subpart Ka—Petroleum Liquid Storage Vessels constructed after 5/18/78;
Subpart CC—Glass Manufacturing Plants;
Subpart GG—Stationary Gas Turbines;
Subpart PP—Ammonium Sulfate Plants;
Subpart MM—Automobile and Light-Duty Truck Surface Coating Operations;
Reference Method 20—Determination of Nitrogen Oxides, Sulfur Dioxide, and Oxygen Emissions from Stationary Gas Turbines;
Reference Method 24—Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings;
Reference Method 25—Determination of Total Gaseous Nonmethane Organic Emissions as Carbon; and,
The various amendments made by EPA to Subpart A (General Provisions), Subpart J (Petroleum Refineries), Subpart K and Ka, Subpart S (Primary Aluminum Reduction Plants), Subpart GG, and Reference Methods 13A, 13B, and 14 (re: Determination of total fluoride emissions) through January 27, 1982.

The agency also addressed two conditions of the August 25, 1980 delegation. One of the conditions specified that the state would not be allowed to grant variances to sources which would be subject to the NSPS regulations. The agency has since re-examined Iowa's variance rule and now agrees that the rule adequately prevents sources from obtaining a variance from the requirements of Iowa Subrule 400–4.1(2); i.e., Iowa's NSPS-related rules. Thus, the condition was revoked. Another condition was reworded to identify the NSPS-related provisions which EPA believes the state agency has agreed to implement and enforce under the requested delegation of authority.

Effective immediately, all reports, correspondence, and such other submittals required under the NSPS regulations for glass manufacturing plants, petroleum liquid storage vessels, automobile and light-duty truck surface coating operations, stationary gas turbines, and ammonium sulfate plants should be sent to the Iowa Department of Environmental Quality at the above address rather than the EPA regional office.

A copy of each notification required under 40 CFR Part 60, Subpart A, must also be sent to the attention of the Director, Air and Waste Management Division, of the EPA regional office mentioned above.

Each document and letter mentioned in this notice is available for public inspection at the EPA regional office.

(Section 111 of the Clean Air Act, as amended (42 U.S.C. 7411))

Dated: June 19, 1983.

William Rice,

Acting Regional Administrator.

[FR Doc. 83-17357 Filed 6-27-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 80

[AMS-FRL 2345-5]

Regulation of Fuels and Fuel Additives; Applicability to 1984 Model Year Motorcycles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is excluding 1984 model year motorcycles from the requirement of 40 CFR 80.24(b)(1) concerning the design of the fuel tank filler inlet for motor vehicles required to use only unleaded gasoline. This change is necessary because of a requirement in the regulation that was never intended to apply to motorcycles.

DATES: This rule is effective July 28, 1983. However, revisions will be considered based upon comments received on or before July 28, 1983.

ADDRESS: Send comments to Public Docket A-83-19, Central Docket Section (LE-131), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments should be indentified with the docket number. Copies of information relative to this rule are available for public inspection at the Central Docket Section of the Environmental Protection Agency, West Tower, Gallery I, 401 M Street SW., Washington, DC 20460 and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, Chief, Fuels Section, Field Operations and Support Division (EN-397) EPA, 401 M Street SW., Washington, DC 20460 (202) 382-2625.

SUPPLEMENTARY INFORMATION: 40 CFR 80.24 places certain requirements on the manufacturer of any motor vehicle equipped with an emission control device (primarily the catalytic converter) which will be impaired by the use of leaded gasoline. As defined in the Clean Air Act, "motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway. This definition includes motorcycles. 40 CFR 80.24(b)(1) places a design requirement on the fuel tank filler inlet that was never intended to apply to motorcycles. It requires that when a leaded gasoline nozzle is inserted into the inlet, and rapidly activated to a full flow condition, no more than 700 cubic centimeters of gasoline pass into the tank before the nozzle shuts off. In order to meet this requirement the nozzle vacuum port must be plugged by fuel backing up in the inlet, thus shutting off fuel delivery. Due to the inherent design of a motorcycle's fuel tank, which generally has a portion of the frame running closely under the filler inlet, it would be impractical to design an inlet with sufficient depth such that it not only contains a restriction to prevent the inspection of a leaded nozzle, but also allows fuel to back up to a height that would plug the leaded nozzle vacuum port and shut off fuel delivery.

This problem was called to EPA's attention in a letter from American Honda Motor Co. on December 29, 1982. A copy of the letter is available in the public docket for this action.

As a result of a December 1982 decision by the California Air Resources Board (CARB) (which enacted a more stringent hydrocarbon emission standard), certain 1984 and subsequent model year motorcycles offered for sale in California will utilize emission control devices which require the use of unleaded gasoline only.

Because the number of 1984 model year motorcycles requiring unleaded gasoline will be small, the production of the 1984 model year is imminent, and the other requirements of 40 CFR 80.24 will remain in effect to deter the introduction of leaded gasoline into motorcycles requiring unleaded gasoline (i.e., the inlet restrictor and "unleaded gasoline only" labels), EPA does not recognize any significant risk from excluding 1984 model year motorcylces from the requirement of 40 CFR 80.24(b)(1). However, in the near future EPA will issue a notice of proposed rulemaking that will address the applicability of 40 CFR 80.24 to 1985 and subsequent model year motorcycles.

The final action described in this notice is made under the authority of sections 211 and 301 of the Clean Air Act and is nationally applicable. Under section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before August 29, 1983.

EPA finds that there is "good cause" under the Administrative Procedure Act, 5, U.S.C. 553(b), to promulgate this rule without prior notice and public comment. "Good cause" exists because it would be contrary to the public interest to require motorcycles to meet a requirement never intended for motorcycles. In fact, there are serious questions as to whether the requirement is even technologically feasible for motorcycles. Moreover, because the problem was only recently called to EPA's attention, and because production and introduction of 1984 model year motorcycles are imminent, prior notice and comment would be impracticable.

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires the preparation of a regulatory flexibility analysis for any final rule unless the Administrator certifies that the rule will not have a significant impact on a substantial number of small entities. Since this final rule is actually less burdensome than the rule it replaces, I certify that this rule will not have a significant impact on a substantial number of small entities.

EPA has determined that this rule is not a major rule as defined in Executive Order 12291. Therefore a regulatory impact analysis has not been prepared. Because the production of 1984 model year motorcycles commences in April, 1983, it is impracticable for the Agency to submit the rule for review by the Office of Management and Budget prior to promulgation under Executive Order 12291, and the rule is thereby exempt from prior review under Section 8(a) of the Executive Order. A copy of rule has been transmitted to the Office of Management and Budget.

List of Subjects in 40 CFR Part 80

Motorcycles, Gasoline.

(Secs. 211 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7545 and 7601(a))

Dated: June 3, 1983.

William D. Ruckelshaus,

Administrator.

PART 80—[AMENDED]

For the reasons set forth in the preamble, § 80.24 of Title 40 of the Code of Federal Regulations is amended by adding a new paragraph (b)(2), to read as follows:

§ 80.24 Controls applicable to motor vehicle manufacturers.

* * * * *

(b) * * *

(1) * * *

(2) Paragraph (b)(1) of this section shall not apply to 1984 model year motorcycles. The term "motorcycle" is defined at 40 CFR 86.402-78.

* * * * *

[FR Doc. 83-17281 filed 6-27-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6393

[CA-6984]

California; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Bureau of Land Management order which withdrew land for the Bureau of Reclamation's American River Project within the El Dorado National Forest. This order will restore 40 acres of Forest Service land to surface entry and mining. The land is already open to mineral leasing.

EFFECTIVE DATE: July 22,1983.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office 916–484–4431

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. A Bureau of Land Management Order dated February 26, 1952, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

El Dorado National Forest

T. 10 N., R. 12 E.,
sec. 10, SW¼NE¼.

The area described contains 40 acres in El Dorado County, California.

2. At 10 a.m. on July 22, 1983, the land shall be open to such forms of disposition as may by law be made of national forest lands, including mineral location and entry under the United States mining law, subject to valid existing rights and the requirements of applicable regulations. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The land has been and will remain open to mineral leasing.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, Room E–2841, Federal Office Buiding, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1983.

[FR Doc. 83–17293 Filed 6–27–83; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6394

[CA-4269]

California; Powersite Restoration No. 603; Partial Revocation of Powersite Reserve Nos. 293, 448, and 696; and Revocation of Powersite Reserve No. 657

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will partially revoke Powersite Reserve Nos. 293, 448, and 696 and will totally revoke Powersite Reserve No. 657 affecting 6,117.88 acres of public land reserved for power purposes. All of these lands remain withdrawn from disposition under the public land laws for the protection of the City of Los Angeles Watershed by the Act of Congress dated March 4, 1931, or by Executive Order No. 6206 of July 16, 1933. All of the lands except for 280 acres withdrawn by Executive No. 6206 have been and continue to be open to mining and mineral leasing. In addition, 192.69 acres of privately owned lands will be relieved of the restriction imposed on those lands by Section 24 of the Federal Power Act.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916–484–4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714 and pursuant to the determination of the Federal Power Commission (now Federal Energy Regulatory Commission) in DA–1128 California, it is ordered as follows:

1. Executive Orders creating Powersite Reserves Nos. 293, 448, 657, and 696, dated October 18, 1912, August 13, 1914, September 27, 1917, and October 15, 1918, respectively, are hereby revoked insofar as they affect the following described land:

Mount Diablo Meridian

Powersite Reserve No. 293

T. 14 S., R. 35 E.,
Sec. 22, S½SW¼;
Sec. 27, NW¼ and NW¼SW¼.

Powersite Reserve No. 448

T. 15 S., R. 35 E.,
Sec. 6, W½ Lot 2 of the NE¼, and Lots 1 and 2 of the NW¼ (formerly described as NW¼NE¼ and NW¼);
Sec. 25, Lots 1, 2, 3, 4, and N½SW¼;
Sec. 26, Lots 5, 6, 7, SW¼SW¼ and NE¼SE¼;
Sec. 27, Lots 6, 7, E½SW¼, NW¼SE¼, and S½SE¼;
Sec. 28, Lots 1, 2, 3, 4, and S½S½;
Sec. 34, N½NE¼;
Sec. 35, Lots 1, 2, and NW¼NW¼;
Sec. 36, Lots 1, 2, 3, and S½NE¼.
T. 16 S., R. 35 E.,
Sec. 1, Lots 2, 3, 4, SW¼NE¼, SW¼, and W½SE¼;
Sec. 2, S½SW¼ and SE¼;
Sec. 12, Lots 1, 2, 3, W½NE¼, NW¼, N½SW¼, NW¼SE¼.
T. 15 S., R. 36 E.,
Sec. 29, Lots 1, 2, 3, 4, 5, W½NE¼, E½NW¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 30, Lots 2, 3, 4, 5, 6, 7, and SE¼SW¼;
Sec. 31, Lots 1, 2, 3, 4, 5, and NE¼NE¼.
T. 19 S., R. 36E.,
Sec. 13, SW¼SW¼;
Sec. 24, N½NE¼, N½NW¼ and SE¼NW¼.
T. 19 S., R. 37 E.,
Sec. 19, NW¼NW¼.

Powersite Reserve No. 657

T. 16 S., R. 35 E.,
Sec. 9, NE¼;
Sec. 10, N½;
Sec. 11, N½.

Powersite Reserve No. 696

T. 14 S., R. 35 E.,
Sec. 28, S½ and S½NE¼;
Sec. 29, NE¼SE¼, S½SE¼ and SE¼SW¼;
Sec. 31, S½ lots 1 and 2 of NW¼, lots 1 and 2 of SW¼, S½NE¼ and SE¼, (formerly described as S½N½ and S½);
Sec. 32, N½, SW¼ and NW¼SE¼;
Sec. 33, N½NW¼ and NW¼NE¼.

The area aggregates approximately 6,310.57 acres in Inyo County, California.

2. Of the lands listed in paragraph 1, the following are privately owned and not subject to disposition under the public land laws. The effect of this order is to revoke Powersite Reserve No. 448 insofar as it pertains to these lands.

Mount Diablo Meridian

T. 15 S., R. 35 E.,
Sec. 26, lot 5 and SW¼SW¼;
Sec. 35, lots 1 and 2.
T. 16 S., R. 35 E.,
Sec. 1, Lot 3.

The area aggregates 192.69 acres.

3. All of the public lands described in paragraph 1 remain withdrawn from the

public land laws generally by the Act of Congress dated March 4, 1931, or by Executive Order 6206 for the protection of the City of Los Angeles Watershed.

4. All of the public lands described in paragraph 1 have been and continue to be open to applications and offers under the mineral leasing laws. Of the public lands listed in paragraph 1, all have been and continue to be open to location under the United States mining laws except for the following described lands withdrawn by Executive Order No. 6206 for the City of Los Angeles Watershed:

T. 19 S., R. 36 E.,
Sec. 13, SW¼SW¼;
Sec. 24, N½NW¼, and SE¼NW¼.
T. 19 S., R. 37 E.,
Sec. 19, NW¼NW¼.
The area aggregates 280.00 acres.

Inquiries concerning these lands should be addressed to the Bureau of Land Management, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garry E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1983.

[FR Doc. 83-17294 Filed 6-27-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6395

[CA-4338]

California; Powersite Cancellation No. 348; Partially Cancelling and Revoking Powersite Classification Nos. 136, 179 and 326; Partially Restoring Power Project No. 619 Subject to Section 24 of the Federal Power Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially cancels and revokes three Secretarial orders which withdrew 284.22 acres of land within the Plumas National Forest for Powersite Classification Nos. 136, 179 and 326. This order also restores 0.1 acre within Power Project 619 subject to Section 24 of the Federal Power Act. This action will permit consummation of a pending Forest Service exchange. The lands have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916–484–4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and Section 24 of the Federal Power Act of June 10, 1920, as amended, 41 Stat. 1075, 16 U.S.C. 818, and pursuant to the determination of the Federal Energy Regulatory Commission in DA–1130 California, it is ordered as follows:

1. The Secretarial Orders of March 11, 1926, May 13, 1927 and June 30, 1941, creating Powersite Classification Nos. 136, 179 and 326 are hereby revoked as to the following described lands:

Mount Diablo Meridian

Plumas National Forest

Powersite Classification No. 136

T. 24 N., R. 6 E.,
Sec. 29, lot 23;
Sec. 32, NE¼;
Sec. 33, lots 2, 3.

Powersite Classification No. 179

T. 24 N., R. 6 E.,
Sec. 29, lot 21;
Sec. 32, lots 1, 2, 3.

Powersite Classification No. 326

T. 24 N., R. 6 E.,
Sec. 29, lot 22.

The area aggregates 284.22 acres in Plumas County.

2. The Federal Energy Regulatory Commission finds in DA–1130 that the value of the following described land withdrawn in Power Project No. 619, will not be injured or destroyed by conveyance subject to the provisions of Section 24 of the Federal Power Act and to stipulations as specified by the Federal Energy Regulatory Commission.

Mount Diablo Meridian

Plumas National Forest

Power Project 619

T. 24 N., R. 6 E.,
Sec. 33, That part of lot 2 lying within the boundary of Power Project No. 619 as shown on map Exhibit K–7 (FPC No. 619–110).

The area aggregates approximately 0.1 of an acre.

3. At 10 a.m. on July 22, 1983, all of the lands described in paragraphs 1 and 2 above shall be made available for consummation of a pending Forest Service exchange application CA–4242, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

All of the lands described in paragraphs 1 and 2 above have been open to applications and offers under the mineral leasing laws and to location under the United States mining laws, subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquires concerning these lands should be addressed to the State Director, Bureau of Land Management, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1983.

[FR Doc. 83-17295 Filed 6-27-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6397

[W-29542]

Wyoming; Partial Revocation of Executive Order of May 14, 1915, Bureau of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes the Executive Order of May 14, 1915, as it affects 25,402.38 acres of public land withdrawn by the Bureau of Reclamation for the Colorado River Project (Flaming Gorge Unit). With the exception of approximately 600 acres the lands involved are subject to other overlapping withdrawals and, as such, will not be opened to mining location. All lands involved have been and will remain open to mineral leasing.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307–772–2540.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of May 14, 1915, which withdrew lands for the Bureau of Reclamation in connection with the Colorado River Storage Project is hereby revoked insofar as it affects the following described lands.

a. These lands are located within the Flaming Gorge National Recreation Area.

Sixth Principal Meridian, Wyoming

T. 17 N., R. 106 W.,
Sec. 4, N½SW¼SW¼, SE¼SW¼SW¼;
Sec. 8, E½ of Lot 3, W½E½, S½NW¼, SW¼;
Sec. 18 lots 5 through 8, inclusive, E½, E½W½ (All);
Sec. 20, S½ of lot 3, S½NE¼, S½;
Sec. 30, W½ of lot 7, lots 8, 14, 15, E½SW¼;
Sec. 32, E½, E½W½, E½W½NW¼, E½NW¼SW¼, SW¼SW¼.
T. 12 N., R. 107 W.,
Sec. 18, lot 5, E½, NE¼NW¼;
Sec. 19, lots 11, 12 NE¼, N½SE¼.
T. 13 N., R. 107 W.,
Sec. 6, lots 1, 2, S½NE¼, SE¼;
Sec. 7, E½;
Sec. 18, E½;

Sec. 31, E½, E½W½.
T. 14 N., R. 107 W.,
Sec. 19, E½, E½W½;
Sec. 30, lot 1 through 4, inclusive, E½, E½W½ (All).
T. 15 N., R. 107 W.,
Sec. 6, lots 1 through 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼, (All);
Sec. 8, S½NE¼, W½NW¼NE¼, W½, SE¼.
T. 16 N., R. 107 W.,
Sec. 2, lots through 7, inclusive, E½SW¼, SE¼;
Sec. 10, W½;
Sec. 14, SW¼NW¼, W½SE¼NW¼, W½SW¼, W½E½SW¼;
Sec. 22, W½NW¼;
Sec. 28, All;
Sec. 30, lots 5 through 8, inclusive, NE¼, E½W½, N½SE¼, N½S½SE¼;
Sec. 32, N½N½;
Sec. 34, lots 4 through 7, inclusive, E½NE¼, SE¼NW¼NE¼, SW¼NE¼, NE¼SW¼, S½NW¼SW¼, N½SE¼.
T. 12 N., R. 108 W.,
Sec. 1, E½, E½W½;
Sec. 4, S½S½;
Sec. 9, All;
Sec. 12, E½, E½W½, E½W½W½;
Sec. 13, N½NE¼, NE¼NW¼, E½NW¼NW¼;
Sec. 19, lots 1, 8, E½, E½NW¼;
Sec. 20, N½N½, SW¼NW¼, W½SW¼.
T. 13 N., R. 108 W.,
Sec. 21, W½;
Sec. 28, W½;
Sec. 33, NW¼.
T. 14 N., R. 108 W.,
Sec. 1, lots 1 through 4, inclusive;
Sec. 2, lots 1, 2;
Sec. 5, W½ of lot 8, W½SE¼NW¼, SW¼NW¼, W½NE¼SW¼, W½SW¼;
Sec. 16, S½;
Sec. 17, S½;
Sec. 21, All.
T. 15 N., R. 108 W.,
Sec. 10, W½W½, W½, S½NE¼SE¼, SE¼SE¼;
Sec. 14, W½NW¼, N½NW¼SW¼;
Sec. 24, lot 1, E½NE¼, SW¼NE¼, SE¼;
Sec. 28, NW¼;
Sec. 35, S½N½, S½.
T. 16 N., R. 108 W.,
Sec. 8, NE¼, E½SE¼;
Sec. 18, lots 2 through 4, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 20, W½E½W½, W½W½;
Sec. 22, E½NE¼, NE¼SE¼, N½SE¼SE¼;
Sec. 26, E½;
Sec. 28, W½.
T. 12 N., R. 109 W.,
Sec. 23, lots 5, 7, 8, 9, N½NE¼;
Sec. 24, N½.

b. These lands are located within the oil shale withdrawal, created by Executive Order No. 5327, as amended, and supplemented by Public Land Order No. 4522.

Sixth Principal Meridian, Wyoming

T. 17 N., R. 106 W.,
Sec. 4, lots 5 through 8, inclusive, S½N½, E½SW¼, SE¼.
T. 17 N., R. 107 W.,
Sec. 24, W½E½, W½.
T. 17 N., R. 108 W.,
Sec. 16, All;
Sec. 18, lots 5 through 8, inclusive, E½, E½W½ (All);
Sec. 20, All;
Sec. 28, All;
Sec. 30, lots 5 through 8, inclusive, E½, E½W½ (All).
T. 16 N., R. 109 W.,
Sec. 12, N½, SW¼, N½SE¼, N½S½SE¼.

c. These lands are not located within any overlapping withdrawal.

Sixth Principal Meridian, Wyoming

T. 18 N., R. 107 W.,
Sec. 24, N½, N½SW¼, SE¼SW¼, SE¼.

The lands described in paragraphs 1a, 1b, and 1c contain approximately 25,402.58 acres in Sweetwater County, Wyoming.

2. Since the lands described in paragraph 1a are located within the Flaming Gorge National Recreation Area, they will remain closed to operation of the public land laws, including the United States mining laws. The lands have been and will remain open to applications and offers under the mineral leasing laws. The lands are administered by the Forest Service.

3. The lands described in paragraph 1b are located within the oil shale withdrawal, created by Executive Order No. 5327, as amended, and Public Land Order No. 4522, and, as such, will remain closed to location under the United States mining laws, and mineral leasing with the following exceptions. The lands have been and will remain open to applications and offers under the mineral leasing laws for oil, gas and sodium, however, sodium leasing can only occur in special circumstances. The lands will remain closed to surface entry, but only to the extent provided in Executive Order No. 5327, as amended. The Bureau of Land Management will assume administrative jurisdiction of the lands described in paragraphs 1b and 1c.

4. At 10 a.m. on July 22, 1983, the lands described in paragraph 1c will be open to the surface land laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. The lands described in paragraph 1c will be open to location of nonmetalliferous minerals at 10 a.m. on July 22, 1983. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attemped appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The lands described in paragraph 1c have been and will remain open to location of metalliferous minerals and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1983.

[FR Doc. 83-17288 Filed 6-27-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6396

[CA 4924]

California; Revocation of Public Land Order No. 2573

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This document will revoke a public land order that withdrew the minerals reserved to the United States in certain patented lands. This action will open 840 acres of the total 920 acres to the mining and mineral leasing laws. The remaining 80 acres was patented without a mineral reservation to the United States.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2573 of December 22, 1961, withdrawing the minerals in the following described patented lands is hereby revoked in its entirety:

Mount Diablo Meridian

T. 6 S., R. 5 E.,
Sec. 22, SE¼;
Sec. 26.
T. 6 S., R. 6 E.,
Sec. 20, E½NE¼ and NE¼SE¼.

The area aggregates 920 acres in Stanislaus County.

2. Of the lands described in paragraph 1, the mineral estate of the following described lands will at 10 a.m. on July 22, 1983, be open to location and entry under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

3. Of the lands described in paragraph 1, the mineral estate of the following described lands will at 10 a.m. on July 22, 1983, be open to applications and offers under the mineral leasing laws.

Mount Diablo Meridian

T. 6 S., R. 5 E.,
Sec. 22, SE¼;
Sec. 26.
T. 6 S., R. 6 E.,
Sec. 20, NE¼NE¼.

4. This order has no force or effect on the mineral estate of the lands described as the SE¼NE¼ and NE¼SE¼ sec. 20, T. 6 S., R. 6 E. The mineral estate on these lands was not reserved to the United States at the time of patent.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

June 16, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-17284 Filed 6-27-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6398

[CA-11840]

California; Modification of Public Land Order No. 2301

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies a public land order which reserved national forest lands as part of the Shay Creek Recreation Area by restoring 60 acres to surface entry. The Forest Service intends to consummate an exchange with the State of California. The lands remain withdrawn under the mining laws.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2301 of March 14, 1961, which reserved lands within the Toiyabe National Forest from all forms of appropriation under the public land laws, for use by the Forest Service, Department of Agriculture, is hereby modified to delete the following words "from all forms of appropriation under the public land laws," insofar as they relate to the following described lands:

Toiyabe National Forest

Mount Diablo Meridian

Shay Creek Recreation Site

T. 10 N., R. 19 E.,
Sec. 24, S½N½SE¼NE¼, S½SE¼NE¼, N½NE¼SE¼, N½SW¼NE¼SE¼, N½SW¼SW¼NE¼SE¼, N½NE¼SE¼NE¼SE¼, NW¼SE¼NE¼SE¼.

The area described aggregates approximately 60 acres in Alpine County.

2. Effective immediately, the above described lands shall be open to applications for disposal of the lands under the General Exchange Act of March 20, 1922, 43 Stat. 465, as amended, 16 U.S.C. 485, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. The lands remain withdrawn from entry and location under the United States mining laws, 30 U.S.C. Ch. 2.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1983.

[FR Doc. 83-17286 Filed 6-27-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6399

[OR-5655(WASH)]

Washington; Revocation of the Metaline Townsite Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order which withdrew approximately 0.20 acre of public land for townsite purposes. This action will restore the land to mineral leasing and to disposition under the Recreation and Public Purposes Act (R&PP). The land will remain closed to all other forms of surface entry and mining by an R&PP classification.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4783 of March 20, 1970, which withdrew the following described land for townsite purposes is hereby revoked:

Willamette Meridian

Metaline Townsite

T. 39 N., R. 43 E.,
Sec. 28, lot 7, and those portions of lots 8 and 9, Block 5, Plat of Metaline Townsite that are not included within the project boundary of Power Project No. 2144.

The area described contains approximately 0.20 acre in Pend Oreille County.

2. At 9:30 a.m. on July 22, 1983, the land will be open to disposition under the Recreation and Public Purposes Act. The land is included in a classification for lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), and thus will remain closed to operation of other public land laws, including the mining laws.

3. At 9:30 a.m. on July 22, 1983, the land will be opened to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1983.

[FR Doc. 83-17287 Filed 6-27-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6400

[U-43184]

Utah; Partial Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a reclamation withdrawal affecting 825 acres withdrawn for use by the Bureau of Reclamation as a reservoir site. The land involved has since been conveyed into non-Federal ownership and will remain closed to both surface entry and mining. The land has been and will remain open to oil and gas leasing.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801-524-4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of April 11, 1889, which withdrew public lands for use as a reservoir site, is hereby revoked insofar as it affects the following land:

Salt Lake Meridan

T. 7 S., R. 2 E.

The parcel of land in sections 9, 15, and 16, more particularly described as follows:

Beginning at a point which lies South Six Hundred Sixty-One and One-Tenth (661.1) feet and East One Hundred Two and Five-Tenths (102.5) feet from the East quarter corner of Section 9; said point has U.S.C. and G.S. plane grid coordinates North 688,055.33 and East 1,940,719.19; thence North 89°49' West One Thousand Sixty-Three and One-Tenth (1,063.1) feet; thence North 00°09' East Seven Hundred Forty-Nine and Five-Tenths (749.5) feet; thence North 34°49' West Fifteen Hundred Two and Nine-Tenths (1,502.9) feet; thence South 88°48' West One Thousand (1,000.0) feet; thence North 34°13' West Three Hundred (300.0) feet; thence West (2,300) feet, more or less, to the water's edge of Utah Lake; thence South 10°08' East Forty-Two Hundred Thirty-Five and Five-Tenths (4,235.5) feet; thence South 00°13' East Twenty-One Hundred (2,100.0) feet; thence South 07°32' West Nineteen Hundred Sixty-Seven (1,967.0) feet; thence East Three Hundred Seventy-Three (373.0) feet; thence North 76°38' East One Thousand Seventy-Nine and Four-Tenths (1,079.4) feet; thence North 67°41' East Twenty-Two Hundred Thirty-Seven and Seven-Tenths (2,237.7) feet; thence North 78°28' East One Thousand and Two-Tenths (1,000.2) feet; thence North 56°13' East Four Hundred Thirty-Eight and Three-Tenths (438.3) feet; thence North 79°09' East Fourteen Hundred Seventy-One and Nine-Tenths (1,471.9) feet; thence North 00°09' East Twelve Hundred Seventy-Nine and Six-Tenths (1,279.6) feet; thence North 56°08' West Sixteen Hundred Fifty-Four and Three-Tenths (1,654.3) feet; thence North 00°35' West Nineteen Hundred Eighty-Three and Four-Tenths (1,983.4) feet, more or less, to the point of beginning.

The area described contains 825 acres in Utah County.

2. The surface estate has been conveyed out of Federal ownership and thus will not be opened to operation of the public land laws. Locatable minerals have been declared excess Federal property and, as such, are not subject to location or entry under the United States mining laws. The lands have been and will remain open to oil and gas leasing.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Utah State Office, 136 East South Temple, University Club Building, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1983.

[FR Doc. 83-17292 Filed 6-27-83; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6401

[W-72592]

Wyoming; Modification and Partial Revocation of Secretarial Order of April 2, 1929

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will modify and partially revoke the Secretarial Order of April 2, 1929, as to 233.87 acres of public land. The order will be modified to permit the sale of the surface estate of 158.87 acres which are needed for community expansion of the City of Cody, Wyoming. The withdrawal on the remaining 75 acres will be revoked and the land opened to surface entry and mining. All of the lands have been and remain open to leasing. This action is subject to a 400-foot-wide canal right-of-way for the Bureau of Reclamation.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-772-2540.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of April 2, 1929, which withdrew lands for the Shoshone Reclamation Project is hereby modified to allow sale of the surface estate in the following described lands under Section 203 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2750; 43 U.S.C. 1713. They remain subject to the Secretarial order withdrawal in that they will continue to be withdrawn from all other forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2. They have been and remain open to applications and offers under the mineral leasing laws.

Sixth Principal Meridian

T. 52 N., R. 101 W.,
Sec. 7, lot 1;
Sec. 8, lots 3 and 4, N½NW¼SW¼, N½SE¼NW¼SW¼, and N½SE¼SW¼.

The area described contains 158.87 acres in Park County, Wyoming.

2. The Secretarial order is hereby revoked insofar as it affects the following described lands.

Sixth Principal Meridian

T. 52 N., R. 101 W.,
Sec. 8, SW¼NW¼SW¼, S½SE¼NW¼SW¼, SW¼SW¼, S½SE¼SW¼.

The area described contains approximately 75 acres in Park County, Wyoming.

3. At 10 a.m. on July 22, 1983, the lands described in paragraph 2 above shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All applications received at or prior to 10 a.m. on July 22, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The lands described in paragraph 2 above, will be open to location under the United States mining laws at 10 a.m. on July 22, 1983, subject to the right-of-way described in paragraph 5. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts. The lands have been and remain open to applications and offers under the mineral leasing laws.

5. In order to protect the public interest, a right-of-way for a strip of land 400 feet wide, being 200 feet on each side of the centerline of the proposed location of the Oregon Basin Feeder Canal will be reserved for the Bureau of Reclamation, pursuant to 43 Stat. 704 (43 U.S.C. 417) and 43 Stat. 134 (43 U.S.C. 154). Said right-of-way will reserve to the United States the right, privilege, and easement to lay out, construct, inspect, operate, and maintain a canal over and across the lands described in paragraphs 1 and 2 of this order. This right-of-way will reserve the right of ingress and egress to the said land for any and all purposes necessary and incidental to the exercise by the United States, its successors, assigns, and the public of all the rights reserved by the right-of-way. The right-of-way reserved will restrict construction of permanent improvements inside the right-of-way.

Interested parties should contact the Regional Director, Bureau of Reclamation, Billings, Montana, for information pertaining to the right-of-way.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1983.

[FR Doc. 83-17285 Filed 6-27-83; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 387

[BMCS Docket No. MC-94-2; Amdt. No. 81-11]

Minimum Levels of Financial Responsibility for Motor Carriers of Property—Extension of Reduced Levels

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Interim final rule.

SUMMARY: This emergency regulation amends the existing regulations concerning the minimum levels of financial responsibility for motor carriers of property by extending the effective date for reduced liability limits from July 1, 1983 to July 1, 1984. This action is being taken in an effort to maintain stability in both the insurance and motor carrier industries while further consideration is given to this matter. Three technical corrections to the rule are also included in this document.

DATE: This interim final rule is effective July 1, 1983, and will expire on July 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426-9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2097) (STAA of 1982). Section 406(a) of the STAA of 1982 amends Section 30 of the Motor Carrier Act of 1980 (Pub. L. 96-296, 94 Stat. 820) (MCA) by allowing the Secretary to extend the "phase-in period" for the reduced minimum levels of financial responsibility from 2 years to 3½ years.

Section 30 of the MCA sets forth minimum levels of financial responsibility which must be maintained by motor carriers of property. The MCA also gave the Secretary the authority to reduce those levels, by regulation, for up to a 2-year "phase-in period" provided the reduced levels would not adversely affect public safety and would prevent a serious disruption in transportation service.

In the final rule implementing the provisions of Section 30 of the MCA (46 FR 30982, June 11, 1981) as set forth in 49 CFR 387, the Secretary exercised his authority by reducing the minimum levels to the lowest levels allowed by the MCA for the full 2-year "phase-in period" which will expire on July 1, 1983. This decision was based on comments to the docket (MC-94) received during the rulemaking process as well as on the findings contained in the regulatory evaluation/regulatory flexibility analysis prepared on the subject. Section 30 of the MCA mandates substantially higher financial responsibility levels to take effect on July 1, 1983 if the "phase-in period" is not extended.

In a notice of proposed rulemaking (NPRM) issued on April 11, 1983 (48 FR 15499), the FHWA requested public comment on a proposal to amend the current regulations regarding the minimum levels of financial responsibility by revising the Schedule of Limits table located in 49 CFR 387.9 and 387.15 to reflect the additional 18 month "phase-in period" permitted by Section 406 of the STAA of 1982. A substantial amount of new data has been submitted from both the commenters who support the extension as well as from those who oppose it. Due to the extreme time constraints on this rulemaking, there has not been sufficient time to fully analyze the new data prior to the July 1, 1983 effective date. The FHWA has determined that more time is needed for the review of the issues which revolve around the possible 18 month extension of the "phase-in period," and that a 12 month extension of the reduced levels is sufficient time for DOT and other governmental offices to review the issues at hand. The FHWA further believes, based on information offered in the NPRM, that this 12 month extension will not adversely affect the public safety, and will prevent a serious disruption in both the insurance and motor carrier industries. Further, the absence of a final rule extending the "phase-in period" beyond July 1, 1983 may inflict unnecessary turmoil on both industries.

For these reasons, it has been determined that circumstances warrant the issuance of an emergency regulation so as to extend the current "phase-in period" for reduced levels of financial responsibility until July 1, 1984. This amendment does not alter the contractual language or meaning of the endorsement form (MCS-90) or the Surety Bond (MCS-82), but only the "Schedule of Limits" as it appears in 49 CFR 387.9 and 387.15 on the endorsement form. Therefore, those endorsement forms currently in force may remain in effect.

Technical Corrections

Also included in this document are three technical corrections to the regulations concerning minimum levels of financial responsibility.

Radioactive Materials

One correction concerns the definition of "large quantity radioactive materials" as used in the financial responsibility regulations.

In the promulgation of the final rule implementing the provisions of Section 30 (46 FR 30983), the FHWA interpreted the term "large quantities" as used in Section 30 of the MCA to mean those amounts currently defined in the DOT's Hazardous Materials Regulations as "large quantity radioactive materials" (49 CFR 173.389). This decision was based on consideration given it in the Advance Notice of Proposed Rulemaking (45 FR 57676) published August 28, 1980.

In a final rule published on March 10, 1983 (48 FR 10218), the DOT's Research

and Special Programs Administration has revised the requirements of the Hazardous Materials Regulations concerning radioactive materials to make them compatable with the latest revised international standards for transport of radioactive materials as promulgated by the International Atomic Energy Agency. The revision of the definition does not constitute a more stringent requirement than that of the present regulation. As a result of the final rule, which becomes effective July 1, 1983, the term "large quantity" and the formula used to meet that definition will no longer be used in the Hazardous Materials Regulations. The revised values and term which will be used to govern the transportation of radioactive materials is "highway route controlled quantity" (49 CFR 173.455).

In an effort to maintain uniformity between its' regulations and the Hazardous Materials Regulations the FHWA is making an appropriate conforming change to Part 387.

Surety Bond Form (MCS–82)

On February 7, 1983 the FHWA issued an emergency rule (48 FR 5559) revising the existing minimum levels of financial responsibility requirements by implementing provisions required by Section 406 of the STAA of 1982. One of the amendments, found in Section 406 of that Act, expanded the applicability of Part 387 to include motor vehicles having a gross vehicle weight ratings (GVWR) of less than 10,000 pounds when transporting certain hazardous materials. The emergency regulation corrected the MCS–90 endorsement form to reflect the inclusion of these vehicles. The same correction was not made to the Surety Bond (Form MCS–82) at that time. This document is correcting the language found in the Surety Bond to reflect the inclusion of certain vehicles having a GVWR of 10,000 pounds or less.

In Bulk

On March 3, 1983 the FHWA issued a technical correction to the final rule (48 FR 9014) implementing the revisions found in Section 406 of the STAA of 1982. The technical correction revised the "Schedule of Limits" chart to reflect the inclusion of foreign carriers of hazardous materials and certain vehicles having a gross vehicle weight rating of 10,000 pounds or less. In an effort to make the revised "Schedule of Limits" chart as clear and concise as possible the chart erroneously reflected an oversimplification of the description of "in-bulk", for the commodities listed under item #2 in the "Schedule of Limits" chart.

The language of Section 30 requires the transportation of hazardous substances in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons to maintain the highest levels of liability coverage. The term "in-bulk" for all other hazardous materials has been defined by the FHWA as "the transportation, as cargo, of property, except Class A and B explosives and poison gases, in containment systems with capacities in excess of 3,500 water gallons." The type of containment system is not defined in the FHWA's definition. Therefore, item #2 of the "Schedule of Limits" is being changed to reflect this distinction.

The Federal Highway Administrator has determined that this document responds to an emergency situation and for the reasons stated, it is impracticable for the agency to follow the procedures of Executive Order 12291, the Regulatory Flexibility Act, and the regulatory policies and procedures of the Department of Transportation. Therefore, good cause exists for publication as a final rule without notice and opportunity for comment and without a 30-day delay in effective date.

The final regulatory evaluation/regulatory flexibility analysis which was prepared for the initial rulemaking is available for review in the public docket. A copy may be obtained by contacting Mr. Neill L. Thomas at the address provided above under the heading "For Further Information Contact."

List of Subjects in 49 CFR Part 387

Hazardous materials transportation, Insurance, Motor carriers, Surety bonds.

PART 387—[AMENDED]

In consideration of the foregoing, Title 49, Code of Federal Regulations, Subtitle B, Chapter III, Part 387 is amended as set forth below.

1. The Schedule of Limits table in § 387.9, is revised to read as follows:

§ 387.9 Financial responsibility minimum levels.

* * * * *

SCHEDULE OF LIMITS

[Public Liability]

Type of carriage [1]	Commodity transported	July 1, 1981	July 1, 1984
(1) For-hire (In interstate or foreign commerce)	Property (nonhazardous)	$500,00	$750,000
(2) For-hire and Private (In interstate, foreign, or intrastate commerce).	Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Class A or B explosives, poison gas (Poison A), liquefied compressed gas or compressed gas; or highway route controlled quantity radioactive materials as defined in 49 CFR 173.455.	1,000,000	5,000,000
(3) For-hire and Private (In interstate or foreign commerce: in any quantity) or (In intrastate commerce: in bulk only).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	500,000	1,000,000
(4) For-hire and Private (In interstate or foreign commerce).	Any quantity of Class A or B explosives; any quantity of poison gas (Poison A); or highway route controlled quantity radioactive materials as defined in 49 CFR 173455.	1,000,300	5,000,000

[1] NOTE.—The type of carriage listed under numbers (1), (2), and (3) apply to vehicles with a gross vehicle weight rating of 10,000 pounds or more. The type of carriage listed under number (4) applies to all vehicles with a gross vehicle weight rating of less than 10,000 pounds.

2. The Schedule of Limits table in Illustration I of § 387.15 is revised to read as follows:

§ 387.15 Forms.

* * * * * * *

SCHEDULE OF LIMITS

[Public Liability]

Type of carriage [1]	Commodity transported	July 1, 1981	July 1, 1984
(1) For-hire (In interstate or foreign commerce)	Property (nonhazardous)	$500,000	$750,000
(2) For-hire and Private (In interstate, foreign, or intrastate commerce).	Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of 3,500 water gallons; or in bulk Class A or B explosives, poison gas (Poison A), liquefied compressed gas or compressed gas; or highway route controlled quantity radioactive materials as defined in 49 CFR 173.455.	1,000,000	5,000,000
(3) For-hire and Private (In interstate or foreign commerce: in any quantity) or (In intrastate commerce: in bulk only).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials and hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in (2) above or (4) below.	500,000	1,000,000
(4) For-hire and Private (In interstate or foreign commerce).	Any quantity of Class A or B explosives; any quantity of poison gas (Poison A); or highway route controlled quantity radioactive materials as defined in 49 CFR 173.455.	1,000,000	5,000,000

[1] NOTE.—The type of carriage listed under numbers (1), (2), and (3) apply to vehicles with a gross vehicle weight rating of 10,000 pounds or more. The type of carriage listed under number (4) applies to all vehicles with a gross vehicle weight rating of less than 10,000 pounds.

NOTE.—This table showing the schedule of limits may appear at the bottom or on the reverse side of Form MCS-90.

3. The "Surety Bond" form in Illustration II of § 387.15 is revised to read as follows:

§ 387.15 Forms.

* * * * *

Illustration II

Form MCS-82 (4/83)
Form Approved OMB No. 2125-0075

MOTOR CARRIER PUBLIC LIABILITY SURETY BOND UNDER SECTIONS 29 AND 30 OF THE MOTOR CARRIER ACT OF 1980

Parties	Surety company and principal place of business address	Motor carrier principal, ICC Docket No. and principal place of business

Purpose.—This is an agreement between the Surety and the Principal under which the Surety, its successors and assigness, agree to be responsible for the payment of any final judgment or judgments against the Principal for public liability, property damage, and environmental restoration liability claims in the sums prescribed herein; subject to the governing provisions and the following conditions.

Governing provisions.—(1) Sections 29 and 30 of the Motor Carrier Act of 1980 (49 U.S.C. 10927 note).

(2) Rules and regulations of the Federal Highway Administration's Bureau of Motor Carrier Safety (Bureau).

(3) Rules and regulations of the Interstate Commerce Commission (ICC).

Conditions.—The Principal is or intends to become a motor carrier of property subject to the applicable governing provisions relating to financial responsibility for the protection of the public.

This bond assures compliance by the Principal with the applicable governing provisions, and shall inure to the benefit of any person or persons who shall recover a final judgment or judgments against the Principal for public liability, property damage, or environmental restoration liability claims (excluding injury to or death of the Principal's employees while engaged in the course of their employment, and loss of or damange to property of the principal, and the cargo transported by the Principal). If every final judgment shall be paid for such claims resulting from the negligent operation, maintenance, or use of motor vehicles in transportation subject to the applicable governing provisions, then this obligation shall be void, otherwise it will remain in full effect.

Within the limits described herein, the Surety extends to such losses regardless of whether such motor vehicles are specifically described herein and whether occurring on the route or in the territory authorized to be served by the Principal or elsewhere.

The liability of the Surety on each motor vehicle subject to the financial responsibility requirements of Section's 29 and 30 of the Motor Carrier Act of 1980 for each accident shall not exceed $———, and shall be a continuing one notwithstanding any recovery hereunder.

The surety agrees, upon telephone request by an authorized representative of the Bureau or the ICC, to verify that the surety bond is in force as of a particular date. The telephone number to call is:———.

This bond is effective from ——— (12:01 a.m., standard time, at the address of the Principal as stated herein) and shall countine in force until terminated as described herein. The principal or the Surety may at any time terminate this bond by giving (1) thirty five (35) days notice in writing to the other party (said 35 day notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the Principal is subject to the ICC's jurisdiction, by providing thirty (30) days notice to the ICC (said 30 days notice to commence from the date notice is received by the ICC at its office in Washington, D.C.). The Surety shall not be liable for the payment of any judgment or judgments against the Principal for public liability, property damage, or environmental restoration claims resulting from accidents which occur after the termination of this bond as described herein, but such termination shall not affect the liability of the Surety for the payment of any such judgment or judgments resulting from accidents which occur during the time the bond is in effect.

(AFFIX CORPORATE SEAL)
Date ———
Surety ———
City ———
State ———
By ———

Acknowledgement of Surety

State of ———
County of ———

On this ——— day of ———, 19——, before me personally came ———, who, being by me duly sworn, did depose and say that he resides in ———; that he is the ——— of the ———, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the board of directors of said corporation, that he signed his name thereto by like order, and he duly acknowledged to me that he executed the same for and on behalf of said corporation.

(OFFICIAL SEAL)

Title of official administering oath ———
Surety Company File No. ———

(Section 406, Pub. L. 97-424, 96 Stat. 2158; 49 CFR 1.48 and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217 Motor Carrier Safety)

Issued on: June 23, 1983.

William R. Fisto,

Deputy Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[FR Doc. 83-17404 Filed 6-24-83; 9:15 am]

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Fiftieth Revised Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fiftieth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee

Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 p.m., June 25, 1983, and continuing in effect until 11:59 p.m., November 30, 1983, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840 or 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: June 22, 1983.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting at Item 21., the authority for the Fort Worth and Denver Railway Company (FWD) to operate between Amarillo and Bushland, Texas, and at North Fort Worth, Texas. Pursuant to Finance Docket No. 30061, the FWD is not part of the Burlington Northern Railroad Company (BN), and this operation is included in BN's authority at Item 20. Appendix A is further revised by deleting at Item 23., the authority for the Enid Central Railway Company, Inc. (ENIC), to operate between North Enid and Ponca City, Oklahoma, as this trackage has been leased to the North Central Oklahoma Railway Company, Inc. (NCOK). All remaining items beyond Item 20. are renumbered accordingly.

Appendix A is revised in this order, by adding at Item 13., the authority for Iowa Northern Railroad Company (IANR) to operate additional trackage between Vinton and Dysart, Iowa. Appendix A is further revised by adding at Item 24., the authority for Farmrail Corporation (FMRC) to operate between Elk City and Erick, Oklahoma.

Finally, this order is revised by extending its expiration date until November 30, 1983.

Appendix B of Forty-Third Revised Service Order No. 1473 is unchanged and is incorporated into this order by reference.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

PART 1033—[AMENDED]

It is ordered,

§ 1033.1473 Revised service order 1473.

Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).

(a) Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96-254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees

who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., June 25, 1983.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1983, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing of a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Peoria and Pekin Union Railway Company (PPU):*

A. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

2. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

3. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

4. *Chicago and North Western Transportation Company (CNW):*

A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.

B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).

C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.

D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).

E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).

F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).

G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0)

H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).

I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).

J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).

K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).

L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502)

M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).

N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.

O. at Sibley, Iowa.

P. at Hartley, Iowa.

Q. from Carlisle to Indianola, Iowa.

R. at Omaha, Nebraska (between milepost 502 to milepost 504).

5. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

6. *Missouri Pacific Railroad Company (MP):*

A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).

B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).

C. from Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

7. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

8. *Cadillac and Lake City Railway Company (CLK):*

A. from Limon, Colorado (milepost 530.75) to Caruso, Kansas (milepost 430.0) a distance of 100.75 miles.

B. over-head rights from Caruso, Kansas (milepost 430.0) to Colby, Kansas (milepost 387.0), a distance of approximately 43 miles, in order to effect interchange with the Union Pacific Railroad.

9. *Baltimore and Ohio Railroad Company (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

10. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton, Iowa (milepost 120.0 to 123.0).

C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

11. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.

C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

D. from Pullman Junction, Chicago, Illinois (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

12. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. at Alva, Oklahoma.

B. at St. Joseph, Missouri.

13. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa (milepost 225.1).

*B. at Vinton, Iowa (milepost 23.4), and west on the Iowa Falls Line to Dysart, Iowa (milepost 40.37).

14. *Iowa Railroad Company (IRRC):*

A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item 5.E.)

E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance of 113.79 miles.

F. Ovehead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)

G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)

H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. at Rock Island, Illinois including 26th Street Yard.

J. from Altoona to Pella, Iowa.

15. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma

(milepost 365.0), a distance of approximately 131.4 miles.

16. *Chicago Short Line Railway Company (CSL):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vincinty of the Calumet switching district.

B. from Rock Island Junction westerly for approximatly 3000 feet to Irondale Wye.

17. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. kyle will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CIK, and for coordinating operations.

B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. from Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

18. *North Central Oklahoma Railway, Inc. (NCOK)*

A. from Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14).

B. from El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.

C. from Geary, Oklahoma (milepost 0.0) to Homestead, Oklahoma (milepost 42.8) a distance of approximately 43 miles.

D. from North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8) a distance of approximately 54.5 miles.

19. *South Central Arkansas Railway, Inc. (SCAR)*

A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

20. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

+B. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

+C. at North Fort Worth, Texas (mileposts 603.0 to 611.4).

*21. *Omaha, Lincoln and Beatrice Railway Company (OLB):*

A. at Lincoln, Nebraska (milepost 559.16) to (milepost 561.37).

*22. *Texas North Western Railway Company (TNW):*

A. from Hardesty, Oklahoma (milepost 119.20) to Liberal, Kansas (milepost 152.35) a distance of approximately 33.15 miles.

*23. *Colorado and Eastern Railway Company (COE):*

A. from Colorado Springs, Colorado (milepost 602.7) to Limon, Colorado (milepost 530.75) a distance of approximately 72 miles.

+24 *Farmrail Corporation (FMRC):*

A. from west of Elk City (milepost 615.0) to west of Erick Oklahoma (milepost 642.0), a distance of approximately 27 miles.

*Changed.
+Added.

[FR Doc. 83-17317 Filed 6-27-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 655, 656, and 657

[Docket No. 30616-109]

Foreign Fishing, and Atlantic Mackerel, Squid, and Butterfish Fisheries

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

ACTION: Extension of emergency interim rule.

SUMMARY: An emergency interim rule is in effect through June 29, 1983, implementing Amendment No. 3 to the Fishery Management Plans for the Atlantic Mackerel, Squid, and Butterfish Fisheries. NOAA extends the emergency interim rule from June 30, 1983, through September 27, 1983. The extension will continue the management program for those fisheries while public comments are considered in preparing final regulations.

DATE: Emergency interim rule effective from June 30, 1983, through September 27, 1983, or until superseded.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, Foreign Fishing and Atlantic Mackerel, Squid, and Butterfish Fishery Plans Coordinator, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930-3097; telephone 617-281-3600, ext. 273.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), approved Amendment No. 3, providing one plan for the management of the fisheries formerly managed under the following fishery management plans: Squid Fishery of the Northwest Atlantic Ocean (approved June 6, 1979, extended indefinitely on July 3, 1980, at 45 FR 45296); Mackerel Fishery of the Northwest Atlantic Ocean (approved July 3, 1979, extended through March 31, 1983, on April 9, 1982, at 47 FR 15341); and Atlantic Butterfish Fishery (approved November 9, 1979, also extended through March 31, 1983 on April 9, 1982 at 47 FR 15341).

Emergency interim regulations implementing Amendment No. 3, with a request for public comments, were published on April 4, 1983 (48 FR 14554). The rulemaking stated that the regulations would be effective from April 1, 1983, through June 29, 1983. Comments were accepted through May 19, 1983. Due to the volume of public comments received on these regulations, it will not be possible for NOAA to publish final regulations before June 29.

The Assistant Administrator has determined that the emergency situation described in the initial rulemaking continues to exist. By agreement of the Secretary of Commerce and the Mid-Atlantic Fishery Management Council, the effective date of those emergency regulations is hereby extended through September 27, 1983. During this period, public comments received during the initial rulemaking period will be considered in the preparation of final regulations, which will be issued on or before September 27, 1983.

Other matters

The Administrator of NOAA has concluded that an emergency continues to exist and the determinations set out in 48 FR 14554 under Executive Order 12291 and other applicable law apply to this extension of the emergency rule. For these reasons, the emergency provisions of Section 8 of Executive Order 12291 apply to this extension of the effective dates for the emergency interim regulations.

(16 U.S.C. 1801 *et seq.*)

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Parts 655, 656, and 657

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 21, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-17315 Filed 6-23-83; 4:01 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 125
Tuesday, June 28, 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 1136

[Docket No. AO-309-A24]

Milk in the Great Basin Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts a change affecting the classification provisions of the Great Basin Federal milk marketing order. The change would classify as Class II rather than as Class I formulas especially prepared for infant feeding or dietary use that are aseptically processed and packaged in hermetically sealed paper containers. This action, which is based on evidence received at a public hearing held December 9, 1982, is necessary to reflect current marketing conditions and to assure orderly marketing in the area. One other proposal dealing with performance standards for a pool plant that primarily processes and distributes aseptically processed fluid milk products was adopted in a previous emergency decision issued February 8, 1983 (49 FR 6545).

Cooperative associations will be polled to determine whether producers favor the issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202/447-7183.

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

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendment will promote more orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued November 19, 1982; published November 26, 1982 (47 FR 53395).

Emergency Final Decision: Issued February 8, 1983; published February 14, 1983 (48 FR 6545).

Final Order: Issued February 23, 1983, published March 1, 1983 (48 FR 8425).

Recommended Decision: Issued May 5, 1983; published May 10, 1983 (48 FR 20925).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Great Basin marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Salt Lake City, Utah, on December 9, 1982. Notice of such hearing was issued on November 19, 1982 (47 FR 53395).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Program Operations, on May 5, 1983, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modification:

1. Under Issue No. 3, *Permit an "exempt plant" to have part of its milk supply aseptically processed and packaged by another plant that primarily processes and distributes aseptically processed fluid milk products*, one new paragraph is added following paragraph 15.

The material issues on the record of the hearing relate to:

1. Performance standards for a pool plant that primarily processes and distributes aseptically processed fluid milk products.

2. Whether an emergency exists to warrant the omission of a recommended decision and the opportunity to file written exceptions thereto with respect to Issue No. 1.

3. Permit an "exempt plant" to have part of its milk supply aseptically processed and packaged by another plant that primarily processes and distributes aseptically processed fluid milk products.

4. Classify as Class II rather than as Class I formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed paper containers.

A prior decision dealt with Issues 1 and 2. The remaining issues (Nos. 3 and 4) of the hearing are considered in this decision.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

3. *Permit an "exempt plant" to have part of its milk supply aseptically processed and packaged by another plant that primarily processes and distributes aseptically processed fluid milk products.* The provisions of the order should not be amended to permit an exempt plant to have all or part of its supply aseptically processed and packaged by a pool plant for disposition for charitable purposes without the exempt plant losing its exempt status under the order.[1]

A proposal of Gossner Foods, Inc. (Gossner), a proprietary handler, would permit a plant that is exempt from the regulatory requirements of the order to have part or all of its milk supply custom packaged at a pooled UHT plant and returned to the exempt plant to be used for charitable purposes without the exempt plant losing its exempt status. The proposal was one of several proposals presented by the handler at the hearing which were designed to accommodate the operations of his new plant. The plant processes, packages, and distributes only UHT milk in

[1] The aseptic process embraces the use of ultra high temperature pasteurization and aseptic packaging of fluid milk products in hermetically sealed paper containers. The resulting products from this process are commonly referred to as "UHT" milk. Because of the common usage of the term "UHT", reference is made in the decision to UHT milk or milk products and UHT plant.

hermetically sealed paper containers. Such milk requires no refrigeration for several months.

In support of the proposal, Gossner's spokesman testified that the exemption sought would be beneficial to the welfare program of the Church of Jesus Christ of Latter-Day Saints (Church) which operates an exempt plant under the order. He testified that the proposal would have no effect on the operation of the order since the milk supply associated with the Church's plant is neither priced nor pooled under the order.

The manager of processing operations of the Church testified in support of the proposal. He testified that UHT fluid milk products could become an important addition to the welfare program of the Church. The witness testified that for a number of years the Church has operated a self-supported Church-wide program for its needy members throughout the United States and Canada. He testified that the present volume of packaged fluid milk distributed through the Church's welfare program is about 30 million quarts per year. Of this total, about 22 million quarts per year are distributed to the needy in the Great Basin area, all of which is processed at its Salt Lake City exempt fluid milk plant. The witness indicated that in other parts of the country the Church purchases packaged fluid milk products from regulated plants to fulfill the requirements of its welfare program.

In further support of the proposal, the witness stated that the adoption of the proposal would enable the Church to test the feasibility of using UHT Milk in its welfare program. He indicated that such evaluation would be of several months' duration so that the Church can determine whether or not to build its own UHT milk plant. Furthermore, he said that the Church in the Great Basin area has a sufficient supply of milk available for its own farms in the Great Basin area to supply the Church's entire welfare program with UHT milk.

At the hearing and in its post-hearing brief, Western Dairymen Cooperative, Inc. (WDCI)[2] opposed the proposal. The federation of cooperatives argued that the effect of this proposal is to have the Great Basin pool defray part of the cost of starting up the UHT plant and the Church's experiment in determining the merits of using UHT milk in its welfare program. Furthermore, it argued that the language of the proposal could not accomplish its purported purpose and that the proposal violates the uniformity requirements of the Agricultural Marketing Agreement Act. Moreover, WDCI argued that the provision that exempts the Church was adopted on the basis that the distribution of milk to needy members was limited in scope and confined essentially to the Salt Lake City area.

Although it did not testify at the hearing, Beatrice Foods Co. (Beatrice) filed a post-hearing brief opposing the proposal. It maintained that the current order provisions are sufficient to address the proponent's need. In this regard,the handler indicated that the current order would permit the UHT plant to receive milk from the Church's plant as "other source milk" and then transfer the packaged UHT milk as Class I milk to the Church for its welfare distribution program. Beatrice contends that this arrangement assures that Grade A milk produced for the market is handled in a manner that is uniform among all plants.

Beatrice also argued that the proposal would result in unequal recordkeeping requirements for handlers. The handler contends that the proposal would not require the proponent to accurately account to the market adminstrator for the exempt milk would be moving into and out of its plant.

The opponent contends the proposal would result in an unfair competitive advantage for the proponent. In this regard, the handler states that this is because the proponent would not incur any payment obligation under the order for the exempt milk and would benefit from the Church's effort to build a merket demand for its UHT milk products. Beatrice contends that the record indicates that the proponent does not intend to process this milk for the Church free of charge. Therefore, Beatrice argues that this arrangement constitutes a commercial transaction and that it should be accounted for in the same manner as other commerical transaction under the order.

Under the present provisions of the order, a handler receiving milk from an exempt plant for custom processing and packaging is required to account to the pool for such milk as Class III. The milk returned to the operator of the exempt plant would be classified as Class I milk. Thus, the pool handler would incur a payment obligation under the order at the difference between the Class I and Class III prices on the milk so returned. Under this accounting procedure, such payment obligation incurred by the UHT handler would be expected to be passed on to the exempt plant operator as part of the cost of processing the milk by the pool handler.

As indicated, the intent of the proposal as presented would exempt from the order's pooling and pricing requirements any milk received by the UHT pool handler from dairy farms operated by the Church. All of such milk would be aseptically packaged in hermetically sealed paper containers as UHT milk and returned to the Church for distribution to the needy throughout the United States and Canada. Thus, adoption of the proposal would allow the UHT pool handler to custom process and package part or all of the Church's milk supply without the handler incurring any payment obligation under the order on the milk so processed. It would be expected that this would result in a lower processing and packaging charge to the Church than under the present terms of the order. Adoption of the proposal would also provide the opportunity for the Church to supply the total milk requirements of its welfare program from the milk produced on its own farms. Finally, its adoption would provide the Church the option of studying the feasibility of whether or not to build it its own UHT plant facilities.

Since its inception in November 1959, the Great Basin order has completely exempted the Church's plant at Salt Lake City. In this regard, official notice is taken of the Assistant Secretary's September 1, 1959 (24 FR 7207), decision proposing a new order for the Great Basin marketing area, in which appears a discussion of the basis for providing complete exemption to the Church's operation.

An important factor that was considered in exempting the Church's processing plant from regulation was that the fluid milk products handled were being disposed of to individuals or institutions for charitable purposes rather than being disposed of commercially. Also, it was contemplated that such plant would process only the milk produced on the Church's farms and that the milk would be disposed of primarily in the local market. Through the years, the Church has continued to operate in this manner. Consequently, there is no indication that the Church's present operation is a threat to orderly and stable marketing for producers whose milk is priced under the order and for those handlers who are subject to full regulation.

The proposal under consideration, which would permit the Gossner plant to custom package "UHT" milk for the Church's "exempt plant," could result in

[2] Western Dairymen Cooperative, Inc., is a federation of cooperatives consisting of Mountain Empire Dairymen's Association, Western General Dairies, Inc., Dairymen's Cooperative Association, Lake Mead Cooperative Association, Black Hills Milk Producers Association and Ft. Collins Milk Producers Association.

a substantial expansion of the exempt plant's operations. As indicated, the Church desired the custom packaging arrangement so that it could distribute its own milk without refrigeration not only locally but throughout the United States and Canada. The distribution of this milk over a wide area could have an impact on producers and handlers in other markets by supplanting local milk in the other areas with the Church's UHT milk. Such widespread distribution would seriously undermine the basis for exempting the Church's plant from regulation, which was that it was essentially a local operation, and that any adverse impact from its exempt status would be limited to the local market where the exemption was approved by the area's producers.

For these reasons, it is concluded that the proposal to expand the basis of exempting the Church's plant should not be adopted. Accordingly, the proposal is denied.

Gossner filed a general exception to the above findings and conclusion. In view of the findings, the exceptor believes that the problem of adopting the proposal could be overcome by limiting its application to only the local market for a two-year period from the effective date of the amendment. The handler's exception provides no basis, however, for taking a different position on this matter. For the reasons set forth above in this decision, the exception is denied.

In conjunction with the exemption proposal, Gossner also proposed an expansion of the "non-producer" definition to have it apply to milk produced by a charitable institution that is moved directly to another plant for custom processing and packaging as UHT milk. Since the proposal to expand the basis of exempting a charitable institution is denied, the issue raised in the non-producer proposal becomes moot.

4. *Classify as Class II rather than as Class I formulas especially prepared for infant feeding or dietary use that are aseptically packaged is hermetically sealed paper containers.* A Class II classification should apply to formulas prepared for infant feeding or dietary use that are aseptically packaged in hermetically sealed paper containers.

Although not marketed at the present time in hermetically sealed paper containers, any such products so marketed would be classified as Class I under the order. However, the present order excludes from the fluid milk product definition milk or milk products used for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

A proposal to change the "fluid milk product" definition was made by Gossner. The proposal was one of several proposals made by the handler to accommodate the operations of its new UHT plant. Proponent's witness testified that Gossner expects to process for distribution in the near future formulas especially prepared for infant feeding or dietary use that are processed with ultra-high temperatures and aseptically packaged in hermetically sealed paper containers. In his opinion, there is no basis for making any distinction in classification among the various types of containers that are used to package such formulas. The witness argued that in terms of shelf life and competition for unrefrigerated shelf space, hermetically sealed paper containers are equivalent to such products packaged in glass or metal containers.

At the hearing and in its post-hearing brief, WDCI opposed the proposal. The basis of such opposition focused on the belief that the adoption of the proposal could result in the classification as Class II of certain products that are normally classified as Class I. Opponent expressed particular concern that fluid skim products could be packaged and labeled as dietary products and thus would be classified as Class II under the proposal. Finally, opponent's witness argued that no action should be taken on the proposal until after the UHT operator has had actual experience in marketing UHT dietary and infant feeding formulas in competition with similar products that are packaged in hermetically sealed glass or all metal containers.

Infant and dietary formulas, which now are sold only in hermetically sealed glass or all-metal containers, are specialized food items prepared for a very limited use. Such formulas do not compete with fluid milk beverages consumed by the general public. It is within this conceptual framework that any milk or milk products used in the production of such formulas in glass ormetal containers are now excluded from the "fluid milk product" definition and classified as Class II.

When the provision for such exclusion from the "fluid milk product" definition was developed, such formulas were only packaged in hermetically sealed glass and metal containers. With the advent of UHT milk, dietary and infant feeding formulas can now be aseptically packaged in hermetically sealed paper containers. Such products can compete to a reasonable extent with glass or metal containers in terms of unrefrigerated shelf life.

It is appropriate, therefore, to remove from the "fluid milk product" definition dietary and infant feeding formulas that are aseptically packaged in hermetically sealed paper containers and specifically include such products in Class II. This will allow the UHT milk processor to compete for dietary and infant feeding formula business on a comparable basis with such formulas packaged in glass or all-metal containers.

As noted earlier, WDCI expressed concern that the adoption of this proposal would facilitate the circumvention of the Class I pricing provisions of the order through mislabeling of products. While this seems unlikely, this matter can be reviewed through the hearing process should experience indicate that there is some problem.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreemer ' and the order, as hereby proposed to be

amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, the only exception received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusion, and the regulatory provisions of this decision are at variance with the exception, such exception is hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order [3]

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Great Basin marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

December 1982 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Great Basin marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

[3] Marketing Agreement filed as part of the original.

List of Subjects in 7 CFR Part 1136

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on June 21, 1983.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order [4] *amending the order, regulating the handling of milk in the Great Basin marketing area*

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Great Basin marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

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

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

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

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

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Great Basin marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Program Operations, on May 5, 1983, and published in the **Federal Register** on May 10, 1983 (48 FR 20925), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

PART 1136—[AMENDED]

1. In § 1136.15, paragraph (b)(1) is revised to read as follows:

§ 1136.15 Fluid milk product.

* * * * *

(b) * * *

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass, paper, or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

* * * * *

2. In § 1136.40, paragraph (b)(4)(vi) is revised to read as follows:

§ 1136.40 Classes of utilization.

* * * * *

(b) * * *

(4) * * *

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers or aseptically packaged in hermetically sealed paper containers.

* * * * *

[FR Doc. 83-17351 Filed 6-27-83; 8:45 am]
BILLING CODE 3410-02-M

[4] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

CIVIL AERONAUTICS BOARD

14 CFR Part 253

[Economic Regulation; Docket 41542]

Terms of Contract of Carriage

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB is proposing to change its rules requiring notice of contract terms for domestic travel, so that under certain conditions passengers need not be given the notice at foreign ticket-sales locations, but may be notified at the beginning of their domestic flights. An exemption for foreign locations has been granted by a waiver of the CAB's rules. This proposal would make the exemption part of those rules. The exemption was in response to a request by U.S. and foreign airlines to reduce the burden and paperwork involved in selling tickets overseas. The Board also proposes to place in its rules a prior interpretation that air taxis will not be held to be incorporating terms merely because they are ticketed on stock that contains a printed incorporation statement.

DATES: Comments by: August 29, 1983. Reply comments by: September 19, 1983.

Comments and relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: July 8, 1983.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 41542, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, or Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: The Board has established rules for notice to airline passengers of terms incorporated by reference into their contracts (i.e., made part of the contract but not actually provided with the ticket) for domestic travel (14 CFR Part 253). The rules require, among other things, that notice to passengers be given when terms of the contract of carriage are incorporated by reference in the ticket, that the terms be available from the airline if requested, and that an immediate and concise explanation of certain important terms be available upon request at the time the ticket is purchased. Part 253 requires that the notice of incorporated terms and a notice of terms affecting the ticket. These requirements apply to all locations where tickets for travel within the United States are sold, including those outside the United States.

In response to requests from U.S. and foreign airlines, the Board by Order 82-12-84, adopted December 16, 1982 (48 FR 2967, January 24, 1983), waived the notice requirement in Part 253 for ticket locations outside of the United States not controlled by U.S. airlines. The waiver was based on the following conditions: (1) passengers must be given notice that complies with Part 253 not later than check-in for travel in domestic air transportation, (2) the portion of the ticket for that domestic travel must be fully refundable without penalty, and (3) the passenger must be given conspicuous notice of that fact at the domestic check-in point.

The Board has tentatively decided to incorporate these provisions into its rules about notice of contract terms given to passengers (Part 253).

Part 253 now requires that notices about terms incorporated by reference be included on or with every airline ticket for travel in domestic transportation, since tariffs are no longer filed with the government containing the contract terms for those routes. The rule thus requires every ticket agent or interline partner that an airline authorizes to sell its tickets for domestic U.S. travel to provide these notices with the ticket if the airline wants to incorporate terms by reference. Part 253 requires an additional specific notice to be given to passengers about terms affecting the monetary value of the ticket, such as penalties, price changes, or refundability, if the carrier wants to bind passengers to those terms. That notice is required to be given on or with any ticket for domestic travel, even if sold outside the U.S.

The Air Transport Association of America (ATA) and the International Air Transport Association (IATA) stated, in requesting a waiver of these notice requirements for foreign ticket sales, that application of the rule to those sales would appear to be an excessive burden, not needed to give passengers a chance to cancel the contract or to avoid applicability of unknown terms before beginning domestic travel. The carriers pointed out that only an extremely small fraction of the tickets written abroad are for travel in the purely domestic air transportation for which tariffs are not filed. Tariffs—government monitored travel contracts—are filed for all foreign air transportation (travel to or from the United States).

The Board tentatively agrees. If safeguarding conditions are applied, it appears that the notice requirements in Part 253 need not be applied to ticket sales at locations outside the United States, when not controlled by a U.S. carrier. Under this proposal, U.S. carriers would be given the option either to ensure that their ticket agents (whether a foreign carrier or another person) apply the full requirements of Part 253 to ticket sales for domestic transportation, or to ensure that those requirements are met before the passenger checks in for the domestic travel, in which case the price paid for the domestic travel would be fully refundable.

Part 253 is intended to give a passenger information needed to make a decision about buying a ticket from, and traveling on, a carrier in domestic transportation where tariffs are not filed. When selling a ticket within the United States, a carrier is responsible for alerting the passenger to the possibility that terms are included in the contract of carriage but not shown on the ticket and for supplying the passenger with information about those terms if asked. This gives the passenger the chance to either not buy the ticket or not travel on that carrier and to ask for a friend.

If a passenger buying a ticket abroad is not given notice about the terms for domestic travel when the ticket is bought, there must be an opportunity for that passenger to learn about those terms, and to cancel if he or she does not accept them, before the domestic travel begins. Since the passenger has paid for the trip before having the opportunity to learn about the domestic contract terms, the price paid for the domestic portion should be refundable. Thus the proposed rule, while easing an administrative burden on overseas ticket sales, still gives a passenger the opportunity to cancel the contract without penalty upon learning of its terms.

It appears unlikely that the refundability requirement will result in any economic loss to overseas agents selling tickets for non-tariff travel within the United States. We believe that in most cases the pasenger who has bought a ticket abroad for domestic transportation, and who wants information about it, will go to the domestic U.S. carrier to learn about the contract terms before check-in on that carrier. At that time, if the passenger decided to cancel the flight, he or she would most likely ask for the refund from the U.S. carrier. The U.S. carrier in turn would be reimbursed by the agent

or foreign carrier that sold the ticket—with money that was collected on behalf of that U.S. carrier.

The Board would like specific comment on the practicality of this proposed rule and how the industry is now operating under the exemption. The Board would further like to have comment on the extent to which travel in non-tariff domestic transportation is sold overseas by agents and foreign air carriers.

Provisions for Air Taxi Operators

The Board previously, at the petition of the Regional Airlines Association, extended the coverage of the rule to all domestic operations, including those with small aircraft. (ER-1323, 48 FR 6317, February 11, 1983) After it did so, several small commuters complained to the Board that the cost of disseminating information to all travel agency outlets where their tickets might be sold was too expensive to be justified by the small amount of traffic generated from distant locations. The Board staff responded to this objection by stating that a small carrier was not required to provide its contract terms to ticket selling locations except to the extent that it wished to incorporate terms by reference. If a passenger arrived for boarding on a small carrier with a ticket sold under conditions where the notice of incorporated terms for that carrier had not been provided, the only consequence would be that the carrier would not be able to enforce terms that did not appear on the ticket, the contract of carriage would be the "simple contract" contained on the ticket itself.

The only technical difficulty with this interpretation is that where the flight segment for the small carrier appears on standard agency or major-carrier ticket stock, that stock normally will contain the statement that terms have been incorporated by reference. In Part 253, § 253.5 states in mandatory terms that required notices shall be given wherever a ticket incorporates terms by reference. The interpretation described above, therefore, implies an assumption that the fact that the ticket on which the commuter's segment is written contains a standard statement of incorporation does not necessarily mean that the commuter is attempting to incorporate any terms in that contract. A commuter (or other air taxi) must conform to the notice requirements only to the extent that it wishes to actually incorporate terms and enforce them against a passenger.

A new paragraph of § 253.8 is hereby proposed to make that interpretation explicit in the rule.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 95-354, the Board certifies that none of the proposed changes will have a significant economic impact on a substantial number of small entities. Although the responsibility for ensuring compliance is on the U.S. carrier providing the domestic transportation, a few of which may be small carriers, the amount of sales abroad for tickets on those small carriers at non-U.S. air carrier ticket offices would be insignificant. The interpretation concerning incorporation by small carriers merely would codify a prior interpretation, whose effect was to ease the burden of the rule on small carriers.

List of Subjects in 14 CFR Part 253

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

Proposed Rule

PART 253—[AMENDED]

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 253, *Notice of Terms of Contracts of Carriage*, as follows:

1. The opening clause of § 253.5 would be revised to read:

§ 253.5 Notice of incorporated terms.

Except as provided in § 253.8, each air carrier shall include on or with a ticket, or other written instrument given to a passenger, that embodies the contract of carriage and incorporates terms by reference in that contract, a conspicuous notice that—

* * * * *

2. A new § 253.8 would be added to read:

§ 253.8 Qualifications to notice requirements.

(a) If notice is not provided in accordance with § 253.5 at a ticket sales location outside of the United States that is not a U.S. air carrier ticket office, the price paid for the portion of such ticket that is for interstate or overseas air transportation shall be refundable without penalty if the passenger refuses transportation by the carrier. Each air carrier shall ensure that passengers who have bought tickets at those locations without the notice required in § 253.5 are given that notice not later than check-in for the travel in interstate or overseas air transportation, and that conspicuous notice is included on or with the ticket stating that the price for that travel is refundable without penalty.

(b) An air taxi operator (including a commuter air carrier) shall not be considered to have incorporated terms by reference into its contract of carriage merely because a passenger has purchased a flight segment on that carrier that appears on ticket stock that contains a statement that terms have been incorporated by reference. However, an air taxi operator may not claim the benefit as against the passenger of, and the passenger shall not be bound by, any contract term incorporated by reference if notice of the term has not been provided to the passenger in accordance with this part.

3. The Table of Contents would be amended accordingly.

(Secs. 204, 404, 411, Pub. L. 85-726, as amended, 72 Stat. 743, 760, 769, 49 U.S.C. 1324, 1374, 1381)

By the Civil Aeronautics Board.

Dated: June 16, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-17394 Filed 6-27-83; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9113]

Ford Motor Co.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would dismiss Count I of the complaint charging Ford Motor Co., a Dearborn, Mich. motor vehicle manufacturer, with alleged violations of Section 2(d) of the Clayton Act, and require the manufacturer, among other things, to cease paying anything of value to daily rental companies or daily rental systems for advertising furnished by such firms or systems, unless advertising payments are made available to competing independent daily rental companies in accordance with terms set forth in the order. Within 90 days from the effective date of the order, and annually thereafter, Ford would be required to inform those daily rental companies having no joint advertising agreement with Ford or any other automobile manufacturer, of advertising programs

available to daily rental companies which agree to feature Ford products in their advertising and fleets. The order would further require that Ford make a good faith effort to negotiate advertising agreements with such companies. Provisions of the order would remain in effect for a period of ten years after service of a final order and would apply only to agreements relating to daily rental advertising within the United States.

DATE: Comments must be received on or before August 29, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580

FOR FURTHER INFORMATION CONTACT: FTC/CS-7, Robert W. Rosen, Washington, D.C. 20580. (202) 376-2050.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such coments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising allowances, Rental cars, Trade practices.

In the Matter of Ford Motor Company a corporation: Docket No. 9113. Agreement Containing Consent Order.

The agreement herein, by and between Ford Motor Company, a corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent Ford Motor Company ("Ford") is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business located at The American Road, in the City of Dearborn, State of Michigan.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 2(d) of the Robinson-Patman Act, 15 U.S.C. 13, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, and has filed an answer to said complaint denying said charges.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondent, in which event it will return the matter to adjudication for further proceedings or take such action as it may consider appropriate, or issue and serve the following order in disposition of this proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to respondent, (1) issue its decision containing the following order in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it might have to any other manner of service. Count II of the complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. Respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For purposes of this order, the following definitions apply:

(a) A "daily rental company" is an entity, other than one affiliated with a franchised new car dealer of any manufacturer or distributor of automobiles, engaged primarily in the business of renting current model-year automobiles to the public on the basis of a flat rate for hourly, daily, weekly or monthly use or on the basis of a combination of a flat rate and a mileage rate.

(b) A "daily rental system" is any group of daily rental companies affiliated by ownership, by licensor-licensee, franchisor-franchisee or agency relationship, or similar arrangement, or operating under a common trade name, trademark or logo or through a common or shared reservation system.

(c) An "independent daily rental company" is a daily rental company that operates during any model year not more than one thousand (1,000) automobiles for use in daily rental service and that is not affiliated with a daily rental system. Calculation of fleet size shall be made by averaging the number of automobiles in the fleet in daily rental service at quarterly or other regular intervals during the relevant model year.

(d) An "independent daily rental system" is a daily rental system that operates during any model year not more than one thousand (1,000) automobiles in daily rental service. Calculation of fleet size shall be made by averaging the number of automobiles in the fleet in daily rental service at quarterly or other regular intervals during the relevant model year.

(e) "Ford products" refers to automobiles manufactured, assembled, distributed or sold by Ford Motor Company.

(f) "Model year" is the period between October 1 and September 30 of the following year, and shall be determined for particular vehicles by reference to the vehicle identification number.

I

It is ordered that Count I of the Complaint be, and the same hereby is, dismissed.

II

It is further ordered that respondent, Ford Motor Company, a corporation, its officers, directors, agents representatives, employees, successors and assigns, directly or indirectly, through any corporate or other device in connection with the furnishing of advertising by or through daily rental companies or daily rental systems in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith:

Cease and desist from paying or contracting to pay anything of value to or for the benefit of any daily rental company or any daily rental system as compensation or consideration for any advertising furnished by or through such daily rental company or daily rental system, unless the payment, compensation or consideration is made available by Ford on terms as provided in Paragraph III hereof to all independent daily rental companies and independent daily rental systems competing with such daily rental company or daily rental system.

III

It is further ordered that Ford shall be in full compliance with Paragraph II of this order if it offers or causes to be offered to all independent daily rental companies and independent daily rental systems an advertising program for the joint promotion of Ford products and the services of the independent daily rental company or the independent daily rental system, which contains the following provisions:

A. Ford shall reimburse any independent daily rental company or independent daily rental system agreeing to feature current model year Ford products in its advertising and fleet fifty (50) percent (unless that percentage is modified in accordance with the provisions of Paragraph III.G. of this order) of the cost of a yellow pages display advertisement featuring Ford products up to one quarter page (double half column) in size, under the classification "Automobile Renting and Leasing," to appear in the hometown telephone directory or directories where the main rental offices of the independent daily rental company or independent daily rental system are located.

B. Any independent daily rental company or independent daily rental system accepting the offer described in Paragraph III.A. of this order shall be offered the options of participating in additional advertising featuring Ford products and the services of the independent daily rental company or independent daily rental system, for which Ford will reimburse the independent daily rental company or the independent daily rental system fifty (50) percent (unless that percentage is modified in accordance with the provisions of Paragraph III.G. of this order) of the cost of advertising featuring Ford products. The criteria for determining what advertisements and what advertising costs are reimbursable for independent daily rental companies and independent daily rental systems participating in joint advertising programs with Ford shall be the same as for all other daily rental companies and daily rental systems participating in joint advertising programs with Ford.

C. To be eligible for the advertising program set forth in Paragraphs III.A. or III.B. of this order an independent daily rental company or independent daily rental system must agree to feature Ford products in its fleet and to purchase at least twenty (20) Ford products of the model year during which the advertising featuring Ford products appears.

D. Ford may require that the independent daily rental company or independent daily rental system substantiate its purchases of Ford products and its fleet size. Ford may also require substantiation, similar to the substantiation required of other daily rental companies and daily rental systems, from the independent daily rental company or independent daily rental system of its expenditures for advertising featuring Ford products, through the submission of bills, invoices, copies of advertisements of other reasonable documentation and other procedures for verification of such expenditures.

E. Ford may provide for termination or nonrenewal of joint advertising programs for cause. Such cause may include, for example, false or deceptive advertising or claims for payments advertising which, or in media which, reflect negatively on Ford, its products or its goodwill or failure to maintain reasonable standards of automobile maintenance, safety or cleanliness. Without limitation of Ford's other rights under this order, Ford may decline to enter into a joint advertising program where it reasonably appears such affiliation would negatively reflect on Ford, its products or its goodwill. Any decision by Ford to decline to enter into, decline to renew, or terminate a joint advertising program under the provisions of this subparagraph shall be made on the basis of standards which are consistent for all daily rental companies and daily rental systems. Where Ford execises its right hereunder to decline to enter into to terminate or not to renew a joint advertising program on the basis that such an affiliation would negatively reflect on Ford, its products or its goodwill, it shall maintain a written record of the specific basis for such exercise and the relevant dates relating thereto. Such records shall be retained for two years following exercise of such right or until expiration of this order, whichever is sooner, and shall be made available to the Commission upon request following reasonable notice.

F. Ford shall, within ninety (90) days after service of a final order and annually thereafter commence reasonable action, in good faith, to inform all independent daily rental companies and independent daily rental systems of the availability of the advertising program contemplated by this order.

G. In the event Ford or any of its divisions agrees to reimburse more or less than fifty (50) percent of the type of advertising expenditures described in Paragraphs III.A. and III.B. above for any daily rental company or any daily rental system, then Ford or, in the case of a particular division of Ford, that division shall offer to reimburse to all independent daily rental companies and independent daily rental systems the highest percentage of reimbursement offered to any daily rental company or daily rental system by Ford or that particular division of Ford.

IV

It is further ordered that:

A. Ford shall within ninety (90) days after service of a final order and annually thereafter advise all daily rental systems and daily rental companies not affiliated with a daily rental system, which do not have a joint advertising agreement with Ford and which are not independent daily rental companies or independent daily rental systems, of the existence of advertising programs for daily rental companies and daily rental systems agreeing to feature Ford products in their advertising and fleets.

B. Ford shall in good faith seek to negotiate an agreement with: (1) any daily rental company or daily rental system that is advised pursuant to paragraph IV A. hereof of the existence of Ford advertising programs and that does not have a joint advertising agreement with any other manufacturer or distributor of automobiles; and (2)

any daily rental system, or any daily rental company that is not affiliated with a daily rental system, other than an independent daily rental system or independent rental company, that already has a joint advertising agreement with Ford which is due to expire on or before the last day of that model year. Failure to reach agreement after good faith efforts to do so shall not constitute a violation of this Order.

V

It is further ordered that nothing herein contained shall prevent Ford from carrying out the provisions of any advertising agreement with any daily rental company or daily rental system that shall have been entered into prior to January 1, 1982.

VI

It is further ordered that the provisions of this order shall remain in effect for a period of ten (10) years after service of a final order, and shall apply only to agreements relating to daily rental advertising within the United States.

VII

It is further ordered that nothing herein shall preclude Ford from offering or participating in an advertising program on terms intended in good faith to meet a bona fide offer received by a daily rental company or daily rental system from another manufacturer or distributor of automobiles, provided that Ford shall have the burden of proving that it was acting in good faith to meet such a bona fide offer, and the provisions of paragraphs II, III and IV of this Order shall not apply to such offer or program.

VIII

It is further ordered that in the event the proceeding against General Motors Corporation, respondent in Docket No. 9114, results in a final adjudicated order in accordance with Section 5(g)–(k) of the Federal Trade Commission Act, 15 U.S.C. 45, or in a consent order, prescribing less restrictive standards or less demanding obligations than any corresponding provision of this order, then Ford shall be bound only by the less restrictive standards and less demanding obligations set forth in such order. In the event the aforesaid proceeding against General Motors Corporation is dismissed, then Ford shall no longer be bound by the provisions of this order. In the event the Commission issues a final Trade Regulation Rule prescribing less restrictive standards or less demanding obligations on any manufacturer, assembler or distributor of automobiles than any corresponding provision of this Order, then Ford shall only be bound by the standards set forth in such Rule.

IX

It is further ordered that respondent shall within one hundred and twenty (120) days afer service of a final order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order and shall file such other reports as may, from time to time, be required to assure compliance with the terms and conditions of this order.

X

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

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has provisionally accepted an agreement containing a proposed consent order from the Ford Motor Company (Ford).

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested parties and the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint in this matter (Docket No. 9113) charges Ford with granting discriminatory advertising payments to some of its customers who rent or lease passenger automobiles to the public without making such payments available on proportionally equal terms to all its other customers competing with the favored auto rental or leasing customers.

The objective of the proposed consent order is to restore a greater degree of competition to the passenger automobile rental industry by eliminating the alleged discriminatory payment of advertising subsidies. The auto leasing industry is not covered by this order. All the proscriptions in the order are for a period of ten (10) years. References to paragraphs and sections of the agreement are made by using the corresponding numerical and alphabetical notations in the agreement, *e.g.*, "III. A" refers to subparagraph A of paragraph III.

Definitions (a) and (b) define daily rental company and daily rental system (large renters), respectively.

Definitions (c) and (d) define independent daily rental company and independent daily rental system (small renters), respectively, and describe the manner in which the fleet size of small renters will be calculated.

Definitions (e) and (f) define Ford products and model year, respectively.

Paragraph I dismisses count I of the complaint which charges Ford with violating Section 2(d) of the amended Clayton Act.

Paragraph II prohibits Ford from paying anything of value to large renters for any advertising conducted by large renters unless advertising payments are made available to competing small renters as described in paragraph III.

Paragraph III.A requires Ford to offer to reimburse 50 percent of the cost of a yellow pages display advertisement up to one quarter page in size of any small renter agreeing to feature Ford products in its advertising and fleet to appear in the hometown telephone directory where the main rental offices of the small renter are located.

Paragraph III.B requires Ford to offer to reimburse any small renter accepting the offer described in Paragraph III.A for 50 percent of all advertising featuring Ford products and the services of the small renter. The criteria for determining what advertisements and what advertising costs are reimbursable for small renters participating in joint advertising with Ford must be the same as for all large renters.

Paragraph III.C requires that to be eligible for the advertising programs set forth in Paragraph III.A and III.B, a small renter must agree to purchase at least twenty (20) Ford products of the model year during which the advertising featuring Ford products appears.

Paragraph III.D permits Ford to require that small renters substantiate their Ford purchases and fleet size as well as their expenditures for advertising featuring Ford products for which reimbursement will be claimed.

Paragraph III.E allows Ford to terminate or not renew advertising agreements for cause, for example: false or deceptive advertising, advertising in media that negatively reflects on Ford or failure to maintain reasonable standards of automobile maintenance, safety or cleanliness. Ford is also permitted to decline to enter into advertising

agreements where it reasonably appears such affiliation would negatively reflect on Ford. However, any decision by Ford to decline to enter into, decline to renew, or terminate a joint advertising program under the provisions of this subparagraph shall be made on the basis of standards which are consistent for all daily rental companies and daily rental systems. Moreover, where Ford declines to enter into, terminates or does not renew an advertising agreement for any of the reasons herein described, Ford is required to maintain a written record of the specific basis for such action and the relevant dates relating thereto. Such records shall be kept for two years following the Ford action and shall be made available to the Federal Trade Commission so that the Commission can ascertain whether Ford has unfairly declined to enter into, terminated or not renewed advertising agreements with specific small renters.

Paragraph III.F requires Ford to inform all small renters of the availability of the advertising programs contemplated by the order within ninety (90) days after service of the order and annually thereafter during the pendency of the order.

Paragraph III.G permits Ford to reimburse more or less than fifty (50) percent of the type of advertising described in Paragraphs III.A and III.B if and only if Ford decides to reimburse more or less than fifty (50) percent of the advertising expenditures of large renters. Under such circumstances, Ford shall be required to reimburse to small renters the highest percentages of reimbursement offered to any large renters; this will ensure that small renters receive at least as much on a proportionate basis as large renters.

Paragraph IV.A requires Ford to contact all large renters that do not have an advertising agreement with Ford within ninety days after service of the order and annually thereafter to inform them of the existence of joint advertising agreements for large renters agreeing to feature Ford products in their advertising and fleet.

Paragraph IV.B requires Ford to negotiate in good faith an advertising agreement with any large renter who doe not have an advertising agreement with Ford or any other automobile manufacturer and with any large renter that already has a joint advertising agreement with Ford which is due to expire on or before the last day of the model year. Failure to reach agreement after good faith efforts to do so shall not constitute a violation of the order.

Paragraph V permits Ford to carry out the provisions of any advertising agreement with large renters entered into prior to January 1, 1982. No Ford agreement entered into prior to January 1, 1982 reimburses more money from a proportionality standpoint than the agreement Ford is required to offer to all small competing renters pursuant to Paragraph III.A and III.B of the order.

Paragraph VI requires that all provisions of the order remain in effect for a period of ten (10) years.

Paragraph VII permits Ford to meet bona fide offers received by daily rental companies and systems from other manufacturers or distributors of automobiles, provided that Ford shall have the burden of proving that it was acting in good faith to meet such a bona fide offer.

Paragraph VIII is a "most favored nation's" clause which states that in the event the proceeding against General Motors Corporation (GM), respondent in Docket No. 9114, results in a final adjudicated order or a consent order prescribing less restrictive standards or less demanding obligations than any corresponding provisions contained in the Ford consent order, then Ford shall be bound by the less restrictive standards and less demanding obligations set forth in such GM order. The complaint in the matter against GM charges GM with granting discriminatory advertising payments to some of its customers who rent or lease passenger automobiles to the public without making such payments available on proportionally equal terms to all its other customers competing with the favored auto rental or leasing customers.

Paragraph VIII also states that in the event the Commission issues a final Trade Regulation Rule prescribing less restrictive standards on any manufacturer, assembler or distributor of automobiles than the provisions of this order, then Ford shall only be bound by the standards set forth in such rule. No such trade regulation rule presently exists.

Paragraph IX requires Ford to file with the Commission within one hundred and twenty (120) days after service of a final order a report setting forth the manner in which it has complied with the order. In the future, Ford many be required to file additional reports to assure compliance with the terms and conditions of the order.

Paragraph X requires Ford to notify the Commission at least thirty (30) days prior to any proposed change in the corporate structure of Ford which may affect compliance obligations arising out of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 83-17383 Filed 6-27-83; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[File No. 782-3081]

Christian Services International, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 83-11465, beginning on page 19388, in the issue of Friday, April 29, 1983, make the following correction.

On page 19390, the last column, first paragraph, lines 5 through 8, remove the words, "to the provider of a value of $500 or more within any year, and a description of the goods, leases or services".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1306

Prescriptions; Dispensing Controlled Substances In Institutional Practitioner Emergency Rooms

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Withdrawal of proposed rule.

SUMMARY: A Notice of Proposed Rulemaking published on September 17, 1982, would have amended Part 1306 of Title 21 of the Code of Federal Regulations to permit hospital emergency room personnel to dispense controlled substances to nonpatients when alternate pharmacy services were not available. This proposed action was initiated in response to requests from various state agencies and hospitals. After assessing the comments and objections to the proposal, the Drug Enforcement Administration (DEA) has determined that the need for the proposed rule change has not been established at this time and the proposal is therefore withdrawn for further study.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald W. Buzzeo, Deputy Director, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537, Telephone Number (202) 633-1321.

SUPPLEMENTARY INFORMATION: On September 17, 1982 (47 FR 41140), the DEA published a notice of proposed rulemaking to amend 21 CFR Part 1306 to permit hospital emergency room personnel to dispense controlled substances to nonpatients when alternate pharmacy services were not available. Written comments and objections were to be received by November 16, 1982. The comment period was subsequently extended to December 16, 1982.

The proposal was initiated by DEA to provide a mechanism to facilitate the dispensing of controlled substances in infrequent instances where community pharmacy services may not have been available. Such situations usually occur in rural areas during off hours, but it appears from the comments submitted that the perceived problems which prompted this proposal may not be significant enough to warrant a change in the regulations. Moreover, existing emergency room procedures which have been successful in treating patients have not been changed nor affected by the withdrawal of this proposal. The patient will retain his right of free choice of physician, pharmacist, hospital, and pharmacy. A word of caution, however, is in order. Hospital emergency rooms should be alert to the need for infrequent referrals of nonemergency room patients, by known physicians, during times when community pharmacy services may be difficult to obtain and when the hospital pharmacy is closed.

It was apparent from the responses that there was a great deal of misunderstanding concerning DEA's purpose in publishing this proposal. The sole purpose of this rulemaking was to provide a legal mechanism to allow the availability of controlled substances to nonpatients in hospital emergency rooms when community pharmacy services were not available. Thus, the nature, scope, and thrust of the proposal were to assure that proper legal procedures were in place for all types of emergency situations involving controlled substances. More importantly, the rulemaking was proposed in the interest of supporting good patient health care by assuring that no patient would go without the necessary medication because of some real or perceived legal impediments. To accommodate those situations which this rule would have addressed, DEA encourages the various medical and pharmaceutical associations to work together in developing and supporting 24-hour emergency prescription services in areas where medical and pharmacy services are limited.

This proposal has resulted in the submission of an unusually large number of comments, with the majority of those commenting opposing the proposed rule. Objectors included pharmaceutical associations, pharmacy boards, hospitals, pharmacies, universities, and individuals in the medical professions. The objections set forth by these commentators are summarized as follows:

(1) Pharmacy services are available in almost all rural areas.

(2) Pharmacists are trained to determine if a prescription order is legitimate. Allowing emergency room personnel to dispense controlled substances via oral or written prescription orders would increase the risk of having controlled substances diverted.

(3) If a true emergency exists, the patient should be examined by the emergency room physician.

(4) Emergency room personnel do not have the training for dispensing controlled substances pursuant to oral or written prescription orders. Areas where expertise is needed include proper recordkeeping, label preparation, and dispensing the proper medication in accordance with the physicians's instructions.

(5) Having controlled substances dispensed from emergency rooms would increase the risk of armed robbery at these facilities.

(6) Emergency rooms are already understaffed and overcrowded, and this provision would add to the problem.

(7) The proposal would increase the chance for diversion by hospital employees.

(8) Adoption of the proposal would lead to a breakdown of good security and pharmacy practice.

Additionally, a number of commentators felt that the proposed regulation was not specific enough and several state agencies, noting conflicting provisions of state law, felt that the proposed regulation would cause confusion.

Finally, several of the objectors stated the belief that activities conducted pursuant to the proposed rule would place hospital emergency rooms unfairly in competition with community pharmacies in violation of the Robinson-Patman Act.

The proposed rule was supported by government agencies in three states and, with some reservations, by two national hospital and medical associations. These commentators felt that a regulatory amendment, such as the proposed, was necessary in order to provide better medical services in rural areas.

The proposal was made with rural medical services in mind. It was drafted so as to permit states to promulgate their own specific guidelines if they felt that emergency room dispensing was needed in their jurisdictions. The intention was to avoid conflict between state and Federal law, not to create it. However, after fully considering all of the comments submitted in response to the proposed rulemaking, it is clear that the majority of the states and the health services community do not feel that the public would benefit by its adoption. Accordingly, the proposal is being withdrawn.

Dated: June 15, 1983.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 83-17318 Filed 6-27-83; 8:45 am]

BILLING CODE 4410-09-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Monthly Certifications of Attendance for Courses Not Leading to a Standard College Degree

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The proposed regulations change the frequency of certifications of attendence for courses not leading to a standard college degree from quarterly to monthly. On September 30, 1981 the General Accounting Office (GAO) issued a report, "Overpayments of Education Benefits Could be Reduced for Veterans Enrolled in Noncollege Degree Courses." (HRD-81-154). The report stated the Va (Veterans Administration) often overpays veterans in noncollege degree courses because the number of absences taken were more than permitted during the training period. One recommendation in the study is that the VA switch from quarterly certifications of attendance to monthly certifications for courses not leading to a standard college degree. This proposal implements that recommendation.

DATE: Comments must be received on or before July 28, 1983. The VA proposes to make these regulations effective on the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810

Vermont Avenue, N.W., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until August 8, 1983. Anyone visiting Central Office in Washington, D.C. for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: Sections 21.4203, 21.4204 and 21.4205 are amended to provide that certifications of attendance are to be made monthly when veterans and eligible persons are enrolled in a course not leading to a standard college degree.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the paperwork provisions that are included in these regulations have been approved by the Office of Management and Budget (OMB).

The Veterans Administration has determined that these proposed regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The proposal will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investement, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs hereby certifies that these proposed regulations, if promulgated, will not have a significant economic impact on these schools. The attendance records upon which these certifications are based must be maintained by the schools for all VA students, in any case, and the completion of the certification card is a simple, quick process. This proposal will have no significant impact on other types of small entities.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these proposed regulations are 64.111, 64.117 and 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan Programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: December 1, 1982.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

It is proposed to amend 38 CFR Part 21 as follows:

1. In § 21.4203, paragraphs (d) and (f)(1) are revised as follows:

§ 21.4203 Reports by schools; requirements.

* * * * *

(d) *Interruptions, terminations and changes in hours of credit or attendance.* When a veteran or eligible person interrupts or terminates his or her training for any reason, including unsatisfactory conduct or progress, or when he or she changes the number of hours of credit or attendance, this fact must be reported to the Veterans Administration by the school.

(1) If the change in status or change in number of hours of credit or attendance occurs on a day other than one indicated by paragraph (d) (2) or (3) of this section, the school will initiate a report of the change in time for the Veterans Administration to receive it within 30 days of the date on which the change occurs. If the course in which the veteran or eligible person in enrolled does not lead to a standard college degree, the school may include the information on the monthly certification of attendance. (38 U.S.C. 1784(a))

(2) If the enrollment of the veteran or eligible person has been certified by the school for more than one term, quarter or semester and the veteran or eligible person interrupts or terminates his or her training at the end of a term, quarter or semester within the certified period of enrollment, the school shall report the change in status to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days of the last officially scheduled registration date for the next term, quarter or semester. (38 U.S.C. 1784(a))

(3) If the change in status or change in the number of hours of credit or attendance occurs during the 30 days of a drop-add period, the school must report the change in status or change in the number of hours of credit or attendance to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days from the last date of the drop-add period or 60 days from the first day of the enrollment period, whichever occurs first. (38 U.S.C. 1784(a))

* * * * *

(f) *Certification*—(1) *Courses not leading to a standard college degree.* (i) The Veterans Administration generally requires that a certification of attendance be submitted monthly for each veteran or eligible person enrolled in a course not leading to a standard college degree. The fact that the course may be pursued on a quarter, semester or term basis, or is measured on a credit-hour basis will not relieve the veteran or eligible person and the school of this requirement. However, this requirement does not apply when the course is pursued on a less than one-half time basis or by a serviceperson while on active duty. (See § 21.4204.) It also does not apply to correspondence courses which must meet the requirements of paragraph (e) of this section.

(ii) The certification of attendance must—

(A) Contain the information required for release of payment,

(B) Be signed by the veteran or eligible person and the school (except that the veteran or eligible person need not sign if he or she has interrupted the enrollment and is not available for signature.)

(C) Be signed on or after the final date of the reporting period, and

(D) Clearly show the date on which each person signed. (38 U.S.C. 1784(a))

2. In § 21.4204, paragraph (e) is revised as follows:

§ 21.4204 Periodic certifications

* * * * *

(e) *Farm cooperative courses.* The monthly certification will cover only those periods of classroom instruction which are included in the prescheduled institutional portion of the course. (38 U.S.C. 1784(a))

3. In § 21.4205, the introductory portion preceding paragraph (a) is revised as follows:

§ 21.4205 Absences.

Absences must be reported on the monthly certification of pursuit of a course which does not lead to a standard college degree. (38 U.S.C. 1784(a))

* * * * *

[FR Doc. 83-17326 Filed 6-27-83; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

Dependents' Educational Assistance; Eligible Child's Period of Eligibility

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: This proposed regulation states more clearly the beginning date for an eligible child's period of eligibility for dependents' educational assistance. It addresses for the first time cases where someone between his or her 18th and 26th birthday is adopted or becomes a stepchild of a veteran. This will better acquaint the public with our policy in this matter.

DATE: Comments must be received on or before July 28, 1983. It is proposed that this amended regulation become effective on the date of final approval.

ADDRESSES: Send written comments to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at this address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until August 8, 1983. Anyone visiting Veterans Administration Central Office in Washington, DC for the purpose of inspecting any of these comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420 (202) 389-2092.

SUPPLEMENTARY INFORMATION: Section 21.3041, Title 38, Code of Federal Regulations is amended to provide a more complete explanation of the beginning dates of the eligible child's period of eligibility for dependents' educational assistance.

The Veterans Administration has determined that this proposed regulation does not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no 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 Administrator of Veterans' Affairs hereby certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this proposed regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because this proposed regulation will affect only individual benefit recipients. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this proposed regulation is 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 10, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

In § 21.3041, paragraphs (a) and (b) are revised to read as follows:

§ 21.3041 Periods of eligibility; child.

(a) *Basic beginning date.* The basic beginning date of an eligible child's period of eligibility is his or her 18th birthday or successful completion of secondary schooling, whichever occurs first. See paragraph (b) of this section and § 21.3040 (a) and (b). (38 U.S.C. 1712(a))

(b) *Exceptions to basic beginning date.* (1) An eligible child may have a beginning date earlier than the basic beginning date when he or she has—

(i) Completed compulsory school attendance under applicable State law, or

(ii) Passed his or her 14th birthday and has a physical or mental handicap. See § 21.3040(a).

(2) The eligible child shall have a beginning date later than the basic beginning date when any of the following circumstances exist.

(i) If the effective date of the permanent and total disability rating occurs after the child has reached 18 but before he or she has reached 26, the beginning date of eligibility will be the effective date of the rating.

(ii) If the child becomes eligible through the death of a veteran, the date of death will be the beginning date of eligibility if it occurs after the child's 18th birthday and before his or her 26th birthday.

(iii) The child may become eligible through adoption by the veteran or by becoming a stepchild of the veteran and a member of the veteran's household. If either of these events occurs after the child's 18th birthday and before his or her 26th birthday, the effective date of eligibility will be whichever of the following is appropriate—

(A) The date of the final decree of adoption, or

(B) The date the child became the veteran's stepchild and a member of his or her household. (38 U.S.C. 1701).

* * * * *

[FR Doc. 83-17327 Filed 6-27-83; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Proposed Approval of Revisions to the Virginia State Implementation Plan

[EPA Docket Nos. AW043/044VA; A-3-FRL 2360-5]

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On December 30, 1982, the Commonwealth submitted an alternate compliance schedule for the Ford Motor Company's plant in Norfolk, Virginia as a revision to the State Implementation Plan (SIP). The schedule provides for compliance with the volatile organic compound (VOC) emission regulations through the installation of an electrophorectic deposition process and the development of low solvent coating technology by November 30, 1984.

On January 3, 1983, the Commonwealth submitted a variance for the Oyster Point Municipal Incinerator in Newport News, Virginia. The variance provides for operation of the incinerator with particulate emissions in excess of that allowed by regulation, until the incinerator is closed down on July 1, 1983.

EFFECTIVE DATE: Comments must be submitted on or before July 28, 1983.

ADDRESSES: Copies of the proposed SIP revisions and the accompanying support

documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Management Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106. ATTN: Mr. Harold Frankford

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, D.C. 20460.

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, Virginia 23219. ATTN: Mr. John M. Daniel, Jr.

All comments on the proposed revision submitted within 30 days of publication of this Notice will be considered and should be directed to Mr. Bernard E. Turlinski, Acting Chief of the Maryland, Delaware, Virginia, D.C. Section at the EPA, Region III address. Please reference the EPA Docket Number found in the heading of this Notice.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Franford at the Region III address stated above or telephone 215, 597–8392.

SUPPLEMENTARY INFORMATION: The Ford Motor Company, located in Norfolk, Virginia, is engaged in the assembly of light duty trucks. The coating operations at the Ford plant are subject to the provisions of Section 4.55(e) of the Virginia regulations which prescribe the emission standards for the prime coat, top coat and final repair. Specifically, Ford is requesting an extension of two years to comply with the prime coat emissions standard in Section 4.55(e)(1).

Originally, Ford had planned to use high solids coatings applied by the conventional spray method to achieve the desired reduction by the end of 1982. However, response to customer demands for better product quality in the automotive industry led Ford to abandon the spray method for a combination of the dip and spray method. Ford now plans to control emissions by use of the electrophoretic deposition process (EDP) followed by a spray (guide coat) primer system to smooth out the rough spots. This new method will use low solvent coatings. While the change is directed primarily at quality control, the new approach will also significantly reduce emissions over the original approach. Current regulations set a standard of 3.2 lbs. of VOC per gallon of coating and the use of EDP will meet a standard of 1.9 lbs. of VOC per gallon of coating.

However, Ford cannot complete installation of the new equipment by the end of 1982 and wishes an extension until the end of 1984. The delay did not affect the attainment of the ozone standard in Southeastern Virginia by the end of 1982.

The attainment strategy is based upon a maximum allowable emission rate of 3188 tons per year by the end of 1982. In 1977 the actual emissions for the plant were 2396 tons. Since production levels are now much lower and unlikely to return to 1977 levels before the end of 1984, the delay in compliance did not affect the attainment date. In fact, EPA has recently approved the Commonwealth's request to redesignate this area as "attainment" for ozone, based on air quality monitoring data. (48 FR 7579, February 23, 1983.)

Based on our preliminary review of the alternate compliance schedule, EPA is today proposing to approve it as a SIP revision. However, it appears that the line and process modifications will be subject to New Source Performance Standards (NSPS) requirements, which may be more stringent than the current Virginia SIP emission limitation. Agency policy on this matter is discussed in an October 21, 1981 **Federal Register** notice (47 FR 51386).

On April 8, 1981 the City of Newport News was granted a variance to Part IV, Rule EX–7 (Section 4.71) of the Regulations for the Control and Abatement of Air Pollution. This allowed the continued operation of the Oyster Point municipal incinerator while the City established a new landfill. The variance schedule stated that the subject incinerator would be shut down by July 1, 1982. This variance was approved as a SIP revision by EPA on September 3, 1981 a 46 FR 44186. Subsequently, the City of Newport News was unable to comply with the terms of the variance.

The City of Newport News has not requested a variance to Section 4.71 of the State Air Pollution Regulations, such a variance to terminate on July 1, 1983. As of this date the Newport News Incinerator is capable of burning only 150 tons of trash per day and operates 5 days a week. At 150 tons per day, the controlled particulate emissions are 66.9 pounds per hour. The maximum impact of these emissions occurs at a point approximatly 3000 meters downwind when assuming slightly unstable air (c) and an average surface wind of 11 mph. The impact on the 24 hour standard at this point is 1.1 ug/m^3 and .2 ug/m^3 annual geometric mean.

Inasmuch as the annual geometic mean for the area is estimated to be approximately 45 ug/m^3 and the highest 24 hour reading during the last four years has been 113 ug/m^3, it appears that continued operation of the incinerator will not cause any violation of the National Air Quality Standards. The order granting a variance to Section 4.71 was issued by the Board on October 12, 1982 and submitted to EPA as a SIP revision on January 3, 1983. EPA is today proposing to approve the variance as a SIP revision except for condition 1.(2) which stated that the opacity standards will not apply during periods of sootblowing. The EPA cannot approve such a blanket exemption, and in this instance the issue is moot because incinerators do not sootblow. Therefore, EPA will take no action on this portion of the variance.

The Commonwealth has certified that, after adequate public notice, public hearings were held with respect to the proposed SIP revisions as shown below:

Subject	Date of public notice	Date of public hearing	Location
Ford Motor Co.	Feb. 8, 1982	Mar. 15, 1982	Virginia Beach, VA.
Oyster Point Mun. Inc.	Aug. 6, 1982	Sept. 7, 1982	Virginia Beach, VA.

Conclusion: The Regional Administrator's decision to propose approval of the revisions is based on a determination that the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

The public is invited to submit, to the address stated above, comments on whether the proposed amendments to the Commonwealth of Virginia's air pollution control regulations should be approved as revisions to the Commonwealth's SIP.

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Administration has certified that SIP approvals under Section 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1982). The action, if promulgated, constitutes a SIP

approval under Sections 110 and 172 within the terms of the January 27, 1981 certification.

List of Subjects in 40 CFR Part 52

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

(42 US.C. 7401–7642)

Date: April 20, 1983.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 83-17359 Filed 6-27-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2F2727/P296 PH-FRL 2373-3]

Tebuthiuron; Proposed Tolerances

Correction

In FR Doc. 83–14611, beginning on page 24396, in the issue of Wednesday, June 1, 1983, in the second column, in the **SUPPLEMENTARY INFORMATION** paragraph, in the fifteenth line "2yl" should read "2-yl".

BILLING CODE 1505-01-M

LEGAL SERVICES CORPORATION

45 CFR Part 1607

Proposed Guideline Concerning Recipient Governing Bodies

AGENCY: Legal Services Corporation.

ACTION: Proposed guideline.

SUMMARY: This proposed Guideline answers questions which have arisen as to compliance with the amended 45 CFR Part 1607 concerning composition of recipient Boards. This Guideline will not be a part of the Code of Federal Regulations, but will be the authoritative interpretation of the amended regulation.

DATE: Comments must be submitted on or before July 28, 1983.

ADDRESS: Comments may be mailed to: Office of General Counsel, Legal Services Corporation, 733 15th Street, NW., Room 620, Washington, D.C. 20005.

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

AUTHORITY: Pursuant to Sec. 1008(e) Pub. L. 93–355, 88 Stat. 378 (42 U.S.C. Sec. 2996g(e) and Pub. L. 97–377, 96 Stat. 1874, the following Legal Services Guideline is proposed:

LSC Guideline 83–1, Interpretation of and Compliance With 45 CFR Part 1607, as Amended, Concerning Recipient Governing Bodies

The Legal Services Corporation's regulation relating to the governing bodies of recipient, 45 CFR Part 1607, requires that 51% of each recipient's governing body be comprised of licensed attorneys appointed by state, county or municipal bar association(s) whose membership includes a majority of attorneys practicing in the service area. Recipients are required to be in compliance with Part 1607 by September 15, 1983; however, any recipient so requesting will be granted an extension until December 15, 1983.

Waivers

Section 1607.7(c) permits the President of the Legal Services Corporation to extend the time for compliance with the requirements of this part in the event that compliance by September 15, 1983 would be impossible or unduly burdensome (in addition, the waiver provisions of § 1607.5 still apply to recipients which had a non-attorney majority on their Board as of July 25, 1974). Reasons common to most recipients, such as the need to amend bylaws or shorten the terms of incumbent board members, are not sufficient to justify an extension of time in which to comply. No such extension may run past March 15, 1984.

2. Definition of State, County or Municipal Bar Association

a. To qualify as a State, county or municipal bar association, a bar association must be open to all licensed attorneys within a designated jurisdiction and not be designed to appeal to a segment of the bar on the basis of racial or ethnic characteristics, gender, religion or specialized interest. Parish, borough, judicial circuit or multi-county qualify under this section.

b. Where the service area of a recipient is coextensive with the jurisdiction of a state, county, or municipal bar association, and that association includes among its membership a majority of attorneys licensed in the area served, that bar association shall be offered the opportunity to appoint 51% of the recipient's board members. If no such bar association exists, or if it declines the offer to appoint 51% of the recipient's board members, a combination of state, county and municipal bar associations representing the majority of attorneys practicing in the recipient's service area, as determined by the recipient, shall appoint 51% of the board members. When a combination of bar associations is utilized, the appointment power shall be distributed by the recipient in reasonable proportion to the membership of each association.

3. Additional Attorney Board Members

Special interest bar associations or other organizations primarily interested in the delivery of legal services to the poor may appoint the additional 9% of the recipient's board members who must be attorneys.

4. Women and Minority Attorneys

Recipients must ensure that the attorney members of their boards of directors reasonably reflect the population of the area served. Precise proportional representation of women and minorities is not required, however, nor is the designation of specific seats on the board for women and/or minority attorneys. The recipient's plan for compliance must contain adequate information to allow the Regional Office to conclude that the appointing bar association(s) will make a reasonable and substantial effort to include women and minorities. If the recipient finds that the appointments made by a bar association or combination of bar associations do not reflect the population of the area served, the recipient shall request a review thereof by the Corporation.

5. Method of Selection

The appropriate state, county or municipal bar association or combination of bar associations have the power to appoint 51% of the recipient's board members. This power may not be restricted by recipients. The appropriate bar association or combination of associations may determine the method or methods by which it will select the board members. The bar association may adopt methods including consultation with and/or receiving nominations from other groups, including client groups. However, no particular method of selection may be required by a recipient.

Dated: June 23, 1983.

Alan R. Swendiman,

General Counsel.

[FR Doc. 83-17352 Filed 6-27-83; 8:45 am]

BILLING CODE 6820-35-M

Notices

Federal Register
Vol. 48, No. 125
Tuesday, June 28, 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

Food and Nutrition Service

Food Stamp Program: Fiscal Year 1983–84 Research, Demonstration and Evaluation Projects

AGENCY: Food and Nutrition Service, USDA.

ACTION: Announcement of fiscal year 1983–84 Food Stamp Program Research, Demonstration and Evaluation Projects and Request for Public Comment.

SUMMARY: With this Notice, the Department announces its plans for FY 83/84 research, demonstration and evaluation projects for the Food Stamp Program. These projects will be conducted under the authority of Section 17 of the 1977 Food Stamp Act, as amended. Public comments on this plan and suggestions for other initiatives are encouraged.

DATE: Comments on this announcement should be submitted no later than July 28, 1983.

ADDRESS: Comments should be submitted to Marilyn Carpenter, Chief; Legislative Policy Planning and Demonstration Branch; Program Planning, Development and Support Division; Family Nutrition Programs; Food and Nutrition Service; USDA; Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive; Alexandria, Virginia, Room 714.

FOR FURTHER INFORMATION CONTACT: If you have any questions, contact Ms. Carpenter at the above address or by telephone at (703) 756–3383.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order No. 12291 and the Secretary's Memorandum No. 1512–1 and has been classified "not major." This action will not result in an annual effect on the economy of $100 million or more or a major increase in cost or price for consumers, individuals, Federal, State and local governments, or geographical regions. Additionally this action will not have significant effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Purpose and Background

In accordance with 7 CFR 282.2, this Notice provides information on food stamp research, demonstration, and evaluation activities. The purpose of this publication is to solicit public comment on activities currently planned for FY 83/84 and suggestions for other initiatives which might be undertaken. State and local agencies involved in administering the Food Stamp Program and other interested parties are strongly encouraged to read this Notice carefully and to submit comments both on its contents and on other priority areas suitable for research, demonstration and evaluation efforts.

Section 17 of the Food Stamp Act of 1977 established the Department's authority to undertake research, demonstration, and evaluation projects. The legislation prescribes that such projects are to be designed to improve the efficiency and effectiveness of program administration and the delivery of benefits to eligible households.

The 1977 Act and later amendments directed the Secretary to undertake specific demonstration projects, e.g., Workfare, and gave the Secretary authority to undertake others, e.g., the SSI/Elderly Cash-Out Project. Studies and evaluations of specific program features, such as the feasibility of recouping food stamp benefits, have also been mandated. In addition, based on policy concerns, the Department has initiated research, demonstration and evaluation efforts in a variety of areas. The chart below details the proportion of total Section 17 funds which have been or are planned to be obligated to various program issues for the period FY 79 thru FY 83. Examples of projects in each policy area are also provided.

Issue	Project	Proportion of funds (percent)
Benefit Delivery	Alternative Issuance, Review of Existing Issuance System, SSI/Elderly Cash-Out.	23.7
Eligibility/Benefit Determination.	Monthly Reporting/Retrospective Budgeting, Simplified Application, Workfare, Work Registration/Job Search.	52.3
Administrative Practices.	Error Reduction, Error Prevention, Telephonic Fair Hearings.	11.2
General Program Information.	Food Consumption Survey, Recoupment, Omnibus Budget Reconciliation Act.	12.7

A variety of projects were initiated in FY 81, 82 and early FY 83, some of which will be continuing in FY 84. Project ideas were generated from authorizing legislation and Federal and State policy concerns. Comments from the public were generated through notices, proposed regulations and Commerce Business Daily publications.

Recognizing that ideas for program improvement were not the sole domain of the Federal government, input from other sources has been directly solicited. Given their roles as program administrators, State and local agencies are well prepared to participate in the identification of projects leading to program improvement. In addition, other groups with interest in food stamp issues can also provide valuable input. To gain from this knowledge, the Food and Nutrition Service (FNS) announced the availability of FY 81 funds for demonstration, research and evaluation projects in the **Federal Register** on January 21, 1981 (46 FR 6029). The projects initiated as a result of that announcement focused on State and local error reduction projects using various review techniques and error prone profiling, and were undertaken from both a demonstration and research perspective. The findings from these projects have been informally shared with State agencies. Final reports will soon be available.

The Expanded Work Registration/Job Search Demonstration, which tests alternative methods for administration and operation of the work requirements, was intiated in FY 82 (see Commerce

Business Daily, August 12, 1982). The final report on project operations is due in the fall of 1984. The Food Stamp Error Prevention Study (see Commerce Business Daily, August 20, 1982) focuses on local office error rates and associated certification/recertification procedures. This final report,which is scheduled for issuance in the Fall of 1984, will provide, in part, information on effective corrective actions to reduce fraud and error during the certification/recertification process. An Evaluation of Existing Issuance Systems was begun in Spring 1982 (see Commerce Business Daily August 20, 1981). This study reviews issuance systems which appear to function in a cost effective manner while minimizing program losses. The final report, which is due in the Fall of 1983, will both provide guidance to FNS and State Program administrators in improving existing issuance systems and serve as a comparative basis for evaluating alternative methods of benefit delivery discussed below. The Simplified Application Demonstration Project, which tests a streamlined method of determining food stamp eligibility and benefit levels, will begin in the Fall of 1983. Project operators for this demonstration were solicited through a Request for Proposal (RFP). The RFP's availability was announced and proposed regulations published August 3, 1982, in the **Federal Register.** The final report, which will evaluate the project's impact on administrative costs, errors, and participants, will be available in Spring 1985.

During the latter part of FY 83, the Department plans on initiating three additional projects. Solicitations for project operators and contractors have been issued. Selections are underway and project sites will be announced soon.

Alternative Methods of Benefit Delivery. Because of increasing emphasis on cost containment, the Department has undertaken an effort to creatively develop issuance systems which respond to this cost issue, while meeting the needs of participants and maintaining accountability. As an initial step, FNS issued a Notice of Intent in the May 29, 1981, **Federal Register** (46 FR 28885), inviting interested State and local agencies to submit ideas for the development and testing of alternative issuance systems. The selection of project sponsors based on that Notice was suspended in November. This was done to take advantage of data being gathered during a feasibility study, discussed below, which was to provide an informational base for future efforts. The cancellation of the Notice was formally announced in the **Federal Register** on July 16, 1982 (47 FR 31028). At that time, however, States were also encouraged to continue to explore alternatives or innovations to the current issuance system and the Department expressed its willingness to test these ideas.

The feasibility study was undertaken to assess the economic, technical and programatic feasibility of the use of electronic funds transfer (EFT) technologies in the transfer of program benefits. The findings led the Department to believe that private sector vendors with EFT capabilities would be the proper source of expertise for system development. It was also detemined that an EFT system might not be administratively feasible in all environments nor might it be possible to put such a system into place quickly. With these issues in mind, the Department chose to approach alternative issuance systems in two ways: (1) a paper-based system; and (2) an electronic benefit transfer (EBT) system using EFT technology.

The Paper-Based Benefit Transfer (PBT) System would use paper-based alternatives to the current "food stamp coupon" system. The Department is aware of alternative systems involving "passbooks," highly technical printing methods and security oriented delivery, and seeks these and/or other innovative approaches using a paper benefit instrument. Such a system would require the commitment of involved State and local agencies and the cooperation of fiancial institutions and retail grocers.

The Electronic Benefit Transfer System would involve EFT technology in the issuance and control of Program benefits. Such a system would credit and debit food stamp accounts, i.e., benefits used in food purchases would be debited from the participant household's account and credited to the retailer's account. Three different types of approaches are being considered. The first is an online system established solely for food stamp benefit delivery. The second is a shared online system used both for transferring food stamp benefits and in private/non-food stamp sector transactions. The third approach would utilize an offline system. Each participating household's benefits would be stored in a card which could be "read" by a special electronic device at the grocery store. The amount of the purchase would be debited from the card and credited to the grocer's account. Such a system would also require the commitment of affected State and local agencies, financial institutions and retail grocers.

FNS will use an independent contractor to evaluate both the PBT and EBT alternative issuance systems. The evaluation will focus on design and implementation issues; administrative cost; system security; service to participants; accountability; cost/effectiveness; and impacts on State and local agencies, participants, retail grocers and financial institutions. This information will provide FNS with a data base to be used in making decisions on potential improvements and/or changes in the current issuance system.

Study of the Effects of Food Stamp Program Legislation. The Food Stamp Act Amendments of 1982 (P.L. 97-253) mandated a study on the effects of benefit reductions resulting from the Omnibus Budget Reconciliation Act (OBRA) of 1981, the Food Stamp and Commodity Distribution Amendments of 1981, the Food Stamp Act Amendments of 1982, and other laws affecting the Program which were enacted by the Ninety-Seventh Congress. The law specifically required that this study also include an analysis of the effects of retrospective accounting and periodic reporting.

FNS is currently planning to approach this study in three ways. First, in reporting on the effects of monthly reporting and retrospective budgeting (MR/RB), we will use the results of the Illinois MR/RB Evaluation to describe the effects of these system changes on the combined AFDC/FS caseload. Second, to describe the effects of the various provisions on the food stamp caseload, FNS will compare cross-sectional views of the caseload before and after these legislative changes have been implemented. Nationwide quality control data, which currently is used in developing "FS Household Characteristic Reports," will serve as one data base to examine the cumulative effects of changes introduced by OBRA. In addition, data from individual States will be used, when available, to examine the effects of individual provisions on the Program and its recipients. Third, the effects of this legislation on work incentives and Program error will be examined. In addition, the effects of changes in other social assistance programs on Food Stamp Program participation and costs will be theoretically and quantitatively analyzed when State agency data are available.

Expedited Service. Since 1977, Food Stamp Program legislation has provided for the expedited delivery of benefits to persons in immediate need of food assistance. Regulatory provisions

established shortened application processing and delivery standards, and limited required verification. Difficulties have arisen in balancing the need to provide immediate assistance with the need to maintain program integrity. FNS plans to undertake a study which will: (1) estimate the number of households eligible for expedited service; (2) describe the characteristics of expedited service recipients; (3) assess the vulnerability of expedited services to fraud and error; and (4) describe the impact of recent changes in expedited service procedures. These findings will be used to make recommendations for improving administrative efficiency and program integrity in expedited cases. A private evaluation contactor will be used.

The following part of this announcement provides information on research, demonstration and evaluation projects planned for FY 83/84. This list is currently under consideration within the Department. As stated earlier, we are encouraging all interested parties to review these projects, provide comments on specific project ideas, and make suggestions for other project ideas which they feel would be worthwhile to pursue. Once comments and suggestions are received and analyzed, a final list of projects will be developed. The number of projects which can be initiated will, of course, depend on funds availability. Research, demonstration and evaluation efforts identified through this activity which cannot be supported by either FY 83 or FY 84 funds will be considered for subsequent years' activities.

State Initiated Projects

During the latter part of FY 83, FNS will be seeking, through an announcement in the **Federal Register**, grant and cooperative agreement proposals from State and local agencies. The focus of the projects will be: on (1) State and/or local fraud prevention, detection, and prosecution strategies; and (2) improved management practices for reducing error and abuse in the certification process. The forthcoming notice will provide specific information on the application process, submittal requirements, and evaluation criteria. Proposals should not be submitted at this time. In the area of fraud, waste and abuse, consideration has been given to projects which would improve claims collections, caseworkers' and investigators' performance, and client awareness of responsibilities. (This list is not exhaustive.) All parties are encouraged to develop project ideas in this area and other areas of management practices.

It is FNS' intention to engage an independent contractor to provide an overall evaluation of these projects.

Administrative Costs

Recent attempts to conduct efficiency assessments of program operations have highlighted problems in the comparability of State reported financial data. Although each State is required to report costs in specific costs categories, i.e., certification, quality control, investigations, differing administrative structures and level of automation, among other factors, result in the assignment of costs to different cost categories. For example, the certification cost per case in one State—if it has a high level of automation—may appear lower than in a State where caseworkers manually compute eligibility and benefit levels. The study will attempt to: (1) develop comparable cost figures for certain administrative cost categories; and (2) examine how cost data is currently developed within various States, i.e., work measurement procedures used. The study will use existing in-house cost data which has been gathered by FNS as part of other projects and available State data. An independent contractor will be used.

Analysis of Monthly Reporting and Retrospective Budgeting Procedures

States have been provided a variety of options in operating a monthly reporting/retrospective budgeting system for AFDC and food stamp households. These options include: households to be included; reporting cycles; one-or two-month systems; and automated or manual systems. This study would use existing State data to provide a comparative analysis of these options. Evaluation would focus on issues such as system costs, error effects, and administration. Results would provide guidance in the further refinement of existing systems. An independent contractor will be used in this effort.

Demonstration of Alternative Quality Control Procedures

Over the years, interest has been expressed by both Federal and State personnel in modifications to the current quality control system. Suggested modifications have included revised data collection instruments, revised error computation procedures, and federalization of the entire process. This demonstration would test these and/or other procedures. Evaluation would focus on the usefulness of review findings, quality of reviews, standardization of findings, and cost effectiveness. Potential project operators would be solicited through grant or cooperative agreement proposals and an independent evaluation contractor would be used.

(91 Stat. 958 (7 U.S.C. 2011–2029); and Sec. 1330 of Pub. L. 97–98, 95 Stat. 1290 (7 U.S.C. 2026)

Dated: June 22, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83–17348 Filed 6–27–83; 8:45 am]

BILLING CODE 3410–30–M

CIVIL AERONAUTICS BOARD

[Order No. 83–6–49; Docket No. 41538, etc.]

Air Manila, Inc., et al.; Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of June 1983.

In the matter of the revocation of the foreign air carrier permits issued to Certain Foreign Air Carriers under section 402 of the Federal Aviation Act of 1958, as amended. Applications of: Air Manila, Inc., Belize Airways Limited, Iscargo, H.F., Montana Austria Flugbetrieb Gesellshaft, m.b.H. d/b/a Montana Austria Airlines, for renewal and amendment of their foreign air carrier permits pursuant to section 402 of the Federal Aviation Act of 1958, as amended.

Background

On October 13, 1981, we adopted aircraft accident liability insurance rules (Part 205 of our Economic Regulations) which became effective February 23, 1982.[1] These rules require that, among other things, foreign air carriers holding United States authority file with the Board certificates of insurance (CAB Form 205–A), satisfying the requirements of Part 205, *prior to* engaging in foreign air transportation. Since our previous insurance requirements for foreign air carriers were imposed in the form of a condition in their section 402 permits, we simultaneously amended all foreign air carrier permits to include the explicit condition that foreign air carriers must comply with the requirements for minimum coverage specified in Part 205.[2] Thus, any foreign air carrier operations conducted without proper insurance coverage would be in violation of our rules and that carrier's permit.

[1] 46 FR 52572, October 27, 1981 (ER–1253).

[2] *See* Order 81–12–82, effective February 23, 1982.

Compliance with the Insurance Rule

We consider our insurance rule a vital consumer protection measure. Passengers and third parties must have absolute assurance that commercial airlines—both U.S. and foreign—operating in U.S. air space maintain at least the required minimum levels of insurance to compensate them for damages resulting from aircraft accidents. Noncompliance with our insurance rule is unacceptable, and in itself is sufficient reason for terminating any certificate, exemption or permit authority.[3]

Most foreign air carriers presently holding permits issued under section 402 of the Act either have submitted completed certificates of insurance (CAB Form 205A), which meet the requirements of Part 205, or have formally notified us that they will not operate any flights to or from the United States until appropriate certificates of insurance have been filed. However, the specific foreign air carriers cited in the Appendix to this order have not submitted the required certificates of insurance, nor have they answered repeated correspondence from our staff requesting the certificates.[4]

We have in the last year taken extraordinary measures to allow these carriers to comply with our rules before taking steps to terminate their operating authority, and we interpret their silence as a tacit surrender of authority. We tentatively find that it would be contrary to the public interest to allow these carriers' operating authority to remain extant when they have neither complied with the insurance rule nor acknowledged such a critical obligation to the public.[5] Furthermore, it now is evident that most of these airlines are no longer operating at all and that none of them are operating to the U.S., and there would be no countervailing public interest in maintaining their permits in effect.

We recognize that some of these carriers are or were principal flag airlines of their homelands, and we emphasize that our action here is entirely without prejudice to any future applications by carriers of the respective homeland countries.

Our insurance rule is, as we explained at length in ER–1253, a proper exercise of our regulatory powers, and none of the subject carriers, nor any of their homeland governments now challenges our imposition of the insurance requirement. the Board has included an insurance condition in foreign air carrier permits for many years. The insurance rule codifies the insurance condition and requires foreign air carriers to show evidence of ability to meet insurance levels.

Applications of Air Manila, Belize Airways, Iscargo and Montana Austria

Air Manila, Inc. (a Philippine charter carrier), Belize Airways Limited (a Belize scheduled carrier), and Iscargo, H.F. (an all-cargo carrier from Iceland) filed applications in 1979 and early 1980 in Dockets 37815, 36280 and 37745, respectively, for renewal and amendment of their foreign air carrier permits. Since the carriers invoked the provisions of the Administration Procedure Act (5 U.S.C. 558(c) when they filed their renewal applications their permits remain effective until final Board action on those applications. Our staff has not processed these applications because the carriers failed to supply all required evidentiary information. These carriers also do not have certificates of insurance on file with the Board.

Montana Austria Flugbetrieb Gesellshaft, m.b.h. d/b/a Montana Austria Airlines (an Austrian charter carrier) applied in March 1980 in Docket 37834 for an amended permit for Vienna-New York scheduled authority.[6] Montana also has no insurance certificate on file.[7]

Revocation of Air Manila's, Belize's, Iscargo's and Montana's foreign air carrier permits will make action on their renewal and/or amendment applications unnecessary, and therefore, their applications in Dockets 37815, 36280, 37745 and 37834 should be dismissed as moot. We will issue a separate final order dismissing these dockets following the President's review of our final order revoking the permits of these four carriers.

Tentative Findings and Conclusions

In view of the foregoing and pursuant to section 402(f)(1) of the Act, we tentatively find and conclude that revocation of the foreign air carrier permits held by the carriers listed on the Appendix to this order would be in the public interest. We also tentatively find and conclude that the applications of Air Manila, Inc., Belize Airways Limited, Iscargo, H.F., Montana Austria Flugbetrieb Gesellshaft, m.b.H. d.b.a Montana Austria Airlines filed, respectively, in Dockets 37815, 36280, 37745, and 37834 are moot, and that their dismissal would be in the public interest.

Accordingly,

1. We direct all interested persons to show cause why we should not: (1) Make final our tentative findings and conclusions, (2) subject to the disapproval of the President pursuant to section 801(a) of the Act, revoke the foreign air carrier permits issued to each of the carriers cited in the Appendix to this order, and (3) dismiss as moot the applications of Air Manila, Inc. in Docket 37815, Belize Airways Limited in Docket 36280, Iscargo, H.F. in Docket 37745 and Montana Austria Flugbetrieb Gesellshaft, m.b.H. d.b.a Montana Austria Airlines in Docket 37834;

2. Any interested persons objecting to the issuance of an order making final the Board's tentative findings and conclusions shall, no later than July 18, 1983, file with the Board in Docket 41538 and serve on the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is

[3] Foreign air carrier permits are subject to reasonable terms and conditions as the public interest may require. Section 402(e) of the Act. Part 205 and the corresponding foreign air carrier permit amendments are such terms and conditions. ER–1253 at 3 and Order 81–12–82. It follows that when a carrier fails to comply with terms and conditions duly imposed on its authority in the public interest, such failure creates a public interest in withdrawing that authority. The public interest is the basis for revoking a foreign air carrier permit. Section 402(f)(1).

[4] Each of the subject foreign air carriers was notified, in addition to the public notices published in the *Federal Register* and by Board order, by letter mailed prior to the effective date of the new regulation, Part 205, and by follow-up letter mailed at the time the rule became effective. The staff subsequently sent additional correspondence by certified mail to each carrier's designated agent for service shown in the files of the Board's Docket Section, specifically reminding each of its responsibility to file a certificate of insurance. These letters noted that in the absence of any response within 30 days the staff would presume that: (a) The carrier is no longer operating; (b) it does not intend to submit the certificate of insurance; and (c) it would have no objection to the revocation of its foreign air carrier permit. Again, no response has been received from any of the foreign air carriers listed in the Appendix in the five months since the last such letters were sent.

[5] The Government of Colombia has withdrawn the designations of Aerocosta, S.A. and Aerovias Condor de Colombia, S.A. Therefore, in the case of these two Colombian carriers our proposed revocation action is merely an administrative tool to cancel their permits since they are no longer designated by their government. Some of the other carriers cited may also have had their designations and/or operating licenses revoked by their governments.

[6] By Order 81–2–91 we tentatively decided to grant Montana an amended permit for this authority. We, however, have not issued a final order in Docket 37834. This order reverses our tentative decision in Order 81–2–91.

[7] We understand Montana's operating license from its government has been cancelled.

considered necessary and what relevant and material facts he would expect to establish through such hearings which cannot be established in written pleadings. If objections are filed, answers may be filed, but no later than August 1, 1983. The filing of objections with respect to one carrier shall affect this order and our final decision only as it concerns that carrier;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action with respect to the defended permit: *Provided*, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing or further nonoral hearing procedures; *

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived with respect to the unopposed permit revocations and application dismissals, and the Secretary shall enter orders which: (1) Shall make final our tentative findings and conclusions set forth in this order, and subject to the disapproval of the President pursuant to section 801(a) of the Act, shall revoke the foreign air carrier permits held by the carriers listed on the Appendix * to this order, and (2) following the President's decision on the revocation order, shall dismiss the applications in Dockets 36280, 37745, 37815 and 37834; and

5. We are serving this order upon each carrier listed on the Appendix to this order, the Ambassador of each carrier's homeland in Washington, D.C., and the Departments of State and Transportation.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-17397 Filed 6-27-83; 8:45 am]

BILLING CODE 6320-01-M

[83-6-93]

Fitness Determination of Air Tour Acquisition Corporation, d.b.a. Panorama Air Tour

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83-6-93, Order to Show Cause.

SUMMARY: The Board is proposing to find that Air Tour Acquisition Corporation, d.b.a. Panorama Air Tour is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATE: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than July 12, 1983, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-6-93 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-6-93 to that address.

By the Civil Aeronautics Board: June 23, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-17396 Filed 6-27-83; 8:45 am]

BILLING CODE 6320-01-M

[83-6-92, Docket No. 41233]

Application of Simmons Airlines, Inc. for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (83-6-92, Docket 41233).

SUMMARY: The Board is proposing to find Simmons Airlines, Inc. fit, willing, and able and to issue a certificate of public convenience and necessity authorizing it to provide scheduled interstate and overseas air transportation of persons, property, and mail between all points in the United States, its territories and possessions.

DATE: Objection: All interested persons having objections to the Board issuing the proposed certificate shall file, and serve upon all persons listed below no later than July 13, 1983 a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 41233 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon the parties listed in Attachment B to the order.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-6-92 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-6-92 to that address.

By the Civil Aeronautics Board: June 23, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-17398 Filed 6-27-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Footwear From India; Preliminary Results of Administrative Review and Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of administrative review and revocation of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain footwear from India. The review covers the period January 1, 1981 through December 31, 1981. As a result of the review, the Department has preliminarily determined the amounts of the aggregate net subsidy during 1981 to be 15.08 percent *ad valorem* for leather footwear and 12.58 percent *ad valorem* for leather uppers, other than unlasted leather uppers. Interested parties are

* Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

* The Appendix is filed as a part of the original document.

invited to comment on these preliminary results.

Further, as a result of a request by the Government of India, the International Trade Commission conducted an investigation and determined that revocation of the order would not cause injury to an industry in the United States. The Department consequently is revoking the countervailing duty order. All entries of this merchandise made on or after October 13, 1981 shall be liquidated without regard to countervailing duties.

EFFECTIVE DATE: June 28, 1983.

FOR FURTHER INFORMATION CONTACT: Josephine Russo or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 1979, the Department of the Treasury published in the **Federal Register** (T.D. 79-275; 44 FR 61588) an affirmative final countervailing duty determination on certain footwear from India.

On October 13, 1981, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that the Indian government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). It was not necessary for the Department, upon notification by the ITC, to suspend liquidation of entries of the merchandise pursuant to that section, since previous suspensions remained in effect.

On February 17, 1982, the Department published in the **Federal Register** (47 FR 6906) the final results of its last administrative review of the order and announced its intent to conduct the next administrative review by the end of October 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

On May 24, 1983, the ITC notified the Department of its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of certain footwear from India if the order were revoked (48 FR 24796; June 2, 1983).

Scope of the Review

The merchandise covered by the review is leather footwear and leather uppers, other than unlasted leather uppers. Such imports, currently classifiable under items 700.0500 through 700.9545 of the Tariff Schedules of the United States Annotated (TSUSA), are subject to the order, unless they fall within one of the following categories:

(1) Certain footwear explicitly excluded by TSUSA number in the order. Such footwear is currently classified under TSUSA items 700.2800, 700.5100 through 700.5400, 700.5700 through 700.7100, and 700.9000.

(2) Hurraches, slippers and chappals. These items are currently classifiable under TSUSA items 700.0500, 700.3200, and 700.4110 through 700.4140.

(3) Sandals, defined as "footwear consisting of a sole held to the foot by uppers composed of thongs or straps without regard to heel height." Such footwear, regardless of TSUSA classification, is not subject to the order. TSUSA item 700.5630 is specifically excluded.

During our last review we determined that sandals, as defined above, are not covered. We also noted that "full shoes with leather uppers" are within the scope of the order. We were unable, however, to determine if other leather footwear, not "full shoes with leather uppers" or sandals as defined above, is within or excluded from the scope of the order. We therefore continued the suspension of liquidation of questionable merchandise until the issue could be resolved.

In order to resolve the question, we needed to know the amount of rebate of indirect taxes a product received under the Cash Compensatory Support ("CCS") program during the period of the original investigation. The evidence necessary to demonstrate that fact is not available to us. Therefore, we preliminarily determine, based on the best information available, that the term leather footwear includes both full shoes and all other leather footwear, except: footwear explicitly excluded by TSUSA number in the order; hurraches, slippers and chappals; and sandals, as defined above.

The review covers the period January 1, 1981 through December 31, 1981 and the following programs: (1) Short-term preferential financing, (2) a deduction from taxable income of up to 133 percent of overseas business expenses, and (3) cash debates on export under the CCS program.

Analysis of Programs

The Government of India did not respond to our questionnaire on the benefits from these programs bestowed during 1981. Therefore, we are using the most recent information available, from the final affirmative determination during the original investigation, as best information. We preliminarily determine that the benefits in 1981 under the short-term preferential financing and overseas business expense deduction programs are 0.03 and 0.05 percent *ad valorem*, respectively, for all merchandise covered by the order. The rates of benefit found under the CCS program for 1981 are 15 percent *ad valorem* for leather footwear and 12.5 percent *ad valorem* for leather uppers, other than unlasted uppers.

Preliminary Results of Review and Revocation of Order

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred by the three programs during the period of review is 15.08 percent *ad valorem* for leather footwear, and 12.58 percent *ad valorem* for leather uppers, other than unlasted leather uppers.

Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 15.08 percent of the f.o.b. invoice price on all shipments of Indian leather footwear, and 12.58 percent of the f.o.b. invoice price on all shipments of Indian leather uppers other than unlasted leather uppers, exported on or after January 1, 1981 and entered, or withdrawn from warehouse, for consumption before October 13, 1981, the date the Department received notification of the request for an injury determination.

Further, as a result of the ITC's determination, the Department is revoking the order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after October 13, 1981. The Department will instruct Customs officers to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 13, 1981 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to these entries.

Our decision to include within the scope of this order all leather footwear, except footwear explicitly excluded by the order, hurraches, slippers, chappals and sandals as defined above, also applies to shipments of such questionable merchandise originally subject to our review of the period January 1, 1980 through December 31, 1980; however, the Court of International Trade has enjoined liquidation of those entries. Therefore, we will delay issuing assessment instructions to the Customs Service for this period pending the conclusion of that litigation.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication

of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review, revocation and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note), and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: June 22, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-17395 Filed 6-27-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Information on Applicant for U.S. Army Nurse Corps, USAREC Form 195.

Information on applicants is needed to determine suitability and qualifications for appointment in the Army Nurse Corps.

Individual nursing applicants: 3500 responses, 292 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG-OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695-5111.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 23, 1983.

[FR Doc. 83-17308 Filed 6-27-83; 8:45 am]

BILLING CODE 3710-08-M

Public Information Collection Requirement Submitted To OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the use to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

ROTC Cadet Retention Questionnaire

The Army needs data on the attitudes and perceptions of college students about the Reserve Officer Training Corps in order to determine if any portions of the program should be changed to improve retention of cadets.

College students: 1,200 responses; 637 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG-OPI, Room 1D667, Pentagon Washington, D.C. 20310, telephone (202) 695-5111.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 23, 1983.

[FR Doc. 83-17309 Filed 6-27-83; 8:45 am]

BILLING CODE 3710-08-M

Public Information Collection Requirement Submitted To OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Housing Referral Listing, DD Form 1667.

A housing referral list is maintained at most military installations to assist newly arrived personnel in finding suitable and nondiscriminatory housing.

Individual owners and operators of apartment buildings: 28,600 responses; 10,550 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG-OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 695-5111.

June 23, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-17307 Filed 6-27-83; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, August 2, 1983; Tuesday, August 9, 1983; Tuesday, August 16, 1983; Tuesday, August 23, 1983; and Tuesday, August 30, 1983 at 10:00 a.m. in Room 1E801, the Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10 (d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy and Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 23, 1983.

[FR Doc. 83-17305 Filed 6-27-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Chemical Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Chemical Task Group of the Committee on Enhanced Oil Recovery will meet in July 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Chemical Task Group meeting follows:

The Chemical Task Group will hold its ninth meeting on Wednesday and Thursday, July 20 and 21, 1983, starting at 8:30 a.m. each day, in Room 112, Phillips Petroleum Company, Research Forum, Bartlesville, Oklahoma.

The tentative agenda for the Chemical Task Group Meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Review progress of Task Group study assignments.

3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Chemical Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Chemical Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E1.90, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m., and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on June 22, 1983.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 83-17276 Filed 6-27-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-CERT 087 et al.]

Dauphin Manor., et al.; Certifications of Eligible Use of Natural Gas To Displace Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the application, were published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. Nore detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG-42, Room GA-093, Forrestal Building, 1000 Indpendence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	FR Notice of application
Dauphin Manor, Harrisburg, Pa.	May 12, 1983	83-CERT-087	48 FR 24762, June 2, 1983.
Sperry New Holland, Mountville, Pa. New Holland, Pa.	May 12, 1983	83-CERT-088	48 FR 24762, June 2, 1983.
Milton S. Hershey Medical Center, Hershey, Pa.	May 12, 1983	83-CERT-089	48 FR 24762, June 2, 1983.
G & M Finishing, Inc., Ephrata, Pa.	May 12, 1983	83-CERT-090	48 FR 24762, June 2, 1983.
St. Lawrence Carbonizing Co., St. Lawrence, Pa.	May 12, 1983	83-CERT-091	48 FR 24762, June 2, 1983.
Arbogast & Bastian, Inc., Allentown, Pa.	May 12, 1983	83-CERT-092	48 FR 24762, June 2, 1983.
Ralston Purina Co., Mechanicsburg, Pa.	May 12, 1983	83-CERT-093	48 FR 24762, June 2, 1983.

Applicant and facility	Date filed	Docket No.	FR Notice of application
Lehigh University, Lehigh, Pa.	May 12, 1983	83-CERT-094	48 FR 24762, June 2, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C. June 22, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-17275 Filed 6-27-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-028 et al.]

Milliken & Co., et al.; Certifications of Eligible Use of Natural Gas To Displace Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notices of these applications, along with pertinent information contained in the application, were published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each applicaton on file and available for 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 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	FR notice of applicant
Milliken & Co.	May 3, 1983	83-CERT-028	48 FR 23884, May 27, 1983.
1. Gayley Mills, Marietta, N.C.			
2. Enterprise Plant, Marietta, N.C.			
3. Createx Plant, Spartanburg, S.C.			
4. Dewey Plant, Inman, S.C.			
Fiber Industries, Inc.	May 3, 1983	83-CERT-029	48 FR 23884, May 27, 1983.
1. Greenville Facility, Greenville, S.C.			
2. Salisbury Facility, Salisbury, N.C.			
3. Shelby Facility, Shelby, N.C.			
Celanese Fibers Co., Technical Center, Charlotte, N.C.	May 3, 1983	83-CERT-030	48 FR 23884, May 27, 1983.
Hoechst Fibers Industries, Spartanburg Facility, Spartanburg, S.C.	May 3, 1983	83-CERT-031	48 FR 23884, May 27, 1983.
W. R. Grace & Co., Cryovac Division, Simpsonville, S.C.	May 3, 1983	83-CERT-032	48 FR 23884, May 27, 1983.
North Carolina Baptist Hospitals, Inc., Winston-Salem Facility, Winston-Salem, N.C.	May 3, 1983	83-CERT-033	48 FR 23884, May 27, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C. June 22, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-17274 Filed 6-27-83 8:45 am]

BILLING CODE 6450-01-M

Electric System Reliability Issues in PP-76; Request for Public Comments

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Request for Public Comments on Electric Reliability Issues Involved in the Proposed Vermont Electric Power Company (VELCO)-Hydro Quebec (HQ) Interconnection (PP-76).

SUMMARY: DOE hereby requests public comments on the system reliability issues involved in the proposed interconnection between VELCO and HQ, which will run from the existing Comerford generating station in Monroe County, New Hampshire, to a point on the United States-Canadian international border near Norton, Vermont.

DATE: Comments due: July 28, 1983.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Como, Office of Fuels Programs, RG-44, Economic Regulatory Administration, Department of Energy, Forrestal Building, Room GA-017, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-5883, and

Lise Courtney M. Howe, Office of Assistant General Counsel, International Trade and Emergency Preparedness (GC-11), Department of Energy, Forrestal Building, Mail Stop 6F-094, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-2900.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) hereby requests public comments on the issue of system reliability involved in the proposed interconnection between VELCO and HQ.

On December 11, 1981, VELCO applied to the DOE for a Presidential Permit to construct, connect, operate and maintain a ± 450 kilovolt (kV), direct current (dc), electric transmission line that will cross the U.S.-Canadian border and connect the electric transmission facilities of the New England Power Pool (NEPOOL) with those of HQ (47 FR 5455).

The proposed line will extend for approximately 59 miles from the existing

Comerford generating station in Monroe County, New Hampshire, to Norton, Vermont, on the U.S.-Canadian border. From there it will extend an additional 43 miles to a proposed substation near Sherbrooke, Quebec, in the HQ system. The maximum power that will be transferred over the proposed line initially is limited to 690 MW, the capacity of the converter stations installed at each end of the line. The purpose of the converter stations is to effect a connection between the proposed dc line and the existing alternating current transmission systems of NEPOOL and HQ.

Before a Presidential Permit may be issued, the proposed action must be found to be consistent with the public interest. One of the criteria used to determine such consistency is whether the proposed action will have an adverse impact on the reliability of the U.S. electric bulk power supply system.

DOE staff has reviewed all relevant reliability information submitted by the Applicant. This information consisted of power flow and transient stability analyses representing the regional electric transmission system under normal (all generating units and transmission lines in service) and contingency conditions (outage of various critical generating and transmission facilities). Based upon these studies performed by the Applicant, DOE has tentatively determined that the proposed action will not have an adverse impact on the reliability of either the NEPOOL system or the remainder of the electric utility systems within the Northeast Power Coordinating Council.

A copy of DOE's tentative determination and supporting information is available for review from 8:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays in the DOE Public Reading Room, Forrestal Building, Room 1E-190, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued in Washington, D.C. on June 23, 1983.

James W. Workman,

Director, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 83-17347 Filed 6-27-83; 8:45 am]

BILLING CODE 6450-01-M

Merit Petroleum, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of Proposed Remedial Order which was issued to Merit Petroleum, Inc. (Merit), 450 N. Belt, Suite 107, Houston, Texas 77060. This Proposed Remedial Order alleges that Merit charged prices in excess of its actual purchase prices in violation of §§ 212.186, 210.62(c), and 205.202 during the period April through October 1978 in the amount of $2,322,436.12. The Proposed Remedial Order also alleges violations in the pricing of crude oil of § 212.183 during the months of April, May, and October 1978, March through December 1979, and January, February, May, and July 1980 in the amount of $26,090,326.00.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of the Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 7th day of June 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-17348 Filed 6-27-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. G-7004-014]

Pennzoil Co.; Fourth Amendment to Application For Immediate Clarification or Abandonment Authorization

June 22, 1983.

Take notice that on June 20, 1983, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001, filed in Docket No. G-7004-014 an application for immediate clarification of Order dated November 24, 1980 in the above-referenced docket, or abandonment authorization for as much gas as is required to allow sales of gas to fourteen new aplicants for residential service in West Virginia in addition to those applicants specified in Pennzoil's original application filed on October 25, 1982. In filing this fourth Amendment to its originial application, Pennzoil incorporates herein and renews each of the requests for clarification or abandonment authorization set forth in that application. Service to these applicants and existing customers would be provided from gas supplies that would otherwise be sold to Consolidated Gas Supply Corporation (Consolidated), an interstate pipeline.

Pennzoil states that immediate action is necessary to protect the health, welfare and property of the applicants and customers in West Virginia who depend upon Pennzoil for their gas supply needs. Pennzoil also states that immediate action also is required because, by order dated October 21, 1982, the Public Service Commission of West Virginia directed Pennzoil "to show cause, if any it can, why it should not be found to be in violation of its duty * * * to provide adequate gas service to all applicants * * * and why it should not be required to provide service to domestic customers in West Virginia when requests are received for same."

Consolidated has indicated that it has no objection to the requested authorization.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said amendment to the original application should on or before June 29, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person previously granted intervention in connection with Pennzoil's original application in Docket No. G-7004-006 need not seek intervention herein. Each such person will be treated as having also intervened in Docket No. G-7004-014.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Rugulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on the amendment to the original application in the event no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17296 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3765-001, et al.]

ARCO Oil and Gas Company, Division of Atlantic Richfield Company, et al.; Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates[1]

June 23, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 7, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-3765-001, D, June 9, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Columbia Gas Transmission Corporation, Midland Estherwood Field, Acadia Parish, Louisiana.	(1)	
G-3894-017, D, June 8, 1983	do	Tennessee Gas Pipeline Company, North Minnie Boch Field, Nueces County, Texas.	(2)	
G-4579-020, D, June 3, 1983	Cities Service Oil and Gas Corporation (Suc. to Cities Service Company), P.O. Box 300, Tulsa, Okla. 74102.	Trunkline Gas Company, Columbus Field, Colorado County, Texas.	(3)	
G-5715-002, D, June 15, 1983	Cabot Petroleum Corporation, 921 Main Street—Suite 900, Houston, Texas 77002.	Northern Natural Gas Company, Section 12, T3N, R14ECM Jackson, Kent No. 1, Texas County, Oklahoma.	(4)	
G-5716-011, D, June 6, 1983	Northern Natural Gas Producing Company, Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Northern Natural Gas Company, Hugoton Field, Haskell County, Kansas.	(5)	
C165-837-000, D, June 6, 1983	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Company, Sampsel Field, Cimarron County, Oklahoma.	(6)	
C168-691 -001, D, June 6, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Natural Gas Pipeline Company of America, Lockridge Field Area, Ward County, Texas.	(1)	
C169-656-000, D, June 16, 1983	do	Arkansas Louisiana Gas Company, Cedar Springs Field, Upshur County, Texas.	(8)	
C181-495-001, June 15, 1983	Union Oil Company of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Pacific Lighting Gas Supply Company, Federal Leases #OCS-P-0216 (Tract 373) in the Santa Clara Field and Federal Lesses #OCS-P-0202 (Tract 350) and #OCS-P-0203 (Tract 351) in the Hueneme Field, Offshore Ventura County, California.	(7)	15.025
C182-187-002, C, May 31, 1983	Elf Aquitaine, Inc. (Succ. in Interest to Texasgulf Inc.), 1100 Milam Building, Houston, Texas 77002.	Southern Natural Gas Company, Matagorda Island Blocks 556 and 557, Offshore Texas.	(9)	14.65
C182-272-002, F, June 13, 1983	Texaco Inc. (Succ. in Interest to Pogo Producing Company), P.O. Box 60252, New Orleans, La. 70160.	United Gas Pipe Line Company, Blocks A-545, A-546, A-547 and A-548, High Island Area, South Addition, Offshore Texas.	(9)	14.73
C182-308-002, F, June 13, 1983	do	United Gas Pipe Line Company, Blocks A-563, A-564 and A-582, High Island Area, South Addition Offshore Texas.	(9)	14.73
C182-438-000 (G-17239), B, Aug. 10, 1982.	Mobil Producing Texas & New Mexico Inc. (Succ. to TransOcean Oil, Inc.), Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Tenn. Gas Pipeline Company, Plymouth Field, San Patricio County, Texas.	(10)	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI83-251-000, D, May 26, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfieldland Company, P.O. Box 2819, Dallas, Texas 75221.	Phillips Petroleum company, Trigg Federal Well, Eddy County, New Mexico, SW/4 NW/4 Section 27-T16S-R27E.	(11)	
CI83-252-000, A, May 31, 1983	Shell Offshore Inc., One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Mid Louisiana Gas Company, Eugene Island Area Block 33, Offshore Louisiana.	(12)	15.025
CI83-253-000, F, May 11, 1983	Sun Exploration and Production Company (Partial Succ. to Odeco Oil and Gas Company), P.O. Box 20, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, Ship Shoal Block 94, Offshore Louisiana.	(13)	15.025
CI83-254-000, F, June 9, 1983	The Superior Oil Company (Succ. in Interest to Bel Oil Corporation), P.O. Box 1521, Houston, Texas 77001.	Texas Gas Transmission Corporation, South Thornwell Field, Jefferson Davis Parish and Cameron Parish, Louisiana.	(14)	14.73
CI83-255-000 (G-10233), B, June 8, 1983.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Northwest Pipeline Corporation, Piceance Creek Unit, Rio Blanco County, Colorado.	(15)	
CI 83-256-000 (G-10228), B, June 8, 1983.	....do	....do	(16)	
CI83-257-000, B, June 7, 1983	MGF Oil Corporation, P.O. Box 360, Midland, Texas 79702.	Panhandle Eastern Pipe Line Company, Wattenberg Field, Adams and Weld Counties, Colorado.	(18)	
CI83-258-000, B, June 7, 1983	An-Son Corporation, 3814 N. Santa Fe, Oklahoma City, Okla. 73118.	Northern Natural Gas Company, Mills Ranch (Hunton Upper), Wheeler County, Texas.	(17)	
CI83-259-000, F, June 2, 1983	Texaco Producing Inc. (Partial Succ. in Interest to Texaco Inc.), P.O. Box 52332, Houston, Texas 77052.	Southern Natural Gas Company, South Timbalier Area Block 37, Offshore Louisiana.	(18)	15.025
CI83-260-000 (CI64-1280), B, June 9, 1983.	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Panhandle Eastern Pipe Line Company, Northwest Avard Field, Woods County, Oklahoma.	(19)	
CI83-261-000, A, June 10, 1983	Anadarko Production Company, P.O. Box 1330, Houston, Texas 77001.	Northern Natural Gas Company, State 1-6 Well, Section 6-33N-17E, Hill County, Montana.	(20)	14.73
CI83-262-000 (CI73-766), B, June 14, 1983.	Petroleum, Inc. (Operator), 300 West Douglas, Wichita, Kansas 67202.	Northern Natural Gas Company, Division of Inter-North, Inc., All Section 8, Township 29 South, Range 19 West, Kiowa County, Kansas.	(21)	
CI83-263-000, B, June 13, 1983	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Warren Petroleum Company, *et al.*, Garvin County Gasoline Plant, Garvin County, Oklahoma.	(22)	
CI83-264-000 (CI74-121), B, June 13, 1983.	Sun Exploration and Production Company, P.O. Box 20, Dallas, Texas 75221.	Northwest Central Pipeline Corporation (Formerly: Cities Service Gas Company), Eureka Field, Grant County, Oklahoma.	(23)	
CI83-265-000 (CI68-633), B, June 13, 1983.	Walter K. Arbuckle, *et al.*, 1580 Lincoln Street—Suite 1250, Denver, Colorado 80203.	Colorado Interstate Gas Company, Simpson Ridge Field, Carbon County, Wyoming.	(24)	
CI83-266-000 (G-17978), B, June 10, 1983.	R. H. Adkins, P.O. Box 555, Hamlin, West Virginia 25523.	Columbia Gas Transmission Corporation (Formerly: United Fuel Gas Company), Wayne County, West Virginia.	(25)	

FOOTNOTES

[1] ARCO no longer owns any interest in the leases.

[2] Deletion of acreage. ARCO has no remaining reserves or production.

[3] Several leases expired of their own terms in November, 1982, and Cities Service released, relinquished and surrendered all of its right, title and interest in and to those leases more fully described in that Release of Oil and Gas Leases dated March 23, 1983.

[4] To release approximately 12,000 MCF of gas annually from the interstate market to be used as irrigation pump fuel on said acreage.

[5] Last well on the lease has been plugged and abandoned and the lease terminated.

[6] The Harper "B" #1 well, Section 6-2N-8E, Cimarron County, Oklahoma, was plugged and abandoned May 21, 1982; the oil and gas leases covering this acreage were released.

[7] Applicant is filing for an amendment of its Certificate of Public Convenience and Necessity authorizing the sale of both casinghead gas and gas well gas.

[8] Applicant is filing under Contract dated June 4, 1981, amended by Amendment dated January 1, 1983.

[9] Applicant has acquired by assignment the interest of Pogo Producing Company, Assignor, in certain properties in the High Island Area, South Addition, Offshore, Texas. The instrument of assignment effective April 1, 1983.

[10] On December 1, 1977, TransOcean Oil, Inc., predecessor to Mobil Producing Texas & New Mexico, Inc., filed with the Commission instruments of assignment of Oil and Gas Leases whereby all of TransOcean's right, title and interest in and to those certain leases in the Plymouth Field, San Patricio County, Texas were assigned to Driscoll Production Company, a Small Producer in Docket No. CS76-0949.

[11] The last producing well, Trigg Federal Well, was plugged and abandoned December 29, 1980. There is no other production under this Contract.

[12] Applicant is willing to accept a certificate establishing the initial rate as the maximum lawful price authorized by the NGPA of 1978.

[13] Sun Exploration and Production Company was assigned an interest in Lease OCS-G 1983 No. 1, effective December 1, 1981. Applicant is filing under Contract dated October 20, 1972, amended by Amendment dated December 1, 1981.

[14] Effective June 21, 1982, Bel Oil Corporation (Bel), a small producer, transferred and conveyed to The Superior Oil Company (Superior) certain of Bel's non-producing leaseholds, together with all rights, privileges, obligations, and responsibilities incident thereto.

[15] Contract was terminated May 17, 1982.

[16] Uneconomical.

[17] The Mills Ranch #1-40 was no longer capable of producing in a manner which was economically feasible. Low producing volumes were complicated by water production.

[18] Applicant is filing under Gas Purchase Contract dated November 4, 1976. Applicant has acquired by assignment an interest of Texaco Inc., Assignor, of certain properties in the South Timbalier Area, Offshore Louisiana and wishes a certificate to continue the sale of gas which was previously authorized to Assignor in Docket No. CI77-120, FERC G.R.S. No. 542.

[19] The last producing well on leases was plugged and abandoned on February 8, 1980 and the leases were released to Lessor.

[20] Anadarko owns a 50% working interest in the State 1-6 well, Section 6-33N-17E, Hill County, Montana, which is dedicated to Northern Natural Gas Company under a Gas Purchase and Sales Agreement dated June 13, 1975. Applicant backed into a 50% working interest per a Farmout Agreement dated June 12, 1974 by and between Nyvatex Oil Corporation and Applicant, at pay-out on May 1, 1977.

[21] Witt "K" #1 well will no longer deliver commercial quantities of gas and well was depleted to an extent that continuance of service was unwarranted and was abandoned on June 9, 1982 and Applicant has no plans for further development.

[22] Gulf's interest in the lease covered by the contract has been surrendered. The only producing well on this lease was plugged and abandoned on August 7, 1973. The contract terminates on that date by its terms.

[23] Assignment of Oil and Gas Leases (Sun's Lease No. 403837) effective February 18, 1980 to Wil-Mac Oil Corporation.

[24] Uneconomical, plugged and abandoned August 19, 1982 and all reserves have been depleted. Applicant has no plans for further development and has no knowledge of further development by any other party.

[25] The subject wells have depleted to the point that none is able to produce gas for delivery into the pipeline of Columbia Gas Transmission Corporation.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-17380 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-559-000]

Commonwealth Edsion Co.; Notice of Filing

June 23, 1983.

The filing Company submits the following:

Take notice that Commonwealth Edsion Company (CE) on June 7, 1983, tendered for filing proposed changes in its FERC Electric Service Tariff No. 2, an Interconnection Agreement, dated July 20, 1956, between CE and Indiana & Michigan Electric Company.

CE states that the proposed change, which the parties have agreed to, provides for a revision in time periods previously agreed upon for the transmission of power through the Indiana & Michigan system as related to the capacity allocations to CE from the Ludington Pumped Storage Plant.

Copies of the proposed rate schedule changes were served upon the Illinois Commerce Commission, the Public Service Commission of Indiana, and Michigan Public Service Commission, Lansing, Michigan.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 7, 1083. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17361 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-563-000]

Consumers Power Co.; Notice of Filing

June 23, 1983.

The filing Company submits the following.

Take notice that Consumers Power Company (Consumers) on June 9, 1983, tendered for filing Consumers' Amendment No. 2 to the Agreement for Sale of Portion of Generating Capability of Ludington Pumped Storage Plant with Commonwealth Edison Company (Commonwealth) and Indiana & Michigan Electric Company (Indiana Company) dated as of June 1, 1971.

Amendment No. 2 extends the time period during which Consumers sells its 51% of two units of generating capability of Ludington by two years (from the former termination date of August 7, 1983 to a new termination date of August 7, 1985). The rate charged for this transaction (a function of the annual fixed charge factor and the actual capital costs of the facilities) is not changed by this amendment. However, the revenue to be received by Consumers during the period from August 7, 1983 through August 7, 1985 will be greater because Consumers is selling its 51% share of the capability of two units rather than one.

Consumers requests waiver of the notice requirements to permit an effective date of June 1, 1983.

Consumers states that copies of the filing were served on Commonwealth, The Detroit Edison Company and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said letter agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17362 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-562-000]

The Detroit Edison Co.; Notice of Filing

June 23, 1983.

The filing Company submits, the following.

Take notice that The Detroit Edison Company (Detroit Edison) on June 9, 1983 tendered for filing Amendment No. 2 dated June 1, 1983 between Detroit Edison and Commonwealth Edison Company (Commonwealth) and American Electric Power Service Corporation (American Electric Power) which extends for 2 years the sale of a portion of the generating capability of Ludington Pumped Storage Plant by Detroit Edison to Commonwealth under the "Agreement For Sale of Portion of Generating Capability of Ludington Pumped Storage Plant by The Detroit Edison Company to Commonwealth Edison Company," dated June 1, 1971 as amended by an agreement dated August 15, 1971 (herein after termed "Agreement as amended"). The Agreement as amended has been denoted The Detroit Edison Company Rate Schedule FPC No. 16.

Detroit Edison states that the Amendment No. 2 extends the sale of two units of generating capability of Ludington Pumped Storage Plant two years from the period August 7, 1973–August 7, 1983 to the period August 7, 1973–August 7, 1985.

Detroit Edison states that copies of the filing were served on Commonwealth, American Electric Power, Consumers Power Company and on the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Comission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17363 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-100-000]

El Paso Natural Gas Co.; Notice of Tariff Filing

June 23, 1983.

Take notice that on June 17, 1983, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Twenty-second Revised Sheet No. 27–B
Eighth Revised Sheet No. 27–C
Fifth Revised Sheet No. 27–D
Second Revised Sheet No. 27–D.1
First Revised Sheet No. 27–D.2

El Paso states that the tendered revised tariff sheets, when accepted by the Commission and permitted to become effective, will amend its Rate Schedule G, which Rate Schedule is available to Southern California Gas Company ("SoCal") and Pacific Gas and Electric Company ("PGandE") for the purchase of gas from El Paso, to effect the substitution of a new monthly minimum bill for the minimum annual bill presently in effect as part of said Rate Schedule.

The currently effective minimum bill provision under El Paso's Rate Schedule G obligates SoCal and PGandE, each of which is referred to as "Buyer," to take, or failing to take, to nonetheless pay for, during each calendar year, a minimum annual quantity equal to 91% of Buyer's Maximum Contracted Daily Demand ("MCDD") then in effect under the Service Agreement with El Paso,[1]

[1] El Paso's service agreements with SoCal and PGandE provide for periodic reductions, or "step-downs," in the firm daily delivery quantities thereunder.

multiplied by the number of days in the year. Provision is made for reduction of the minimum annual bill obligation in the event of El Paso's failure to deliver 100% of the MCDD when such delivery level is requested by Buyer. Further, Buyer may make up any deficiency quantities paid for but not taken during the five calendar years succeeding the year in which such deficiency occurred.

El Paso is proposing to revise said provision to establish a minimum monthly bill equivalent to 75% of the dekatherm equivalent of El Paso's total service obligation to SoCal and PGandE of 1,750 MMcf/d and 1,140 MMcf/d, respectively. Provision is made for reduction of the minimum monthly purchase requirement in the event of El Paso's failure to deliver requested volumes. However, because both Buyers have minimum physical take obligations to other suppliers which require Buyers to take percentages of those suppliers' available gas supplies which are higher than the 75% minimum contemplated by the proposed revision of El Paso's minimum bill, and since Buyers have no make-up rights with respect to those minimum physical take provisions, El Paso is not proposing to grant make-up rights under its proposed minimum bill.

El Paso states that because of the substantial disparity between the California customers' minimum bill obligations to El Paso and their minimum bill/minimum physical take obligations to their other principal interstate suppliers, El Paso is treated by both customers as their swing source of supply, notwithstanding the fact that El Paso's gas has and continues to be cheaper than supplies from the California customers' other principal interstate supply sources. Because it has been treated as the California customers' swing source of supply, El Paso and its producer-suppliers have been and are being forced to accept on virtually an Mcf-for-Mcf basis, not only the normal short-term swings in those customers' market demands, but also the totality of the recent deterioration resulting from the overall contraction of that market. In 1982 alone, El Paso estimates that some 200 Bcf of available El Paso gas was not taken in order to make room in the California market for an equivalent volume of higher-cost domestic gas from Transwestern Pipeline Company and markedly higher priced Canadian gas from Pacific Interstate Transmission Company and Pacific Gas Transmission Company. El Paso estimates that this displacement cost natural gas consumers in the State of California more than $300 million in additional purchased gas costs in 1982.

El Paso states that the proposed revisions are designed to reduce its exposure as a "swing" supplier for California and to more equitably distribute the consequence of California's declining market demand among all suppliers to that market. Although El Paso's proposed 75% minimum monthly bill is less than the California customers' minimum bill/minimum take obligations to their other principal interstate suppliers, El Paso believes that implementation of the 75% minimum bill will be a positive step toward achieving reasonable parity treatment of suppliers, while still leaving the California distributors with a reasonable degree of operational flexibility. By according El Paso reasonable parity in relation to its California customers' other principal interstate suppliers, the new minimum bill will serve to: (i) rectify the wholly disproportionate imposition on El Paso and its producer-suppliers of recent market contractions in California; (ii) establish a vitally needed parameter for El Paso's future gas acquisition planning; and (iii) limit the extent to which the California customers can swing on El Paso and its producer-suppliers to meet short-term demand fluctuations, while maintaining high-load factor takes from their other principal interstate suppliers.

El Paso requests that the Commission grant any and all waivers which may be necessary to permit the tendered revised tariff sheets to become effective thirty (30) days after the date of filing. In the event the Commission deems it necessary to suspend the effectivensss of the tendered revised tariff sheets, El Paso requests that such suspension be limited to one (1) day and that the proposed changes be set for immediate hearing.

El Paso states that copies of the instant filing have been served upon all of its interstate pipeline system customers and all interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before July 6, 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 Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17304 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-99-000]

El Paso Natural Gas Co.; Notice of Tariff Filing

June 23, 1983.

Take notice that on June *17*, 1983, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 3–C
Eighth Revised Sheet No. 67–C
First Revised Sheet No. 67–C.1
Original Sheet No. 67–C.2
Original Sheet No. 67–C.3
Original Sheet No. 67–C.4
Original Sheet No. 67–C.5
Twelfth Revised Sheet No. 67–D
Sixth Revised Sheet No. 67–D.1

El Paso states that the tendered tariff sheets, when accepted by the Commission and permitted to become effective, will revise El Paso's FERC Gas Tariff, Original Volume No. 1, by modifying Section 19.7, *Unrecovered Purchased Gas Cost Account and Surcharge Adjustment*, to provide for the establishment and maintenance of an Unrecovered Purchased Gas Cost Account which will be comprised of subaccounts for (i) Individually, each of El Paso's Category A Customers, namely, Pacific Gas and Electric Company ("PGandE") and Southern California Gas Company ("SoCal"); and (ii) El Paso's jurisdictional Category B and C Customers as a group. Amounts accrued in the Category A Customers' individual subaccounts will be recovered by a surcharge which will reflect the utilization of quantities of gas projected to be sold to the Category A Customers during the period that the Surcharge Adjustment is in effect in calculating a monthly surcharge amount. Amounts accrued in the Category B and C Customer subaccount will be recovered by a surcharge utilizing the same methodology which is currently in effect.

El Paso further states that the need for the revision arises from the wide variations in takes recently imposed upon El Paso by its two (2) California

customers, which historically have constituted between 75% and 80% of El Paso's market. These wide variations have a significant impact upon the Unrecovered Purchased Gas Cost Account and otherwise raise the possibility of a shift of cost responsibility among customers. Further, with respect to the California customers, these variations can cause substantial underrecoveries or overrecoveries during a six-month amortization cycle.

In these circumstances, the likelihood arises that El Paso's jurisdictional Category B and C Customers may ultimately bear some portion of the deferred purchased gas costs associated with volumes which were actually received at an earlier date by SoCal and PGandE. Further, the unpredictability of El Paso's future sales levels makes it extremely difficult for El Paso to appropriately adjust its rates through PGA rate filings as necessary to stay reasonably current in its recovery of purchased gas costs and to minimize accruals to the deferred account. Finally, because of the volatility of the deferred account balances, and of the surcharges necessary to amortize those balances, and because at least a portion of El Paso's surcharge (presently 75%) is eliminated from El Paso's current Commodity Rate by the California customers in making the marginal cost comparison required by the California Public Utilities Commission to determine the relative rankings of El Paso gas and "discretionary gas" from other suppliers, in those customers' "take sequences," yet an additional element of uncertainty is added to El Paso's future competitive position as a supplier to the California market.

El Paso proposes to rectify the above described problems by establishing separate subaccounts for each Category A Customer and the jurisdictional Category B and C Customers as a group. Further, El Paso proposes to utilize the quantities of gas estimated to be sold during the period the Surcharge Adjustment is in effect to calculate the monthly amount to be recovered during the amortization period. Together, these elements of the new procedure will eliminate from the amortization, the impact of the Category A Customers' varying takes which could result in either an underrecovery or an overrecovery of purchased gas costs and an inequitable payment could shift unrecovered purchased gas costs to the jurisdictional Category B and C Customers.

El Paso is also proposing for its Category A Customers to exclude the surcharge amount per dth from the Commodity Rate. Such surcharge amount per dth will be shown separately on Sheet No. 3–B for each Category A Customer. The surcharge adjustments are designed to recover gas costs that were incurred in past periods. These past costs are no longer of a variable nature. The payment of such costs should be treated as a firm obligation of the customer. This is particularly important in the California market where, in accordance with State regulatory commission directives, the California customers determine their order of takes of "discretionary gas" from their various suppliers based on a marginal cost comparison.

El Paso requests that the tendered tariff sheets become effective thirty (30) days after the date of filing. In the event the Commission deems it necessary to suspend the effectiveness of the tendered tariff sheets, El Paso requests that such suspension be limited so that El Paso can implement the change proposed by the instant tender in its next scheduled Purchased Gas Adjustment filing to be effective October 1, 1983, otherwise, the relief sought will be unduly and unfairly deferred.

Further, El Paso requests waiver of all Commission Rules and Regulations as may be necessary to effectuate the instant filing as proposed.

El Paso states that copies of the instant filing have been served upon all of its interstate pipeline system customers and all interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before July 6, 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 Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17365 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-554-000]

Florida Power & Light Co., Notice of Filing

June 23, 1983

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), pursuant to § 35.12 of the Commission's Regulations, tendered for filing on June 7, 1983, documents entitled St. Lucie Nuclear Reliability Exchange Agreement between FPL and Orlando Utilities Commission dated December 11, 1980, as amended (Agreement) as an initial rate schedule.

FPL states that Orlando Utilities Commission (OUC) has acquired a 6.08951 percent undivided interest in FPL's St. Lucie Unit No. 2, a nuclear generating facility. Under the Agreement, OUC is to exchange to FPL one-half of its capacity and energy entitlements from that unit for an equivalent amount of capacity and energy from FPL's St. Lucie Unit No. 1, an existing nuclear generating facility. FPL further states it is the intent of the parties to the Agreement to share the risks that power and energy will not be available, or will be available in reduced quantities from the capacity exchanged from whatever reason.

FPL requests and OUC supports the waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed rate schedule be made effective on the date FPL declares St. Lucie Unit No. 2 in Firm Operation which date is presently estimated to be on or about August 1, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17366 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-561-000]

Florida Power & Light Co.; Notice of Filing

June 23, 1983

The filing Company submits the following:

Take notice that on June 9, 1983, Florida Power & Light Company (FPL) tendered for filing revised Cost Support Schedules C, F and G which support the revised daily capacity charge for services under Service Schedule B of FPL's interchange contracts with Florida Power Corporation, the City of Gainesville, Florida, Jacksonville Electric Authority, Tampa Electric Company, the Orlando Utilities Commission, City of Kissimmee, Florida, City of Lakeland, Florida, City of St. Cloud, Florida, Sebring Utilities Commission, City of Verno Beach, Florida and Fort Pierce Utilities Authority, and which provide for a revised rate of return on common equity to be used in FPL's Interconnection Agreement with Seminole Electric Cooperative, Inc. FPL states that the revised capacity charge has been calculated in accordance with the provisions of Service Schedule B and represents an updating of the currently effective capacity charge to reflect more current costs.

FPL requests an effective date of May 1, 1983, and therefore requests waiver of the Commission's notice requirements.

According to FPL, a copy of this filing was served upon all of the above named parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 83-17367 filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP 76-91-015 and TC83-33-001]

Montana-Dakota Utilities Co.; Notice of Filing

June 22, 1983.

Take notice that on June 13, 1983, Montana-Dakota Utilities Company (MDU) tendered for filing Sixth Revised Sheet No. 110 to its FERC Gas Tariff, First Revised Volume No. 1.

On May 23, 1983, MDU, pursuant to the Commisssion's "Order Approving Settlement" issued in this proceeding on November 30, 1979, and pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act, filed revised tariff sheets for filing and inclusion in MDU's FERC Gas Tariff, First Revised Volume No. 1. Included in that filing was a sheet entitled "Fifth Revised Sheet No. 110". That sheet was erroneously labeled and should have been entitled "Sixth Revised Sheet No. 110". The instant filing submits "Sixth Revised Sheet No. 110" as a supplement to the May 23, 1983 filing and requests that this sheet be substituted for the sheet previously submitted. MDU states that there are no other changes on the tariff sheet and the proposed effective date is July 1, 1983.

Copies of the filing have been submitted to all customers and persons listed on the official service list in accordance with § 1.17 of the Rules of Practice and Procedure.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 30, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17379 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA3-2-55-001]

Mountain Fuel Resources, Inc.; Filing of Revised Tariff Sheet

June 23, 1983.

Take notice that on June 15, 1983, Mountain Fuel Resources, Inc. (Resources) tendered for filing, pursuant to the letter order dated May 27, 1983, in the referenced docket, Substitute Eighteenth Revised Sheet No. 7, to its FERC Gas Tariff, Original Volume No. 1.

Attached to the filing as Item No. 2 are Resources' revised Exhibits B and C which reflect a necessary correction to the calculation of the Unrecovered Purchase Gas Cost Adjustment per Mcf. Resources had incorrectly used the gross Account No. 191 balance in calculating the Unrecovered Purchase Gas Cost Adjustment. Resources should have used the September 1, 1982 through February 28, 1983 deferral subaccount of the Account No. 191 balance as a basis for calculating the recovery rate per Mcf.

The letter order dated May 27, 1983, in the referenced docket stated that Resources had failed to maintain separate subaccounts to Account No. 191 as required by Part 201 of the Regulations of the Federal Energy Regulatory Commission. Resources states that it does maintain separate subaccounts to Account No. 191 as required by the Regulations and has maintained subaccounts since September, 1981. The letter order also required Resources to submit certain workpapers showing correcting entries to Account No. 191. Resources states that a copy of those workpapers has been submitted to Commission Staff.

Resource states that copies of this filing were sent to Utah Public Service Commission, Wyoming Public Service Commission and Mountain Fuel Supply Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before July 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17368 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP82-14-004, et al.]

Mountain Fuel Resources, Inc., et al., Filing of Pipeline Refund Reports and Refund Plans

June 23, 1983.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 5, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
4/13/83	Mountain Fuel Resources, Inc.	RP82-14-004	Report.
4/18/83	Columbia Gas Transmission Corp.	RP80-146-008 and RP78-20-22.	Do.
4/18/83	National Fuel Gas Supply Corp.	RP80-135-027	Do.
4/18/83	National Fuel Gas Supply Corp.	RP80-135-028	Do.
4/21/83	East Tennessee Natural Gas Co.	RP78-65-016	Do.
4/21/83	Midwestern Gas Transmission Co.	RP80-23-015	Do.
5/6/83	Natural Gas Pipe Line Co. of America.	RP82-62-008	Do.
5/14/83	Northern Natural Gas Co.	TA83-1-59-005.	Do.

[FR Doc. 83-17369 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-557-000]

Northern States Power Co. (Minnesota); Notice of Filing

June 23, 1983.

The filing Company submits the following.

Take notice that Northern States Power Company (Minnesota) (NSP(M)) on June 7, 1983 tendered for filing an application for a change from the Company's current sinking fund accrual method used to account for costs associated with disposing of spent nuclear fuel, to a 1.0 mill per kWh assessment to recover these costs as established by the Department of Energy pursuant to the Nuclear Waste Policy Act of 1982. This filing was made concurrently with filings by NSP(M)'s subsidiaries, Northern States Power Company (Wisconsin) and Lake Superior District Power Company.

NSP(M) states that this is not a filing to change rate schedules. However, the proposed change in accounting method will have an impact on NSP(M)'s wholesale customers' rates, reflected in a reduced fuel adjustment cost and a resulting decrease in those customers' bills. NSP(M) seeks Commission approval of this rate change in this filing.

The affected wholesale customers and the FERC designations of the contracts under which they are served are as follows:

Customer	FERC rate schedule No.
Wholesale Firm Power Service:	
Anoka	338
Arlington	378
Brownton	324
Buffalo	369
Chaska	323
Home Light & Power Co.	335
Kasota	318
Kasson	379
Lake City	361
North Saint Paul	371
Saint Peter	325
Shakopee	368
Waseca	380
Winthrop	354
Wholesale Load Pattern Power Service:	
Ada	390
East Grand Forks	387
Fairfax	400
Granite Falls	355
Kenyon	394
LeSueur	392
Madelia	397
Melrose	401
Olivia	388
Suk Centre	389
Sioux Falls	413

If the change in accounting methodology is approved by the Commission, the impact of the reduced fuel adjustment cost on NSP(M) wholesale customers will be an annual reduction of approximately $245,000, or 0.3 mills per kWh, based on budget data for the period of April 7, 1983 through April 6, 1984.

The Company has requested that the proposed accounting method and resulting rate change be made effective as of April 7, 1983 to correspond with the April 7, 1983 effective date for the 1.0 mill per kWh assessment established by the Nuclear Waste Disposal Act. In the alternative, NSP(M) requests that the filing become effective on or before August 5, 1983 and that any suspension be limited to one day.

Copies of the filing were served on NSP(M)'s wholesale customers affected by this filing. In addition, copies of the filing have been mailed to the Minnesota Public Utilities Commission, the North Dakota Public Service Commission and the South Dakota Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 385.212 and 385.207 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before July 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17370 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-28-003 (PGA83-3)]

Panhandle Eastern Pipe Line Co.; Notice of Change in Tariff

June 23, 1983

Take notice that on June 14, 1983, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Forty-fifth Revised Sheet No. 3-A.

First Substitute Twenty-second Revised Sheet No. 3-B.

An effective date of June 1, 1983, is proposed.

Panhandle states that by Order dated May 31, 1983, the Commission accepted for filing, with certain conditions, tariff sheets filed by Panhandle which reflect a PGA Rate Adjustment for decreases in the current cost of gas and recovery of amounts in the deferred purchased gas cost account. The subject tariff sheets were approved to become effective June 1, 1983, subject to refund. The Commission's Order required Panhandle to file revised tariff sheets to be effective June 1, 1983, to reflect elimination of the projected carrying charge costs related to the June-November 1983 period.

Panhandle states that these substitute revised tariff sheets reflected further decreased rates for the elimination of

these projected costs from the carrying charge account, in accordance with the Commission's Order of May 31, 1983.

This filing is being made without prejudice to Panhandle's right to seek rehearing of the Commission's Order, dated May 31, 1983, in the above docket.

Supporting computation sheets are attached to the filing and copies of the filing and attachments are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before July 6, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17371 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-80-000 and ER82-389-000]

Public Service Company of Oklahoma; Order Adopting Proposed Settlement

Issued: June 22, 1983.

These proceedings involve proposed rate increases filed by the Public Service Company of Oklahoma (PSO) applicable to ten full requirements and eleven partial requirements customers and for transmission service and thermal energy provided to the Southwestern Power Administration. The rates involved in Docket No. ER82-80 were filed on November 9, 1981. These rates, however, were superseded by the rates filed in Docket No. ER82-389 on March 16, 1982. The principal difference between the two filings is that the rates filed in Docket No. ER82-389 reflect the amortization of PSO's proportionate share of the investment and cancellation costs associated with the recently cancelled Black Fox nuclear generating facility.

On December 21, 1982, PSO filed a conditional offer of settlement which would resolve all issues in the proceedings. The terms of the offer are set forth in a stipulation and agreement of settlement which has been entered into between PSO, the cities of Duncan, Comanche, Cordell, Altus, Copan, Homing, Walters, Marlow, Federick, Anadarko, Wetunka, Pawhuska, and Kaw, Oklahoma; the towns of Granite, Ryan, Olustee, Manitou, and Eldorado, Oklahoma; the Oklahoma Municipal Power Authority and the Municipal Electric Systems of Oklahoma (Municipals); Western Farmers Electric Cooperative and Kamo Electric Cooperative, Inc. (Cooperatives); and the Secretary of the Army acting for the Department of Defense (DOD). The offer of settlement is opposed by the Attorney General of Oklahoma. On April 5, 1983, the administrative law judge certified the offer to the Commission as a contested offer of settlement.

Under the proposed settlement, PSO, the Municipals, the Cooperatives, and DOD have agreed to certain changes in the rates filed in Docket Nos. ER82-80 and ER82-389. The settlement rates intended to replace those filed in Docket No. ER82-80 are to be effective for the period January 10, 1982 through October 31, 1982. The settlement rates intended to replace those filed in Docket No. ER82-389 are to be effective as of November 1, 1982, and continue thereafter until changed by an appropriate filing made by PSO.

As a part of the settlement, PSO has agreed not to file any increase in rates until after September 1, 1983. PSO has also offered to make available to each of its muncipal customers a new form of electric service contract.

Also, under the proposed settlement, PSO, the Cooperatives, the Municipals, and DOD all agree that the depreciation rates filed by PSO in Docket No. ER82-389 are reasonable for FERC ratemaking purposes. PSO requests that we approve the use of such rates for PSO beginning January 1, 1982, for ratemaking purposes.

The settlement rates make provision for the amortization of PSO's investment in the uncompleted Black Fox nuclear plant, net of salvage and expenditures useful for a fossil-fired station at the Black Fox site, and PSO's cost of cancelling the construction of the facility. Essentially, the proposed settlement provides that, for FERC ratemaking purposes, PSO's estimated beginning net balance of costs resulting from the cancellation of the Black Fox nuclear generating station will be amortized at the annual rate of one-tenth of such amount each year. The amortization period may vary depending upon whether the actual cancellation costs, when known, are less than, equal to, or greater than the estimated beginning net balance. The settlement also provides a mechanism by which PSO is to report on a quarterly basis to the Commission and the parties to the settlement the terms of all settlements with vendors. Under the settlement, any party to the settlement or the Commission's staff may petition the Commission to conduct further inquiries into any vendor settlement in the event that such party or the staff believes that PSO has failed in its reports adequately to demonstrate the appropriateness of the jurisdictional expenses which would be engendered thereby. The settlement further provides for an annual review of PSO's report of vendor settlements, and that failure of any party to object by April of the year following the year in respect of which any report has been filed will constitute a waiver of objections to vendor settlements covered by the quarterly reports for the preceding year, unless a regulatory agency having jurisdiction over PSO orders the disallowance of or further inquiry into any such settlement.

The only party which objects to the proposed settlement is the Attorney General of Oklahoma. In comments [1] filed with the Commission, the Attorney General indicates that he opposes the settlement on the ground that allegedly it allows PSO to recoup from its customers amounts attributable to periods during which PSO continued to invest in Black Fox when such continued investment was imprudent. According to the Attorney General, although PSO's initial decision to invest in a nuclear power supply station and its decision to terminate Black Fox in February 1982 were reasonable when made, continued investment in Black Fox by PSO after 1979, despite overwhelming economic and regulatory indicators to the contrary, necessitates the conclusion that PSO either acted imprudently or assumed the economic risks involved with the investment. And, therefore, the cancellation cost accured after 1979 cannot be charged to PSO's customers. In rebuttal, PSO states that the Oklahoma Corporation Commission has found that PSO's expenditures on Black Fox construction were prudent up to the time construction was terminated. And, says PSO, on the basis of these findings, the Attorney General should be precluded from relitigating the prudence issue under the doctrine of collateral estoppel.

In addition, the Attorney General argues that the settlement offer does not state explicitly that the contracts PSO

[1] The Attorney General filed comments on the proposed settlement on January 10, 1983, and a status report on the progress of further settlement negotiations and reply comments on March 1, 1983.

executed relating to Black Fox, as well as the settlements it negotiates with vendors, may be challenged on a prudence standard. Also, the Attorney General states that the proposed settlement should provide for an annual recalculation of the amortization amount. In this regard, he notes that the actual costs of vendor settlements may be lower than PSO estimated. Finally, the Attorney General states that the risk of loss, should one of the present parties go off-system, should be borne by PSO and not the remaining customers.

We believe that the Attorney General's comments lack merit and should not preclude the adoption of the proposed settlement by the Commission. The proposed treatment of the Black Fox cancellation costs generally follows the procedures prescribed in *Northern States Power Co.*, Docket No. ER79-616, Opinion No. 134, 17 FERC ¶ 61,196 (December 3, 1981). See also our Order Establishing Further Proceedings in that docket, issued March 4, 1983. Under the settlement proposal, the Attorney General is not foreclosed from raising the question of PSO's prudence in continuing to invest in Black Fox after 1979. He may challenge all project expenditures, based on a prudence standard, through the annual review procedures established in the settlement.[3]

Such challenge, if sustained, would not effect the level of rates approved here but would effect the length of the amortization period.

We do not believe it is necessary for PSO to recalculate the amortization amount annually as cancellation costs became known. The proposed settlement provides a variable amortization period which allows for variances from the original estimate.

The Attorney General's contention that the risk of loss should be borne by PSO,[3] and not the remaining customers, if a customer goes off-system, evidences a misperception of the methodology of rate regulation. As we indicated in *New England Power Company*, Opinion No. 49, 8 FERC ¶61,054 (July 19, 1979), cancelled plant expenditures may be recovered through inclusion in the utility's cost of service. Here, should a customer go off-system, that customer's share of the cost of service will not be shifted to other customers so long as PSO's tariff remains effective. However, once PSO places new rates into effect, all remaining customers must then contribute to the utility's full cost of service, including amortization of all prudently incurred cancellation costs of Black Fox plant.

We find that the procedures established in the proposed settlement for the amortization of the costs resulting from cancellation of the Black Fox nuclear facility, through the rates proposed in settlement of Docket No. ER82-389 and in future rate proceedings, are just and reasonable. However, our decision in this regard is contingent upon PSO's agreement to subject itself to further inquiry concerning the prudence of the settlements it reaches with vendors and to appropriate adjustments in jurisdictional project costs as is necessary to preclude recovery of imprudently incurred costs. PSO shall not be precluded from asserting any appropriate defense in such a proceeding, including collateral estoppel. Moreover, nothing in this order shall preclude the Commission from reconsidering the appropriateness of the estimated cancellation costs reflected in the settlement rates or the adequacy of the procedures proposed by the parties at some future point should it develop that, due to protracted negotiations with vendors, assessments of the prudence of vendor settlements cannot be conducted in a timely fashion in relationship to the period over which estimated costs are being amortized.

Having examined PSO's offer of settlement, the comments filed with respect thereto, and the record in the proceedings, we find that the proposed settlement is just and reasonable and in the public interest. Our approval of the settlement does not constitute approval of or precedent regarding any principal or issue in the proceedings.

The Commission orders:

(A) The offer of settlement submitted by PSO is approved and adopted.

(B) The depreciation rates filed by PSO in Docket No. ER82-389 are approved for use in jurisdictional ratemaking beginning as of January 1, 1982.

(C) The revised tariff sheets filed with the offer of settlement in substitution for the tariff sheets originally filed in Docket No. ER82-80 are to become effective as of January 10, 1982.

(D) The revised tariff sheets filed with the offer of settlement in substitution for the rates originally filed in Docket No. ER82-389 are to become effective as of November 1, 1982.

(E) PSO shall file with the Commission and with the Municipals, the Cooperatives, and DOD within 75 days of the issuance of this order a detailed explanation of all vendor claims which have been settled by that date. Thereafter, PSO shall submit such documentation with its quarterly reports until all vendor claims have been settled. Any party, including the staff, may contest the prudence of the settlements, including the prudence of the underlying investments, by petitioning the Commission in April of any year to conduct an investigation concerning vendor claim settlements negotiated in the preceding year.

(F) Within 45 days of the date of issuance of this order, PSO shall refund with interest amounts collected in excess of the settlement rates approved hereby. Within 45 days after payment thereof, PSO shall file with the Commission a statement of refunds and the interest thereon.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17378 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-560-000]

Tampa Electric Co.; Notice of Filing

June 23, 1983.

The filing Company submits the following:

Take notice that on June 9, 1983, Tampa Electric Company (Tampa Electric) tendered for filing revised cost support schedules showing a change in the daily capacity charge for its scheduled interchange service provided under interchange agreements with Florida Power Corporation, Florida Power & Light Company, Fort Pierce Utilities Authority, Jacksonville Electric Authority, Sebring Utilities Commission, Seminole Electric Cooperative, and the Cities of Gainesville, Kissimmee, Lakeland, St. Cloud, Tallahassee, and Vero Beach, Florida. Tampa Electric states that the revised charge of $124.44

[3] In comments filed on May 3, 1983, PSO states that it does not believe that the settlement would permit the Attorney General or any other party to challenge the prudence of the Black Fox investment and cancellation costs through the annual review procedures. According to PSO, these procedures were intended to provide a vehicle by which the parties could examine each dollar of construction and cancellation costs which PSO proposed to amortize. That is, the process contemplated an item by item analysis of specific expenditures, not a battle over the point at which expenditures for the plant should have ceased. The Municipals, the Cooperatives, and the staff have indicated, to the contrary, that the settlement offer would enable the Attorney General to raise the prudence issue in the annual review procedures. In any event, PSO states that it is willing to postpone a decision on the question of whether the Attorney General is collaterally estopped from relitigating the prudence issue until such time as the Attorney General asserts his prudence argument in the context of the review procedures.

[3] Presumably, the Attorney General means that the risk should be borne by PSO's shareholders.

per MW per day is based on 1982 data, and is derived by the same method that is shown in the cost support schedules submitted with the interchange agreements. Tampa Electric states that the current daily capacity charge is $122.41 per MW per day, based on 1981 data.

Tampa Electric requests that the revised daily capacity charge be made effective as of May 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Tampa Electric states that a copy of the filing has been served upon each of the above-named parties to interchange agreements with Tampa Electric, as well as the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17372 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-25-005]

Transwestern Pipeline Co.; Notice of Filing

June 22, 1983.

Take notice that on June 21, 1983, Transwestern Pipeline Company (Transwestern) tendered for filing certain revisions to the Motion of Transwestern Pipeline Company to Place Revised Tariff Sheets Into Effect filed in the captioned docket on May 27, 1983.

On May 27, 1983, Transwestern filed a Motion with the Commission setting forth three proposals to place into effect on June 1, 1983, revised tariff sheets in the captioned docket. Pursuant to conversations subsequent to such filing, the Commission Staff has requested Transwestern to file revisions to its May 27, 1983 Motion to reflect the implementation of the *South Georgia* method of amortizing Transwestern's future unfunded income tax liability as determined in the settlement of Transwestern's Docket No. RP81-130. The revisions submitted in the filing are for the sole purpose of reflecting such settlement calculations we appropriate. Transwestern states that for the Commission's convenience the attached papers are designated as a unit and are intended to replace in their entirety all the Proposals 1, 2, and 3 and accompanying worksheets attached to the May 27, 1983 Motion to Place Into Effect.

Transwestern states that a copy of the filing and enclosures are being served on the parties in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before June 28, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth R. Plumb,

Secretary.

[FR Doc. 83-17377 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

[EF83-4021-000]

U.S. Secretary of Energy—Southwestern Power Administration (Sam Rayburn Dam Project); Order Confirming and Approving Rates

Issued: June 22, 1983.

On May 3, 1983, the Assistant Secretary of Energy for Conservation and Renewable Energy (Assistant Secretary) tendered for filing, on behalf of the Southwestern Power Administration (SWPA), a request for final confirmation and approval of rates and charges for the sale of hydroelectric power generated at the Sam Rayburn Dam project to Sam Rayburn Dam Electric Cooperative, Inc. (SRDEC or Cooperative).[1] These rates, which are proposed to be effective for the period June 1, 1983, through September 30, 1986, were approved by the Assistant Secretary for submission to the Commission by Rate Order No. SWPA-10, issued April 28, 1983, but have not been placed into effect on an interim basis.[2] The proposed increase would produce a 22.8 percent increase in annual revenues from $1,388,300 to $1,704,504.

The Sam Rayburn Dam project, located on the Angelina River in the Neches River basin in eastern Texas, consists of two hydroelectric generating units with an installed capacity of 52,000 kW. The project is not interconnected with SWPA's integrated electric system. Instead, the power produced by the Sam Rayburn Dam project is marketed by SWPA as an isolated project. SRDEC purchases the variable output of the project at fixed dollar amounts pursuant to a 20-year contract which became effective in July of 1966. The contract provides for periodic review and redetermination of the rate to reflect changes in costs.

Notice of SWPA's filing was published in the **Federal Register**, with comments due on or before May 20, 1983. On May 23, 1983, the Cooperative filed a motion to permit late intervention and a motion to intervene.[3] In its pleading, the Cooperative stated that it did not dispute the fact that a rate increase may be appropriate but believed that a 22.8 percent increase on its face merits investigation. While the Cooperative noted that it had retained experts to analyze the proposed rate, no specific substantive issues were raised to support its opposition to the proposed rate increase. In a pleading filed on June 8, 1983, the Cooperative supported its motion to intervene and raised one specific issue concerning SWPA's "reliance on unsubstantiated Corps of Engineers' cost estimates."

SWPA initially opposed the Cooperative's motion to intervene in a response filed on June 6, 1983. However, in a joint motion filed on June 15, 1983, SWPA withdrew its objection to intervention, the Cooperative withdrew its challenge to the proposed rates, and

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[1] The referral was made pursuant to the provisions of Section 5 of the Flood Control Act of 1944, Section 302(a)(1) of the DOE Organization Act, and Section 2 of DOE Secretarial Delegation Order No. 0204-33.

[2] No explanation has been given in the filing as to why less than one month was provided for Commission review and final confirmation. Recognizing that revenues may be lost by delaying approval, we have expedited review of this filing. However, the Commission does not condone such practices, particularly where rates are not implemented on an interim basis and Federal revenues are therefore at risk.

[3] SRDEC members include the Cities of Jasper, Liberty, and Livingston, Texas, and Vinton, Louisiana, Jasper-Newton Electric Cooperative, Inc., and Sam Houston Electric Cooperative, Inc.

the parties jointly requested that the rates be immediately approved to become effective as of the date of Commission action.

Discussion

As an initial matter, we find that participation by the Cooperative may be in the public interest and that good cause exists to allow intervention one day out of time. We shall therefore grant the motion to intervene.

SWPA's rates are before this Commission pursuant to the authority of the Flood Control Act of 1944, 16 U.S.C. 825s, the Department of Energy Organization Act, Public Law 95–91, August 4, 1977, as amended, and the Secretary of Energy's Delegation Order No. 0204–33. Unlike rate filings submitted by a private utility under the Federal Power Act where the "just and reasonable" test is to be applied, the instant proceeding is governed by Section 5 of the Flood Control Act of 1944. The standards prescribed by Congress provide that the rate schedules must be drawn: (1) Having regard to the recovery of the cost of generation and transmission of such electric energy; (2) so as to encourage the most widespread use of SWPA power; (3) to provide the lowest possible rates to consumers consistent with sound business principles; and (4) in a manner which protects the interests of the United States in amortizing its investment in the projects within a reasonable period.

The Commission's review in a case such as this is based on the supporting data and information submitted by the Assistant Secretary as well as the comments filed by the Cooperative. Based upon this information, the Commission must review the rates to determine whether the interests of the United States in amortizing investment in the Sam Rayburn Dam project within a reasonable period are protected, and whether the rate scheme encourages the widest use of SWPA power and provides the lowest rates to consumers consistent with sound business principles.

Review of this filing is somewhat less complicated than other filings made with the Commission. As mentioned above, the Cooperative is the only customer involved and SWPA does not guarantee a specific amount of capacity or energy. The Cooperative purchases the total output of the project. Because of this sales arrangement, SWPA does not establish a rate schedule which assigns unit costs to capacity and energy, but takes the total annual cost of providing service and divides this amount by 12 to determine the customer's monthly charges.

Our review of the supporting documents reveals that the proposed rates would be sufficient to recover costs as shown in SWPA's power repayment study (PRS). However, as indicated below, an historic analysis of SWPA's repayment record demonstrates that expectations have not materialized and that SWPA has not kept current in revising its projections.

SWPA's filing indicates that it has repaid only $2,164,000 toward the original investment of $23,788,000 assigned to power through fiscal year 1981. The filed PRS now projects repayment of nearly the same total investment within the remaining 37 years of the 50-year repayment period.[4] Our analysis shows that using a conservative straight-line amortization method, SWPA would have thus far repaid $6,632,000 to the Federal Treasury. Using the more liberal compound interest amortization method, SWPA would have repaid $4,014,000 to date. When this range of repayment is compared with SWPA's actual repayments, it becomes clear that SWPA's actual repayment has been progressively lagging.

Filing year	Years to end of repayment period remaining	Average annual payments projected for 1983–86	Percent increase in average annual payments projected
1968	50	368,871	0
1971	47	378,950	+2.2
1976	42	435,056	+17.9
1979	39	439,318	+19.1
1983	35	493,492	+33.85

Each of SWPA's previous filings with the Commission has included a PRS which purported to demonstrate that the proposed rates would cover all annual costs and that the Federal investment would be rapid on a timely basis. In practice, however, this has not occurred, principally because of SWPA's failure to accurately estimate its cost of service.

Operating costs represent the major component in SWPA's PRS. We have reviewed SWPA's past estimates of these costs and found that they have been consistently understated. For example, in SWPA's FY 1977 filing, the cost estimates for the period of 1976 through 1978 were 19.8 percent too low. In its 1979 filing, the estimates were understated by an average of 10.7 percent for the period of 1978 through 1981. Department of Energy regulations establish a priority on the assignment of revenues for payments associated with the project. *See* DOE Order No. RA 6120.2 (September 20, 1979). Those regulations require the payment of operating costs prior to interest and Federal investment payments. Consequently, when SWPA experiences a deficiency in revenues, Federal investment payments for that year are deferred and the schedule of repayments for the project is in arrears.

The effect of not meeting scheduled repayments of the Federal investment is to shift the responsibility for repayment from the current ratepayer, who is buying underpriced power, to future ratepayers who will bear more than their fair share of the project costs. SWPA rates have historically been considerably lower than the cost of other non-Federal sources of power. While the future SWPA rates projected in the latest PRS are also a comparative bargain, if SWPA's failure to make timely debt repayments is continually carried forward, it is inevitable that future rates will rise to disproportionate levels in order to repay the outstanding investment within the remaining (abbreviated) repayment period. We seriously question whether this growing "bow wave" effect can be considered a valid spreading or "amortization" of repayment or a practice which is consistent with sound business principles.

SWPA's arrearage in payments will not be eliminated unless revised amortization practices are implemented or cost estimates become more accurate. Some modification in the method used by SWPA may be necessary in order to accelerate payments to make up for past shortfalls and to provide for a catch-up in amortization when scheduled payments in the future are not made.

Nonetheless, because we believe that prompt correction of this problem can ameliorate any deficit in repayment accumulated to date, we are able to conclude that the instant filing generally comports with the statutory criteria. Therefore, we will not reject SWPA's filing based on the lag in past amortization payments. We do, however, expect the SWPA Administrator to propose in future filings a method to correct this deficiency. Furthermore, in order that such deficiency not continue to escalate, we shall confirm and approve the filed rates for only one year rather than three years as suggested by the Assistant Secretary. We believe that SWPA should promptly rectify its repayment practices and assumptions both to assure recovery of the Federal investment and to diminish the adverse

[4] The following table shows SWPA's projected increases in annual payments to the Treasury to repay original investment (and limited replacement costs) over progressively shorter periods:

effect on customers that could result from a single make-up rate several years hence. In developing new rates, it may also be appropriate for SWPA to consider a mechanism for phasing in the requisite increases to its customers to avoid too severe and sudden an impact. We note as an example that if SWPA were to catch-up its payments to the Treasury during its proposed three year rate approval period, 1983 through 1986, a single rate increase would need to recover additional annual revenues of approximately $445,000 or 26 percent. We further encourage SWPA to review its procedures for forecasting costs and revenues in future filings. As in the case of any utility, such projections do not represent a precise science. However, use of assumptions which are as accurate as possible is essential in order to assure that over time SWPA's operating costs will be recovered and the Federal investment will be timely repaid.

Based on the foregoing, we shall confirm and approve the proposed rates on a final basis for a one-year period. However, this confirmation of the proposed rate schedules should not be construed as approval of the specific practices or methodologies reflected in SWPA's repayment study.

The Commission orders:

(A) The rates for the sale of hydroelectric power and energy generated at the Sam Rayburn Dam project, as submitted by the Assistant Secretary of Energy for Conservation and Renewable Energy, are hereby confirmed and approved, for the period commencing on the date of issuance of this order and extending through June 15, 1984.

(B) The Cooperative's motion to intervene is hereby granted.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17376 Filed 6-27-83 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-564-000]

Washington Water Power Co.; Notice of Filing

June 23, 1983.

The filing Company submits the following:

Take notice that on June 10, 1983, Washington Water Power Company (Washington) tendered for filing a written report issued by Bonneville Power Administration (Bonneville) containing their final determination of average system cost for Washington's jurisdiction, based on a 1981 test period, for the exchange period beginning January 8, 1983. In addition, Washington enclosed Appendix 1, as required under Exhibit C, Section V.(A) of the Residential Purchase and Sale Agreement (Agreement)—Contract No. DE-MS79-81BP90606, between Washington and Bonneville.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 395.214). All such motions or protests should be filed on or before July 7, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-17373 Filed 6-27-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Proposed Remedial Orders; Week of May 9 Through May 13, 1983

During the week of May 9 through May 13, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: June 21, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

Missouri Terminal Oil Company, St. Louis, Missouri; HRO-0153 motor gasoline

On May 12, 1983, Missouri Terminal Oil Company, 3854 South First St., St. Louis, Missouri 63118, filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City Support Office of the Office of Special Counsel issued to the firm on April 15, 1983. In the PRO the Kansas City Office found that during the period March 1, 1979 through July 31, 1979 Missouri Terminal Oil Company sold motor fuel at prices which exceeded its maximum lawful selling prices. According to the PRO the Missouri Terminal Oil Company violation resulted in $1,082,682.97 of overcharges.

Storey Oil Company, Inc., Seymour, Indiana; HRO-0152 motor gasoline

On May 9, 1983, Storey Oil Company, Inc., 613 Maple Avenue, Seymour, Indiana, filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City Support Office of the Office of Special Counsel issued to the firm on April 13, 1983. In the PRO the Kansas City Office found that during the period September 1, 1979 through November 30, 1979, Storey, a reseller-retailer, sold motor gasoline at prices in excess of those permitted under 10 CFR Part 212, Subpart F. According to the PRO the Storey violation resulted in $192,799.76 of overcharges.

Tuco, Inc./Cabot Fuel Corporation, Amarillo, Texas; HRO-0151 natural gas liquids

On May 9, 1983, Tuco, Inc./Cabot Fuel Corporation, P.O. Box 1261, Amarillo, Texas, filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City Support Office of the Office of Special Counsel issued to the firm on April 8, 1983. In the PRO the Kansas City Office found that during the period October 1, 1974 through October 31, 1978, Tuco, Inc./Cabot Fuel Corporation sold natural gas liquids and natural gas products at prices in excess of those permitted by DOE regulations. According to the PRO the Tuco, Inc./Cabot Fuel Corporation violation resulted in $3,991,784.12 of overcharges.

[FR Doc. 83-17278 Filed 6-27-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of May 9 through May 13, 1983

During the week of May 9 through May 13, 1983 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Kirkpatrick Lockhart, Johnson & Hutchison, 5/10/83; HFA-0130

Kirkpatrick, Lockhart, Johnson & Hutchison filed an Appeal from a partial denial by the Director of the Economic Regulatory Administration's Office of Fuels Programs (Director) of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Director had correctly determined that documents containing predecisional material, handwritten comments and personal opinions were part of the deliberative process, and that documents prepared by agency counsel in connection with litigation came within the attorney work-product privilege. The DOE concluded that these documents were therefore properly withheld under Exemption 5. However, the DOE also found that the Director had not provided an adequate explanation for withholding portions of several documents pursuant to Exemption 4, which exempts from mandatory disclosure confidential, proprietary data. These documents were remanded to the Director for a determination on whether they contained information which should be considered confidential. Accordingly, the Appeal was granted in part.

Thornton Oil Corporation, 5/13/83; HFA-0138

Thornton Oil Corporation filed an Appeal from a partial denial by the Disclosure Officer of the DOE Office of Special Counsel of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the justification provided for withholding documents pursuant to Exemption 4, which protects confidential, proprietary data, was inadequate. Specifically, the DOE found that the Disclosure Officer failed to explain how release of the withheld material would cause competitive harm to the firm which submitted that data. The DOE also found that the justification for withholding some documents pursuant to Exemption 5, which protects the agency deliberative process, was inadequate. Specifically, the DOE found that the Disclosure Officer had not adequately explained how certain withheld documents, which were prepared by outside adverse counsel and provided to the DOE, revealed the mental processes of an agency decisionmaker. The DOE also concluded that the Disclosure Officer had failed to fully consider whether letters from the DOE to adverse counsel may have lost their privileged character under the FOIA, since they were provided to persons outside the Agency. The DOE remanded these documents to the Disclosure Office for further consideration. Accordingly, the Appeal was granted in part.

Request for Exception

Amoco Oil Company, 5/9/83; HEE-0002

Amoco Oil Company filed an Application for Exception from the provisions of 10 CFR 211.69 (the Entitlements Program clean-up rule) in which the firm sought to file an amended entitlements report for a month prior to the October 1, 1980 through January 27, 1981 "reporting period" established by the clean-up rule. The firm claimed that it had overstated its crude oil receipts in the entitlements report it filed for August 1980 and was that it prevented by the clean-up rule from filing an amended entitlements report for that month. The DOE found that Amoco was not uniquely and unfairly affected by the application of the clean-up rule and that the firm had not demonstrated that it was experiencing any financial difficulties as a result of that provision. The DOE also found that the ERA's adoption in Section 211.69 of a shorter "reporting period" than the period originally proposed by the agency did not result in a gross inequity or invalidate the rulemaking conducted by the ERA. Accordingly, exception relief from the provisions of § 211.69 was denied.

Motion for Discovery

Taylor Oil Co., 5/10/83; BRD-0130

Taylor Oil Company filed a Motion for Discovery in connection with its Statement of Objections to a Proposed Remedial Order issued to the firm. In its Motion, Taylor sought (i) documents released by the DOE under a Protective Order to another firm in unrelated litigation and (ii) the contents of the DOE's files pertaining to Taylor. In considering the discovery request, the DOE found that Taylor offered only vague, conjectural statements to support its motion, and that the firm had thus failed to show that the discovery requested was necessary to obtain relevant and material evidence. The DOE also found that the Motion was not filed in a timely manner. Accordingly, the Motion for Discovery was denied.

Motion for Evidentiary Hearing

J. S. Beebe, Trustee, 5/9/83; HRH-0014

J. S. Beebe, Trustee (Beebe), filed a Motion for an Evidentiary Hearing in connection with the remand proceeding concerning a Remedial Order issued by the ERA. In the motion, Beebe requested an opportunity to present testimony and documentary evidence in support of his contentions that: (1) crude oil produced from certain leases was "sweet crude," (2) certain crude oil qualified as stripper well crude oil; (3) payment for certain price-controlled crude oil did not exceed the ceiling price based on the proper posted price; (4) he was not the sole owner of the six leases involved and did not receive payment for 100% of the oil produced from the leases; and, (5) the first purchasers, rather than he, established prices paid for crude oil produced from the leases. Because a U.S. district court had ordered that Beebe be provided an evidentiary hearing, OHA granted Beebe's motion on the crude oil quality, stripper well exemption eligibility, and posted price issues, notwithstanding its belief that these matters would be best resolved on the basis of contemporaneous documentary records. Beebe's request for an evidentiary hearing on the ownership interest issue, and on the issue of his authority over prices paid by first purchasers was denied, however, because neither issue involved relevant and material disputed facts.

Interlocutory Order

Office of Special Counsel, 5/12/83; HRZ-0114, HRZ-0115

The Office of Special Counsel sought an order compelling Texaco, Inc. to produce adequate responses to interrogatories which OSC had served on the firm. The Office of Hearings and Appeals determined that Texaco should be relieved of the obligation to supplement inadequate responses to interrogatories concerning its "corporate state of mind," because Texaco had withdrawn defenses that put its state of mind at issue. However, OHA ordered Texaco to file adequate responses to other OSC interrogatories that were not affected by the withdrawal of those defenses.

Refund Applications

Belridge Oil Company/State of California, 5/12/83; RF8-1

The DOE issued a Decision and Order concerning second stage refund procedures for distributing funds obtained as a result of a consent order entered into by the DOE and Belridge Oil Company. The DOE noted that the deadline for filing first stage applications for refund had passed without any applications having been filed by purchasers of Belridge NGLPs. Although the State of California filed an application for refund on behalf of California end-users of NGLPs, the DOE determined that it would be more appropriate to consider the State's Application for Refund during the second stage of the Belridge refund proceeding. The DOE further determined that, in order to commence the second stage of the Belridge refund proceeding, the State of California should submit a plan for dividing the Belridge Consent Order fund and accrued interest among states which file claims for refund on behalf of end-users within their jurisdictions. Any other state in which Belridge NGLPs were marketed was also invited to submit a plan for distributing the Belridge Consent Order fund.

Standard Oil Company (Indiana)/ Christensen Oil Company, 5/10/83; RF21-7024, RF21-7025

The DOE issued a Decision and Order concerning an Application for Refund filed by Christensen Oil Company, a wholesaler of Amoco motor gasoline, which also operates three retail stations. The firm elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special* Counsel, 10 DOE ¶ 85,048 (1982) (*Amoco*). Under that presumption, for each qualified gallon of motor gasoline purchased, a wholesaler is entitled to receive a refund equal to 34% of the volumetric refund amount, whereas a retailer is entitled to receive a 40% share. The DOE rejected Christensen's contention that it should receive the retailer's 40% share for all of its sales to end-users, such as farmers, and found that the firm was entitled to the 40% share only for those volumes of motor gasoline sold to customers through its three retail stations. This

determination was based upon the finding that sales to end-users such as farmers more closely resemble the wholesale transactions analyzed in *Amoco* than retail transactions. The DOE also found that since the firm was unable to furnish exact monthly retail sales figures for the entire relevant period, it was appropriate to estimate retail sales figures based on the data actually submitted. The total refund approved for Christensen for both its wholesale and retail sales was $9665.

Standard Oil Company (Indiana)/ Cunningham Oil Co. Ind. et al., 5/11/83; RF21-214 et al.

The DOE issued a Decision and Order concerning 84 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 84 applicants should receive a refund based upon the total volume of its Amoco middle distillate purchases. The refunds granted in this proceeding total $26,705.

Standard Oil Company (Indiana)/Gary's Standard et al., 5/13/83; RF21-784 et al.

The DOE issued a Decision and Order concerning 122 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 122 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $119,540.

Standard Oil Company (Indiana)/Geisler Energy, et al., 5/11/83; RF21-5061 et al.

The DOE issued a Decision and Order concerning 91 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 91 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $225,649.

Standard Oil Company (Indiana)/J. Carl Linse et al., 5/13/83; RF21-5300 et al.

The DOE issued a Decision and Order concerning 128 Application for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 128 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refund granted in this proceeding total $115,398.

Standard Oil Company (Indiana)/Union Camp Corporation, 5/10/83; RF21-2908.

The DOE issued a Decision and Order granting an Applications for Refund filed by Union Camp Corporation, a consumer of Amoco Number 6 residual fuel oil, in the Amoco Special Refund Proceeding. *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering the application, the DOE concluded that, as a direct-purchase consumer, Union Camp Corporation should receive a refund based upon the total volume of its Amoco residual fuel oi purchases. The refunds granted in this proceeding was $185,021.64

Standard Oil Company (Indiana)/Wegand Oil Company et al., 5/13/83; RF21-2213 et al.

The DOE issued a Decision and Order concerning 73 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 73 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $84,575.

Dismissals

The following submissions were dismissed:

Name and Case No.

A&H Truck Line, Inc.—RF21-2723, RF21-2724
Associated Truck Lines, Inc.—RF21-5453
Automatic Comfort—HRO-0126
Barber Transportation Company—RF21-6072, RF-6073
Cullen Petroleum Co.—RF21-5558
D & L Transport—RF21-4959
Donald Gruenberg—RF21-6329
Dugger Oil Co., Inc.—RF21-4818
English Amoco No. 2—RF21-6392
English Amoco No. 3—RF21-6393
Form Oil, Inc.—RF21-4927
Greyhound Lines, Inc.—RF21-5549
Gross Common Carrier—RF21-5370
Hamilton Standard Service—RF21-4101
Heller Gas & Oil—RF21-4804
International Carriers, Inc.—RF21-5658
J. P. Byson Oil Co.—RF21-5340
Johnson Oil Company—BEE-1214
Southern Union Refining Co.—HRO-0119
Kochman Oil Co.—RF21-4786
McGuire Oil Co.—RF21-5637
Moseby Oil Co.—RF21-4783
Northland Community College—RF21-6332
O'Malley Oil Co.—RF21-4884
Reed Oil Co., Inc.—RF21-5615
Riverside Oil & Ref.—HRO-0129

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building; 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: June 21, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 83-17227 Filed 6-27-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-2389-4]

Ambient Air Monitoring Reference and Equivalent Methods; Designation of Equivalent Method for Lead

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7049, 41 FR 11255, 44 FR 37916), has designated another equivalent method for the determination of lead in suspended particulate matter collected from ambient air. The new designated method is:

EQL-0783-058, "Determination of Lead Concentration in Ambient Particulate Matter by Energy-Dispersive X-Ray Fluorescence Spectrometry."

A notice of receipt of application for this method appeared in the **Federal Register**, Volume 48, March 10, 1983 page 10125.

This method has been tested by the applicant (Texas Air Control Board) in accordance with the test procedures prescribed in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at EPA's Environmental Monitoring Systems Laboratory, Research Triangle Park, North Carolina, and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

This method uses the sampling procedure specified in the reference method for the determination of lead in suspended particulate matter collected from ambient air (43 FR 46258). The lead content of the sample is analyzed by energy-dispersive X-ray fluorescence spectrometry using a radioactive-source excited system. X-rays from Ag-109 are used to excite the Pb L_β line whose intensity is measured according to the manufacturer's (Columbia Scientific Industries) instruction. In principle the X-rays from the source will interact with the atoms in the sample resulting in the ejection of bound electrons producing an

excited atomic state. The atoms return to ground state by emitting X-rays which are characteristic of the atom, thus, an energy spectrum is produced that may be used to identify the atoms in the matrix.

The TACB system includes the following: (1) Columbia Scientific Industries model 110 X-ray fluorescence spectrometer; (2) eight Cd-109 disk sources (total activity 80 mCi) mounted in an annular ring; (3) automatic sample changer capable of holding 48 samples; (4) lithium drifted silicon detector supplied by the Kevex Corporation; (5) an amplifier; (6) an analog to digital converter; (7) and an Apple II microcomputer. Technical questions concerning the method should be directed to the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

As a designated equivalent method, this method is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979). For such use, the method must be used in strict accordance with the procedures and specifications provided in the method description. States or other agencies using energy-dispersive X-ray fluorescence spectrometric methods that employ procedures and specifications significantly different from those in this method must seek approval for their particular method under the provisions of Section 2.8 of Appendix C to 40 CFR Part 58 (Modifications of Methods by Users) or may seek designation of such methods as equivalent methods under the provisions of 40 CFR Part 53.

Additional information concerning this action may be obtained by writing to Director, Environmental Monitoring Systems Laboratory, Department E (MD–77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not a major regulation because it imposes no additional regulatory requirements, but instead announces the designation of an additional equivalent method that is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979) or other applications where use of a reference or equivalent method is required.

This notice was exempted by the Office of Management and Budget for review as required by Executive Order 12291.

Herbert L. Wiser,

Acting Assistant Administrator for Research and Development.

[FR Doc. 83-17300 Filed 6-27-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51469; TSH-FRL 2376-2]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 83–14893, beginning on page 24967, in the issue of Friday, June 3, 1983, on page 24968, in the second column, under "PMN 83–766", in the fourteenth line, "13 da/yr." should read "130 da/yr."; in the third column, under "PMN 83–771", in the tenth line "0–.0" should read "0–10".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

National Industry Advisory Committee, Emergency Broadcast Subcommittee; Meeting

Pursuant to the provision of Pub. L. 92–463, announcement is made of a public meeting of the Emergency Broadcast Subcommittee of the National Industry Advisory Committee (NIAC) to be held Tuesday, July 12, 1983. The Subcommittee will meet at 9:30 a.m. at the National Association of Broadcasters, 1771 N Street, NW., Washington, D.C., in the first floor Conference Room.

Purpose: To consider emergency communications mattters.

Agenda: As follows:

1. Opening remarks by Chairman and self introductions by attendees.
2. Membership of the Subcommittee.
3. Review of Draft Emergency Broadcast Subcommittee Charter.
4. Consideration of preparatory procedures necessary to conduct a Nationwide on-the-air EBS Test (including television).
5. Consideration of methods to encourage local cable systems to participate in the EBS.
6. Other business.
7. Adjournment.

Any member of the public may attend or file a written statement with the Subcommittee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Subcommittee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634–1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-17510 Filed 6-27-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T–2171–9.

Title: Department of Transportation of the State of Hawaii and Matson Terminals, Inc. Terminal Lease Agreement Modification.

Parties: Department of Transportation of the State of Hawaii (State) and Matson Terminals, Inc. (Matson).

Synopsis: Agreement No. T–2171–9 amends Agreement No. T–2171 which provides for the lease of marine terminal space and a molasses tank farm at Sand Island, Hawaii, by the State to Matson. Agreement No. T–2171–9 extends the lease to September 15, 1984, or to the date the Tank Farm is complete and operational. The amendment alters the area of the pipeline easement and adjusts the ground rental charges as set forth in the agreement.

Filing Party: Ryokichi Higashionna, Director of Transportation, State of Hawaii, Department of Transportation,

869 Punchbowl Street, Honolulu, Hawaii 96813.

Agreement No.: 5660–36.

Title: Marseilles North Atlantic U.S.A. Freight Conference.

Parties: Compagnie Maritime D'Affretement (CMA), Italia S.P.A.N., Nedlloyd Lines, Sea-Land Service, Inc., and Zim Israel Navigation Co., Ltd.

Synopsis: The amendment proposes to modify Article 20 of the agreement to shorten the notice period for withdrawal from the Conference from 90 days to 60 days and to permit any other member of the Conference, within 15 days from receipt of the notice of withdrawal, to withdraw as of the date of the initial withdrawal.

Filing Agent: David F. Smith, Esq., Billig, Sher & Jones, 2033 K Street, NW.—Suite 300, Washington, D.C. 20006.

Agreement No.: 10045–9.

Title: South Atlantic & Gulf—Panama and Costa Rica Rate Agreement.

Parties: Coordinated Caribbean Transport, Inc., Linea Naviera Pan Atlantica, S.A., d.b.a. Pan Atlantic Lines, and Sea-Land Service, Inc. Party only as it pertains to the Republic of Costa Rica.

Synopsis: The amendment proposes to: (1) Expand the scope of the Agreement to include ports located within the Panama Canal Zone, (2) change the telephone polling procedure to expand the time of consideration from forty-eight hours to three Agreement business days, and (3) reflect previous Commission approval of the Agreement until July 30, 1985.

Filing Agent: Donald J. Brunner, Esq., Bogle & Gates, One Thomas Circle, NW., Suite 900, Washington, D.C. 20005.

Agreement No.: 10474.

Title: Matson/Philippines, Micronesia & Orient Navigation Company Nonexclusive Transshipment Agreement.

Parties: Matson Navigation Company, Philippines, Micronesia & Orient Navigation Company.

Synopsis: On June 10, 1983, the parties completed the filing of a request for Commission approval under section 15 of the Shipping Act, 1916, of an otherwise exempt nonexclusive transshipment agreement. The agreement involves the carriage of general cargo in the trade from Honolulu, Hawaii to the ports of Koror, Kosrae, Ponape, Saipan, Truk, and Yap with transshipment at Majuro, Marshall Islands. Upon its approval Agreement No. 10474 will supersede a similar agreement between the parties, Agreement No. 82094.

Filing Party: Peter P. Wilson, Matson Navigation Co., P.O. Box 7452, San Francisco, California 94120.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

Dated: June 23, 1983.

[FR Doc. 83-17311 Filed 6-27-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

June 21, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recorderkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

For further information contact:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551; (202–452–3829).

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503; (202–395–6880).

Request for approval of a new report:

1. Report title: Weekly Report of Foreign Branch Liabilities to, and Custody Holdings for, U.S. Residents

Agency form number: FR 2077

Frequency: Weekly

Reporters: Commercial banks

SIC Code: 602

Small businesses are not affected.

General description of report:

Respondent's obligation to reply is voluntary 12 U.S.C. 248(a)(2)); a pledge of confidentiality is promised (5 U.S.C. 552(b)(4)).

Gather more complete, timely data from selected foreign branches of U.S. banks (principally in the Caribbean and London) on term Eurodollars held by U.S. residents. Such deposits will be used to interpret the monetary aggregates. The data will allow more timely publication of the liquid assets measure.

Request for revision of an existing report:

1. Report title: Weekly Report of Assets for Selected Money Market Mutual Funds

Agency form number: FR 2051a,b,c

Frequency: Weekly, monthly

Reporters: Mony Market Mutual Funds

SIC Code: 672

Small businesses are not affected.

General description of report:

Respondent's obligation to reply is voluntary (12 U.S.C. 353 *et. seq.*) a pledge of confidentiality is not promised.

These reports provide information on the investment assets of money market mutual funds which is used in the construction of the monetary aggregate statistics. These statistics are basic to the public actions of the Federal Reserve System.

Board of Governors of the Federal Reserve System, June 22, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-17297 Filed 6-27-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed De Novo Nonbank Activities; First City Corp.

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *First City Corp.*, Fort Smith, Arkansas (financing and credit-related insurance activities; Oklahoma, Arkansas): To engage through its subsidiary, First City Financial Services, Inc., in consumer and commercial finance activities, including the extension of direct loans to consumers, the discounting of retail installment notes or contracts, the extension of direct loans to dealers for the financing of inventory (floor planning) and working capital purposes and making or acquiring loans and other extensions of credit such as could be made or acquired by a consumer and commercial finance company in Arkansas and Oklahoma; and acting as agent for sale of life, accident and health insurance directly related to its extensions of credit. These activities would be conducted from offices in Arkoma, Oklahoma serving the standard metropolitan statistical area made up of the counties of Le Flore and Sequoyah in Oklahoma and Crawford and Sebastian in Arkansas. This geographical area approximate a 25 mile radius of Arkoma, Oklahoma. Comments on this application must be received not later than July 18, 1983.

Board of Governors of the Federal Reserve System, June 22, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-17300 Filed 6-27-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; East Coast BankCorp. et al.

The companies listed in this notice have applied for the Board's ap;proval 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. *East Coast Bank Corporation*, Ormond Beach, Florida; to become a bank holding company by acquiring 98.23 percent of the voting shares of Bank at Ormond By-The-Sea, Ormond Beach, Florida. Comments on this application must be received not later than July 22, 1983.

2. *First National Bancorp of Lewisburg, Inc.*, Lewisburg, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Lewisburg, Lewisburg, Tennessee. Comments on this application must be received not later than July 20, 1983.

3. *PBG Financial Services, Inc.*, Graceville, Florida; to become a bank holding company by acquiring 80 percent or more of the voting shares of Peoples Bank of Graceville, Graceville, Florida. Comments on this application must be received not later than July 22, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Cole-Taylor Financial Group, Inc.*, Chicago, Illinois; to become a bank holding company by acquiring 99 percent of the voting shares of Main Bank of Chicago, Chicago, Illinois; Drovers Bank of Chicago, Chicago, Illinois; Bank of Yorktown, Lombard, Illinois; and 80 percent of Skokie Trust & Savings Bank, Skokie, Illinois. Comments on this application must be received not later than July 20, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Farmers & Merchants Bancshares, Inc.*, Wright City, Missouri; to become a bank holding company by acquiring 96 percent of the voting shares of Farmers & Merchants Bank of Wright City, Wright City, Missouri. Comments on this application must be received no later than July 22, 1983.

2. *HNB Bancorp, Inc.*, Hillsboro, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Hillsboro National Bank, Hillsboro, Illinois. Comments on this application must be received not later than July 22, 1983.

Board of Governors of the Federal Reserve System, June 22, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-17299 Filed 6-27-83; 8:45 a.m.]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that on May 9-10, 1983, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $4 billion to $5 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities, effective May 10, for the

period ending with the close of business on May 24, 1983.

Note.—For paragraph 1(a) of the authorization, see 36 FR 22697.

By order of the Federal Open Market Committee, June 21, 1983.

Normand R. V. Bernard,

Assistant Secretary.

[FR Doc. 83-17302 Filed 6-27-83; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive of March 28-29, 1983

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on March 28–29, 1983.[1]

The information reviewed at this meeting suggests that real GNP rose moderately in the first quarter, after a decline in the fourth quarter; the turnaround reflects a considerable slowing in inventory liquidation. Private final sales apparently increased only slightly less than in the fourth quarter with housing activity strengthening further. Business fixed investment has remained weak. Nonfarm payroll employment rose on balance in January and February, after an extended period of declines; the civilian unemployment rate was unchanged in February at 10.4 percent. In early 1983 the rise in average prices and the advance in the index of average hourly earnings have slowed further.

The weighted average value of the dollar against major foreign currencies rose somewhat on balance between early February and late March. The U.S. merchandise trade deficit declined marginally in January.

M2 continued to grow at an exceptional rate in February and M3 also expanded at a rapid pace, but growth in both of the broader aggregates appears to be decelerating substantially in March. The deceleration reflects in part the marked slowing in growth of money market deposit accounts (MMDAs) in recent weeks and apparently also a moderation in the underlying growth of these aggregates, abstracting from shifts from market instruments. M1 has expanded rapidly since late January, largely reflecting accelerated growth in NOW accounts. Growth in debt of domestic nonfinancial sectors appears to have been moderate in the first quarter. Short-term interest rates have risen somewhat since early February while long-term rates, including mortgage rates, have declined.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation further, promote a resumption of growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in February the Committee established growth ranges for monetary and credit aggregates for 1983 in furtherance of these objectives. The Committee recognized that the relationships between such ranges and ultimate economic goals have been less predictable over the past year; that the current impact of new deposit accounts on growth rates of monetary aggregates cannot be determined with a high degree of confidence; and that the availability of interest on large portions of transaction accounts, declining inflation, and lower market rates of interest may be reflected in some changes in the historical trends in velocity. A substantial shift of funds into M2 from market instruments, including large certificates of deposit not included in M2, in association with the extraordinarily rapid build-up of money market deposit accounts, has distorted growth in that aggregate during the first quarter.

In establishing growth ranges for the aggregates for 1983 against this background, the Committee felt that growth in M2 might be more appropriately measured after the period of highly aggressive marketing of money market deposit accounts has subsided. The Committee also felt that a somewhat wider range was appropriate for monitoring M1. Those growth ranges will be reviewed in the spring and altered, if appropriate, in the light of evidence at that time.

With these understandings, the Committee established the following growth ranges: for the period from February–March of 1983 to the fourth quarter of 1983, 7 to 10 percent at an annual rate for M2, taking into account the probability of some residual shifting into that aggregate from non-M2 sources; and for the period from the fourth quarter of 1982 to the fourth quarter of 1983, 6½ to 9½ percent for M3, which appeared to be less distorted by the new accounts. For the same period a tentative range of 4 to 8 percent was established for M1, assuming that Super NOW accounts would draw only modest amounts of funds from sources outside M1 and assuming that the authority to pay interest on transaction balances is not extended beyond presently eligible accounts. An associated range of growth for total domestic nonfinancial debt was estimated at 8½ to 11½ percent.

In implementing monetary policy, the Committee agreed that substantial weight would be placed on behavior of the broader monetary aggregates, expecting that distortions in M2 from the initial adjustment to the new deposit accounts will abate. The behavior of M1 will be monitored, with the degree of weight placed on that aggregate over time dependent on evidence that velocity characteristics are resuming more predictable patterns. Debt expansion, while not directly targeted, will be evaluated in judging responses to the monetary aggregates. The Committee understood that policy implementation would involve continuing appraisal of the relationships between the various measures of money and credit and nominal GNP, including evaluation of conditions in domestic credit and foreign exchange markets.

For the short run, the Committee seeks to maintain generally the existing degree of restraint on reserve positions, anticipating that would be consistent with a slowing from March to June in growth of M2 and M3 to annual rates of about 9 and 8 percent, respectively. The Committee expects that M1 growth at an annual rate of about 6 to 7 percent would be consistent with its objectives for the broader aggregates. Lesser restraint would be acceptable in the context of more pronounced slowing of growth in the monetary aggregates relative to the paths implied by the long-term ranges (taking account of the distortions relating to the introduction of new accounts), or indications of a weakening in the pace of economic recovery. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, June 21, 1983.

Normand R. V. Bernard,

Assistant Secretary.

[FR Doc. 83-17301 Filed 6-27-83; 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of Policy Actions of the Committee for the meeting of March 28–29, 1983, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Meeting

Correction

In FR Doc. 83–15291 appearing on page 26363 in the issue of Tuesday, June 7, 1983, make the following correction in the second column: In the **SUMMARY** paragraph, thirteenth line, "770–996" should read "770–776".

BILLING CODE 1505-01-M

Health Resources and Services Administration

National Health Service Corps Loans Under Section 338C(e)(1) and Section 338E of the Public Health Service Act; Delegation of Authority

Notice is hereby given that the Administrator, Health Resources and Services Administration, has delegated to the Regional Health Administrators the following authorities under:

(1) Under section 338C(e)(1) of the Public Health Service Act (42 U.S.C. 254n(e)(1))—to award loans to National Health Service Corps scholarship recipients for the purchase or lease of equipment and supplies needed in establishing their private practices; and

(2) Under section 338E of the Public Health Service Act (42 U.S.C. 254p)—to award loans to assist National Health Service Corps scholarship recipients in meeting the costs of establishing their private practices.

Previous delegations and redelegations pertaining to loan authority for the purchase or lease of equipment and supplies under section 338C(e)(1) and the issuing of loans under section 338E have been superseded. The other arrangement authorities under section 338C(e)(1) and the remaining authority under section 338E of the Public Health Service Act are to be admininstered by the Director, Bureau of Health Care Delivery and Assistance.

The delegation was effective on June 21, 1983.

Dated: June 21, 1983.

Robert Graham,

Administrator, Health Resources and Services Administration.

[FR Doc. 83-17350 Filed 6-27-83; 8:45 am]

BILLING CODE 4160-16-M

Advisory Committee, Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of August 1983:

Name: National Advisory Council on Health Professions Education.

Date and Time: August 1-2, 1983, 9:00 a.m. to 5:00 p.m.

Place: Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205

Open on August 1, 1983, 9:00 a.m. to 5:00 p.m.

Closed for remainder of meeting.

Purpose: The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda: The open portion of the meeting will cover: welcome and opening remarks; report of the Administrator; budget update; Emerging Issues in Graduate Medical Education and future agenda items. The meeting will be closed to the public August 2, 1983, from 9:00 a.m. to 5:00 p.m., for the review of grant applications for Preventive Medicine Residencies, Area Health Education Centers, Geriatric Education Centers, Allied Health Personnel-Health Promotion/Disease Prevention, and Public Health Capitation. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5 United States Code, and the Determination by the Acting Administrator, Health Resources and Services Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Robert L. Belsley, Executive Secretary, National Advisory Council on Health Professions Education, Bureau of Health Professions, Health Resources and Services Administration, Room 8C-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6880.

Agenda items are subject to change as priorities dictate.

Dated: June 22, 1983.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 83-17349 Filed 6-27-83; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, September 9, 1983, Conference Room 8, 6th Floor, C-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. to approximately 5:00 p.m. on Friday, September 9, to evaluate program support in Arteriosclerosis, Hypertension and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Belicha, Chief, Public Inquiry and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. G. C. McMillan, Associate Director, Arteriosclerosis, Hypertension, and Lipid Metabolism Program, NHLBI, Room 4C-12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated June 20, 1983.

Betty Beveridge,

National Institute of Health Committee Management Officer.

[FR Doc. 83-17329 Filed 6-27-83; 8:45 am]

BILLING CODE 4140-01-M

Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, September 26, 1983. The meeting will be held at the Federal Building, 7550 Wisconsin Avenue, Conference Room B119, Bethesda, Maryland 20205.

This meeting will be open to the public from 8:30 a.m. to adjournment to discuss new initiatives and program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: June 20, 1983.

Betty J. Beveridge,

National Institute of Health Committee Management Officer.

[FR Doc. 83-17328 Filed 6-27-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-83-1258]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the

proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Managment and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what member of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Proposal: Evaluation of the Fair Housing Assistance Program.

Office: Policy Development and Research.

Form Number: None.

Frequency of Submission: Single-Time.

Affected Public: State or Local Governments.

Estimated Burden Hours: 113

Status: New.

Contact:

Harriet Newburger, HUD, (202) 426–1520

Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 20, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-17298 Filed 6-27-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 17, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 13, 1983.

Carol D. Shull,

Chief of Registration, National Register.

GEORGIA

Screven County

Sylvania, *Lines, Samuel Shephard, House,* NE of Sylvania

HAWAII

Hawaii County

Kailua-Kona, *Kamoa Point Complex,* Ali'i Dr.

Honolulu County

Honolulu, *Fort Ruger Historic District,* Diamond Head Rd.

IOWA

Clarke County

Osceola, *Banta, J.V., House* 222 McLane St.

Dubuque County

Cascade, *Sauser-Lane House,* 101 2nd Ave., S.W.

Keokuk County

South English, *White, Theodore, House,* Broadway St.

Lee County

Keokuk, *St. Peter Church,* 301 S. 9th St.

Mahaska County

Oskaloosa, Oskaloosa City Park and Band Stand, City Park

Oskaloosa, *Seeberger-Loring-Kilburn House,* 509 High Ave. E.

Monroe County

Albia, *Perry, T.B., House 212 Benton Ave. W.*

KENTUCKY

Trimble County

Bedford vicinity, *Bates House (Trimble County MRA),* New Hope Rd.

Bedford vicinity, *Brown's House (Trimble County MRA),* Bedford-Milton Rd.

Bedford vicinity, *Callis General Store and Post Office (Trimble County MRA),* New Hope Rd.

Bedford vicinity, *Coleman, William L., House (Trimble County MRA),* Sulpher-Bedford Rd.

Bedford vicinity, *Humphrey Place (Trimble County MRA),* N of Bedford on US 421

Bedford vicinity, *Logan, W. W., House (Trimble County MRA),* Sulpher-Bedford Pike

Bedford vicinity, *Old Kentucky Tavern (Trimble County MRA),* US 42

Bedford, *Coleman House (Trimble County MRA),* Main St.

Bedford, *Hancock House (Trimble County MRA),* Main St.

Bedford, *House Tm–B–25 (Trimble County MRA),* Main St.

Bedford, *House Tm–B–7 (Trimble County MRA),* Main St.

Bedford, *Peake House (Trimble County MRA),* Spring and West Sts.

Bedford, *Trimble County Jail (Trimble County MRA),* Main St.

Milton vicinity, *Bird House (Trimble County MRA),* US 421

Milton vicinity, *Cooper's Bottom School (Trimble County MRA),* Cooper's Bottom Rd.

Milton vicinity, *House on Kentucky Highway 1492 (Trimble County MRA),* KY 1492

Milton vicinity, *House on Moffett Cemetery Road (Trimble County MRA),* Moffett Cemetery Rd.

Milton vicinity, *Neal House (Trimble County MRA),* US 421

Milton vicinity, *Page House (Trimble County MRA),* Cooper's Bottom Rd.

Milton vicinity, *Page-Bell House (Trimble County MRA),* Cooper's Bottom Rd.

Milton vicinity, *Preston House (Trimble County MRA),* Rodgers Rd.

Milton vicinity, *Rowlett House (Trimble County MRA),* KY 625

Milton vicinity, *Trout House (Trimble County MRA),* KY 625

Milton, *Barringer House (Trimble County MRA),* Tiber Creek Rd.

Milton, *Baynes House (Trimble County MRA),* 3rd St.

Milton, *Bebelt House (Trimble County MRA),* Tiber Creek Rd.

Milton, *Dr. Calvert House (Trimble County MRA),* 3rd St.

Milton, *Ginn's Furniture Store (Trimble County MRA),* Main St.

Milton, *House Tm–M–20 (Trimble County MRA),* 3rd St.

Milton, *House Tm–M–22 (Trimble County MRA),* 3rd St.

Milton, *House Tm–M–27 (Trimble County MRA),* KY 36

Milton, *House Tm–M–28 (Trimble County MRA),* KY 36

Milton, *Marsh House (Trimble County MRA),* 3rd St.

Milton, *Milton Masonic Lodge and County General Store (Trimble County MRA)*, Main St.
Milton, *Rowlett's Grocery (Trimble County MRA)*, Main St.
Milton, *Wood-Oakley Funeral Home (Trimble County MRA)*, 3rd St.
Wise's Landing, *Fixx, Dr. Carroll, House (Trimble County MRA)*, Barebone Rd.
Wise's Landing, *River View (Trimble County MRA)*, Barebone Rd.
Wise's Landing, *Yeager General Store (Trimble County MRA)*, Barebone Rd.

MAINE

Androscoggin County

Lewiston, *Sts. Peter and Paul Church*, 27 Bartlett St.

Hancock County

Ellsworth, *Whiting, Samuel Kidder, House*, 214 Main St.

Kennebec County

Chelsea, *Davis, John, House*, ME 9

Somerset County

Pittsfield, *Pittsfield Universalist Church*, N. Main and Easy Sts.

York County

Saco, *Saco High School (Old)*, Spring St.

MASSACHUSETTS

Essex County

Salem, *Bowker Place (Downtown Salem MRA)*, 144–156 Essex St.
Salem, *Crombie Street District (Downtown Salem MRA)*, 7–15 and 18–18 Crombie St., and 13 Barton St.
Salem, *Downtown Salem District (Downtown Salem MRA)*, Roughly bounded by Church, Central, New Derby, and Washington Sts.
Salem, *Federal Street District (Downtown Salem MRA)*, Roughly bounded by Bridge, Washington, Federal, and Summer Sts.
Salem, *First Universalist Church (Downtown Salem MRA)*, 6 Rust St.
Salem, *Monroe, Bessie, House (Downtown Salem MRA)*, 7 Ash St.
Salem, *Peabody, John P., House (Downtown Salem MRA)*, 15 Summer St.
Salem, *Salem Laundry (Downtown Salem MRA)*, 55 Lafayette St.
Salem, *Shepard Block (Downtown Salem MRA)*, 298–304 Essex St.
Salem, *Wesley Methodist Church (Downtown Salem MRA)*, 8 North St.
Salem, *West Cogswell House (Downtown Salem MRA)*, 5–9 Summer St.
Salem, *YMCA (Downtown Salem MRA)*, 284–296 Essex St.

MISSOURI

Jackson County

Kansas City, *District I (Armour Boulevard MRA)*, Armour Blvd. between Broadway and Baltimore Aves.
Kansas City, *District II (Armour Bloulevard MRA)*, Armour Blvd. between Warwick and Kenwood Aves.
Kansas City, *District III (Armour Boulevard MRA)*, Armour Blvd. between Charlotte St. and The Paseo
Kansas City, *Fowler, Henry T., House (Armour Boulevard MRA)*, 3 E. Armour Blvd.
Kansas City, *Loose, Jacob, House (Armour Boulevard MRA)*, 101 E. Armour Blvd.
Kansas City, *McIntire, Levi, House (Armour Boulevard MRA)*, 710 E. Armour Blvd.
Kansas City, *Myers, George J., House (Armour Boulevard MRA)*, 633 E. Armour Blvd.
Kansas City, *Repp, William D., House (Armour Boulevard MRA)*, 3500 Charlotte St.
Kansas City, *Toll, Alfred, House (Armour Boulevard MRA)*, 3502 Warwick Blvd.

OKLAHOMA

Beaver/Harper Counties

Rosston vicinity, *Old Settler's Irrigation Ditch*, Intersects US 283 N of Rosston

Blaine County

Southard vicinity, *Old Salt Works*, SE of Southard

Custer County

Weatherford, *Owl Blacksmith Shop*, 208 W. Rainey

Harper County

Buffalo, *I.O.O.F. Building of Buffalo*, 110 W. Turner St.
Buffalo, *Monhollow Artificial Stone House*, Off US 183

Mayes County

Chouteau, *Farmers and Merchants Bank*, 201 W. Main St.

Muskogee County

Muskogee, *Escoe Building*, 228–230 N. 2nd St.

Oklahoma County

Oklahoma City, *Mesta Park*, Roughly bounded by NW 16th and 23rd St. and Western and Walker Aves.

Okmulgee County

Okmulgee, *Okmulgee Public Library*, 218 S. Okmulgee Ave.
Okmulgee, *St. Anthony's Catholic Church*, 515 S. Morton St.

Woods County

Alva, *Science Hall*, Northwestern Oklahoma State University

OREGON

Deschutes County

LaPine vicinity, *I.O.O.F. Organization Camp, Paulina Lake*, Deschutes National Forest

PENNSYLVANIA

Dauphin County

Harrisburg, *Old Downtown Harrisburg Commercial Historic District*, Dewberry, Chestnut, Blackberry, and S. 3rd Sts.

SOUTH CAROLINA

Charleston County

Mount Pleasant vicinity, *Slave Street, Smokehouse, and Allee, Boone Hall Plantation*, N of Mt. Pleasant off US 17

TEXAS

Cameron County

Brownsville, *Manautou House*, 5 E. Elizabeth St.

Dallas County

Dallas, *Adolphus Hotel*, 1315 Commerce St.

Harris County

Houston, Sterling—Berry House, 4515 Yoakum Blvd.

Harrison County

Marshall, *Hochwald House*, 211 W. Grand Ave.

VERMONT

Addison County

East Middlebury vicinity, *Woybury Inn*, VT 125

Franklin County

St. Albans, *Hathaway's Tavern*, 255 N. Main St.

Washington County

Northfield, *Mayo Building*, Main and East Sts.

Windham County

South Londonderry vicinity, *Londonderry Town House*, Middletown Rd.

WASHINGTON

Clark County

Vancouver, *Elks Building*, 916 Main St.

Grays Harbor County

Cosmopolis, *Cooney, Neil, Mansion*, 802 E. 5th St.

Jefferson County

Center, *Rover, Hanna, House (Eastern Jefferson County MRA)*, Chimacum-Center Rd.
Chimacum, *Bishop, Senator William, House and Office (Eastern Jefferson County MRA)*, Chimacum-Center Rd.
Chimacum, *Chimacum Post Office (Eastern Jefferson County MRA)*, Chimacum-Center Rd.
Chimacum, *Van Trojen House (Eastern Jefferson County MRA)*, Van Trojen Rd.
Hadlock, *Methodist Episcopal Church of Port Hadlock (Eastern Jefferson County MRA)*, Randolph and Curtiss Sts.
Hadlock, *Shibles, Capt. Peter, House (Eastern Jefferson County MRA)*, Curtiss St.
Irondale, *Irondale Jail (Eastern Jefferson County MRA)*, Moore St.
Irondale, *Williams, Hattie, House (Eastern Jefferson County MRA)*, Moore St.
Lower Hadlock, *Golster House (Eastern Jefferson County MRA)*, Water St.
Nordland vicinity, *Nelson House (Eastern Jefferson County MRA)*, Freeman Rd.
Nordland, *Johnson House (Eastern Jefferson County MRA)*, 287 Flagler Rd.
Nordland, *Sole, Tollef, House (Eastern Jefferson County MRA)*, 275 Flagler Rd.
Port Ludlow vicinity, *Swanson, Hans, House (Eastern Jefferson County MRA)*, Swansonville Rd.

Port Townsend vicinity, *Irondale Historic District (Eastern Jefferson County MRA)*, Port Townsend Bay and Admiralty Inlet
Port Townsend vicinity, *Saint's Rest, Tukey's Pioneer Cabin and Homestead House (Eastern Jefferson County MRA)*, Chevy Chase Rd.
Quilcene, *Oatman, Earl, House (Eastern Jefferson County MRA)*, Muncie St.

King County

Seattle, *Eagles Auditorium Building*, 1416 7th Ave.
Seattle, *Interlake Public School*, 4416 Wallingford Ave. N.

Mason County

Shelton, *Shelton Public Library and Town Hall*, 5th St. and Railroad Ave.

[FR Doc. 83-16685 Filed 6-27-83; 8:45 am]
BILLING CODE 4310-70-M

Santa Monica Mountains National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a public hearing of the Santa Monica Mountians National Recreation Area Advisory Commission will be held on Wednesday, July 27, 1983 at 7:30 p.m. in the church sanctuary/hall at St. Mathews United Methodist Church, 1360 S. Wendy Drive, Newburry Park, California.

The Advisory Commission was established by Pub. L. 95-625 to provide for free exchange of the ideas between the National Park Service and the public to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service in Los Angeles and Ventura Counties.

Members of the Commission are as follows:

Dr. Norman P. Miller, Chairperson
Honorable Marvin Braude
Ms. Sarah Dixon
Ms. Margot Feuer
Dr. Henry David Gray
Mr. Edward Heidig
Mr. Frank Hendler
Ms. Mary C. Hernandez
Mr. Peter Ireland
Mr. Bob Lovellette
Ms. Susan Barr Nelson
Mr. Carey Peck
Mr. Donald Wallace

The topic for discussion will be the Draft Development Concept Plan for Rancho Sierra Vista.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning issues to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Superintendent, Santa Monica Mountains National Recreation Area, 22900 Ventura Boulevard, Suite 140, Woodland Hills, California 91364.

A summary of public comment will be available for public inspection by September 2, 1983 at the above address.

Dated: June 16, 1983.

William Webb,

Acting Superintendent, Santa Monica Mountains National Recreation Area.

[FR Doc. 83-17282 Filed 6-27-83; 8:45 am]
BILLING CODE 4310-70-M

Intention To Extend Concession Contract; TWA Services, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, 79 Stat. 969; 16 U.S.C. Section 20, public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend a concession contract with TWA Services, Inc., authorizing it to continue to provide lodging, food, retail merchandising, automobile, camper and transportation facilities and services for the public at Bryce Canyon National Park, Utah, Zion National Park, Utah, and Grand Canyon National Park-North Rim, Arizona for a period of one (1) year from January 1, 1983, through December 31, 1983, pending execution of new long term contracts at each park as referred to in the Public Notice dated December 16, 1982.

The purpose of this extension is to provide interim authorization to TWA Services, Inc., to continue to provide visitor services pursuant to the terms and conditions of its existing contract while negotiations are proceeding. Negotiations with TWA Services, Inc., are presently under way and expected to be completed by December 31, 1983.

This contract extension has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1982, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision in effect, grants TWA Services, Inc., the opportunity to meet the terms and conditons of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by TWA Services, Inc. If TWA Services, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with TWA Services, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Rocky Mountain Region, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225, for information as to the requirements of the proposed contract.

Dated: June 20, 1983.

Russell E. Dickenson,

Director, National Park Service.

[FR Doc. 83-17283 Filed 6-27-83; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-130]

Certain Braiding Machines; Commission Decision Not To Review Initial Determination

Correction

In FR Doc. 83-16089 appearing on page 27449 in the issue of Wednesday, June 15, 1983, make the following correction in the first column: The **AUTHORITY** paragraph should have read as follows:

AUTHORITY: The authority for the Commission's disposition of this matter is contained in section 337 and in § 210.53(a) and 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983); to be codified at 19 CFR 210.53 (a) and (h)).

BILLING CODE 1505-01-M

[Investigation No. 337-TA-54B]

Certain Multicellular Plastic Film; Investigation

Correction

In FR Doc. 83-16087 appearing on page 27451 in the issue of Wednesday, June 15, 1983, make the following correction in the second column: The **AUTHORITY** paragraph should have read as follows:

AUTHORITY: This investigation is instituted pursuant to section 337 of the

Tariff Act of 1930 (19 U.S.C. 1337), 19 U.S.C. 1337a, and paragraph 3 of the Commission Order issued on June 29, 1979, in connection with investigation No. 337–TA–54, Certain Multicellular Plastic Film (USITC Pub. 987, June 1979).

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Agricultural Cooperative; Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: June 23, 1983.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Farmers Union Central Exchange, Incorporated (CENEX).

(2) P.O. Box 43089, St. Paul, MN 55164.

(3) 5500 CENEX Drive, Inver Grove Heights, MN 55075.

(4) Clarence N. Anderson, P.O. Box 43089, St. Paul, MN 55164.

(1) Fur Breeders Agricultural Cooperative.

(2) P.O. Box 295, Midvale, UT 84047.

(3) P.O. Box 295, 8400 South 600 West, Midvale, UT 84047.

(4) Irene Warr, Suite 280, 311 S. State, Salt Lake City, UT 84111.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-17323 Filed 6-27-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from 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 requirements stated in the effective notice to be issued hereafter.

By the Commission.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 1, (202) 275–7992.

Volume No. OP1–FC–238

MC–FC–81503. By decision of June 20, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, The Review Board Members Parker, Krock and Williams approved the transfer to WILLIAM EDWARD CARPENTER, d.b.a. CARPENTER TRUCKING, Mustang, OK, of Certificate No. MC–151021, issued May 5, 1982, to EDWARD J. ELROD, Oklahoma City, OK, authorizing the transportation of brick, clay, tile, and building materials and supplies, between points in OK, on the one hand, and, on the other, points in AR, KS, and TX. Representative: C. L. Phillips, Room 248 Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106.

MC–FC–81505. By decision entered June 21, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, the Review Board, Members Carleton, Parker and Williams approved the transfer to John O'Toole & Son, Inc., of Lafayette, IN, of all of the operating rights contained in Permit No. MC–158020, issued July 20, 1982, to Fry Transport, of Lafayette, IN, authorizing the transportation of malt beverages, between points in the U.S., under continuing contract(s) with Lafayette Beverage Distributors, Inc., of Lafayette, IN. Temporary authority application has not been made. Applicant's representative: Andrew K. Light, 1301 Merchants Plaza, Indiana 46204, (317)–638–1301.

MC–FC–81530. By decision of June 21, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, The Review Board, Members Dowell, Parker and Joyce, approved the transfer to LLAMA TRADING CO., INC., DOING BUSINESS AS STOW MILLS, Brattleboro, VT, of Permit No. MC-159850, issued January 5, 1982, to ALAN R. HOULE, Vernon, VT, authorizing the transportation of such commodities as are dealt in or used by distributors of bottled water (except commodities in bulk), from Portland Springs, ME, to points in ME, MH, VT, MA, CT, RI, NY, NJ, DE, MD, WV, VA, NC, SC, GA, AL, FL, MS, TN, KY, PA, OH, IL, WI, IN, MO, and DC, under continuing contract(s) with Poland Spring, Inc., of Las Vegas, NV. Representative: Thomas J. Kiely, P.O. Box 816, Brattleboro, VT 05301. (802) 257–4666.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4-FC-390.

MC–FC–81154. By decision of June 17, 1983, issued under 49 U.S.C 10926 and the transfer rules at 49 CFR Part 1181, The Review Board, Members Krock, Joyce, and Dowell, approved the transfer to COMET MOTOR LINES, INC., Cleveland, OH, of portion of Certificate No. MC-111956 (Sub-No. 45), issued to SUWAK TRUCKING COMPANY, a corporation, Washington, PA, authorizing the transportation of general commodities (with exceptions), over regular routes, between Cleveland, OH and Dover, OH, over Interstate Hwy 77. Representative: Henery M. Wick,

1610 Two Chatham Center, Pittsburgh, PA 15219, (412) 471–1800, attorney for transferor, and A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541, attorney for transferee.

Note.—At transferee's request approval of this transfer to transferee is subject to cancellation of that portion of Sheet No. 2 Certificate No. MC-111956 (Sub-No. 22), which authorizes service over described routes between Cleveland and Akron, OH, prior to or concurrently with consummation.

MC-FC-81502. By decision of June 17, 1983, issued under 49 U.S.C. 10924 and 10926 and the transfer rules of 49 CFR Part 1181, The Review Board, Members Krock, Carleton, and Joyce, approved the transfer to SQUAW TRANSIT, INC., Fergus Falls, MN, of Certificate No. MC-161387, and License No. MC-161387 (Sub-No. 1), both issued July 22, 1982, to DOUGLAS C. ROYCRAFT, doing business as ROYCRAFT TRANSIT & STORAGE, Eau Claire, WI, authorizing the transportation of Food and related products, and matches, between Chicago, IL, Memphis, TN, points in Stark County, OH, Gibson County, TN, and points in WI, on the one hand, and, on the other, points in CA, CO, FL, GA, IL, LA, MN, MO, NE, NJ, NC, OH, PA, TN, TX, and WI, and to operate as a broker, arraging for the transporation, by motor vehicle, of general commodities (except household goods), between points in the U.S. (except AK and HI). An application has been filed for temporary authority. Representative: William J. Gambucci, 515 Lumber Exchange Bldg., 10 S. 5th St., Minneapolis, MN 55402, (612) 340–0808, attorney for applicants

MC–FC–81513. By decision of June 17, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, the Review Board, members Carleton, Krock, and Dowell, approved the transfer to SCHLEI DRAY LINE, INC., of Manitowoc, WI of Certificates No. MC-105447, issued July 26, 1946, (Sub-No. 1), issued January 18, 1949, and (Sub-No. 5), issued July 20, 1981, Permit No. MC-43142, issued February 2, 1942, to C. SCHLEI DRAY LINE, INC., of Manitowoc, WI, authorizing the transportation in No. MC–105447 of (1)(a) *household goods*, from named points in WI, to points in IL, IN, IA, MI, MN, and OH, (b) *office furniture*, from named points in WI, to points in OH, MO, NY, PA, ND, SD, KS, NE, and IA, (c) *furniture and fixtures*, between points in Manitowoc County, IW,WI, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, NY, ND, OH, PA, SD, and WI (d) *decorations, ornaments, ornament hangers, ribbon, and twine*, from Manitowoc and Sheboygan, WI, to points in the Chicago, IL Commercial Zone, and (f) *news printers' furniture and equipment and laundry drying machines*, from Two Rivers, WI to points in IN, MI, MN, IA, OH, MO, NY and PA, (2) *meat, packinghouse products, soaps, soap products, cooking fats, canned goods, and vinegar*, from Manitowoc, WI, to points in Calumet and Manitowoc Counties, WI. A temporary authority application has been filed. Representative: Michael S. Varda, 121 S. Pinckey St., Madison, WI 53703.

[FR Doc. 83-17322 Filed 6-27-83; 8:45 am]

BILLING CODE 7035-10-M

Motor Carriers; Permanent Authority Decisions

Motor Common and Contract Carriers of Property (fitness only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR Part 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2 (202) 275–7030.

Volume No. OP–2–279

Decided: June 21, 1983.

By the Commission, Review Board Members Krock, Parker, and Joyce.

MC 158912 (Sub-1), filed June 1, 1983. Applicant: PALMETTO STAGES AND LEASING COMPANY, INC., 233 West Main St., Easley, SC 29640. Representative: Loy E. Wagner (same address as applicant), 805–855–2122. 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 163722 (Sub-2), filed June 1, 1983. Applicant: C.M.R., INC., 5865 Burgis Southeast, Kentwood, MI 49508. Representative: Robert M. O'Donnell, 145 W. Wisconsin Ave., Neenah, WI 54956, 414–722–2848. 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 165812, filed April 29, 1983, published in the **Federal Register** issue of May 17, 1983, and republished, as corrected this issue. Applicant: T. C. COACH, INC., 7924 Frankford Ave., Philadelphia, PA 19136. Representative: Michael E. Fisher (same address as applicant), 215–335–1156. Transporting *passengers* in charter and special operations, between points in the U.S. The purpose of this republication is to include special operations in the authority requested and to change the territory from radial to non-radial movement.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 167263, filed June 6, 1983. Applicant: ANDRESA DULAY, 1925 Dover St., Delano, CA 93215. Representative: M. Dwain Smith, 1120 Kensington, Delano, CA 93215, 805–725–3547. Transporting *Passengers*, in charter and special operations, between points in CA and NV.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 168353, filed May 27, 1983. Applicant: JAMES E. VAUGHN, d.b.a. J. V. ENTERPRISES, 1245 N.E. 200th Terrace, North Miami Beach, FL 33179. Representative: James E. Vaughn (same address as applicant), 305–652–7785. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 168443, filed June 2, 1983. Applicant: NORMAN LIGHT, d.b.a. NORMAN LIGHT TRUCKING, Box 731–29 Rockefeller Rd., Moravia, NY 13118. Representative: Norman Light (same address as applicant), 315–497–3307. 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 168453, filed June 2, 1983. Applicant: MST FREIGHT SERVICES, 228 W. Warren St., Longwood, FL 32750. Representative: Scott Lincoln, 540 E. George St., Maitland, FL 32751, 305–628–1848. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 168463, filed June 3, 1983. Applicant: BARRY L. GROFF, R.D. 6 Box 227, York, PA 17404. Representative: Barry L. Groff (same address as applicant), 717–792–9190. 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 168502, filed June 7, 1983. Applicant: JOHN W. RANKIN, 34250 Avenue F, Yucaipa, CA 92399. Representative: Roy Gray, P.O. Box 344, Bloomington, CA 92316, 714–824–2453. 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 168543, filed June 8, 1983 Applicant: RICH VANNICE, d.b.a. RDV TRUCKING, 12055–69th South, Seattle, WA 98178. Representative: Rich Vannice (same address as applicant), (206) 772–4530. 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 168573, filed June 10, 1983. Applicant: QUANTUM TRANSPORTATION SERVICES, INC., Rt. 1 Box 1792, Middletown, VA 22645. Representative: Charles Michael Wymer (same address as applicant), (703) 869–4036. As a *broker of general commodities* (except household goods), between points in the U.S.

[FR Doc. 83-17321 Filed 6-27-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30192]

Railroads; Chattahoochee Valley Railway Company—Abandonment Exemption—In Chambers County, AL, and Troup County, GA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval the abandonment by the Chattahoochee Valley Railway Company of two segments on each end of its main line. Segment 1 consists of 1195 feet or 0.226 miles beginning at CS 5+38 thence to CS 13+20.3=0+00 to CS 4+12.7. Segment 2 consists of 2659 feet or 0.503 miles between CS 526+62 and CS 553+21, subject to conditions for protection of employees.

DATE: This exemption is effective on July 28, 1983. Petitions to stay must be filed by July 8, 1983; and petitions for reconsideration must be filed by July 18, 1983.

ADDRESS: Send pleadings referring to Finance Docket No. 30192 to:

(1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Gordon W. Neal, Chattahoochee Valley Railway Company, P.O. Box 111, West Point, GA 31833.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289–4357 (D.C. Metropolitan area) or toll free (800)424–5403.

Decided: June 14, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett and Commissioner Andre would not impose a

deadline on consummation of the exempted transaction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-17324 Filed 6-27-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Second Amendment to Consent Decree Lodging Pursuant to Clean Air Act; Wheeling-Pittsburgh Steel Corp.

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed Second Amendment to Consent Decree in *United States* v. *Wheeling-Pittsburgh Steel Corporation*, Civil Action No. 79-1194, will be lodged with the United States District Court for the Western District of Pennsylvania. The proposed Decree provides for installation of air pollution control equipment in accordance with the Steel Industry Compliance Extension Act.

The Department of Justice will receive comments until July 14, 1983 relating to the proposed Decree. Comments should be addressed to William D. Evans, Jr. of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Wheeling-Pittsburg Steel Corporation*, D.J. Ref. 90-5-1-1-1207. In order to be considered, such comments must be personally received by Mr. Evans before the close of business, July 14, 1983.

The proposed Decree may be examined at the office of the United States Attorney, Western District of Pennsylvania, U.S. Courthouse, Pittsburgh, Pennsylvania, at the Region V Office of the U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois and at the Region III Office of the U.S. Environmental Protection Agency, 6th & Walnut Streets, Philadelphia, Pennsylvania. Copies of the Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1644, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $11.20 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-17287 Filed 6-27-83; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Justice

Competitive Research Cooperative Agreement Program, Solicitation

The National Institute of Justice announces a competitive research cooperative agreement program to explore the involvement of private enterprise in operating businesses and manufacturing concerns in correctional systems and to determine what changes are necessary in law, policy or procedures to maximize the provision by private enterprises of job opportunities for inmates. The aim is to insure earnings at a regular wage level within a structure that provides for normal profits for the investor.

The solicitation asks for submission of proposals of twenty (20) pages or less and in order to be considered papers must be received at the National Institute of Justice by August 10, 1983. This cooperative agreement will be supported up to $150,000 for 12 months. To maximize competition, both profit-making and non-profit organizations are encouraged to apply; however, no fee will be paid.

Further information and copies of the solicitation can be obtained by contacting Dr. Lawrence A. Bennett or Ms. Diann Stone, National Institute of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531 or by phoning 202/724-2949.

James K. Stewart,

Director.

[FR Doc. 83-17291 Filed 6-27-83; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

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 13, 1983-June 17, 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-14,209; Allen Court Contractors, Limited, Copiague, NJ

TA-W-13,922; Universal Coat Co., Inc., Bay Shore, NJ

TA-W-13,687; Lear Seigler, Inc., National Broach & Machine Div., Mt. Clemens, MI

TA-W-14,185; Dan River, Inc., Danville Div., Crystal Springs Printing & Finishing Plant, Chickamauga, GA

TA-W-13,920; Selmer Co., Main Street Plant and Plant #2, Elkhart, IN

TA-W-13,917; Bridgeton Dyeing and Finishing Co., Bridgeton, NJ

TA-W-13,865; Whitaker Cable Corp., Brookfield, MO

TA-W-13,942; Asko, Inc., American Shear Knife Div., West Homestead, PA

TA-W-14,182; TRW, Inc., Noblesville Casting Div., Noblesville, IN

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-14,385; Langston, A Div., of Molins Machine Co., Inc., Cherry Hill, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-14,204; Lesney Products Corp., Moonachie, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,654; Oneida Materials Co., Pueblo, CO

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,593; Oneida Materials Co., Cucomonga, CA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,189; Duggan of Dixie, Chattanooga, TN

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-14,188; Duggan of Georgia, Macon, GA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1947.

TA-W-14,187; Duggan of Mississippi, Pass Christian, MS

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1947.

Affirmative Determinations

TA-W-14,010; Acme Choston Div., National Patent Development Corp., Dayville, CT

A certification was issued covering all workers separated on or after January 1, 1982.

TA-W-14,591; M.J. Manufacturing Co., St. Louis, MO

A certification as issued covering all workers separated on or after April 7, 1982.

TA-W-13,777; Maverick Tube Corp., Union and St. Louis, MO

A certification was issued covering all workers separated on or after September 3, 1981.

TA-W-13,876; Wire Rope Corp., of America, Inc., St. Joseph, MO

A certification was issued covering all workers separated on or after June 1, 1982.

TA-W-14,212; General Barite Co., DeSoto, MO

A certification was issued covering all workers separated on or after January 1, 1982.

TA-W-13,878; Chromcraft Furniture Corp., Liberty, NC Plant

A certification was issued covering all workers separated on or after January 1, 1982 and before January 1, 1983.

TA-W-13,983; Tactec Systems, Inc., Meadowlands, PA

A certification was issued covering all workers separated on or after October 25, 1981.

TA-W-14,181; Modern Clothing Co., Inc., Hammonton, NJ

A certification was issued covering all workers separated on or after December 1, 1981.

TA-W-13,887; Tube Turns Div., of Chemetron Corp., Louisville, KY

A certification was issued covering all workers of Tube Turns Div. of Chemetron Corp., Louisville, KY., engaged in employment related to the production of pipe fittings who became toally or partially separated from employment on or after October 8, 1981 are eligible to apply for adjustment assistance.

I hereby certify that the aforementioned determinations were issued during June 13, 1983–June 17, 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 21, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 83-17382 Filed 6-27-83; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 8, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 8, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 20th day of June 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers of former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Brighton, MA	6/9/83	6/6/83	TA-W-14,731	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Baltimore, MD	6/9/83	6/6/83	TA-W-14,732	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Newark, NJ	6/9/83	6/6/83	TA-W-14,733	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Pittsburgh, PA	6/9/83	6/6/83	TA-W-14,734	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Cleveland, OH	6/9/83	6/6/83	TA-W-14,735	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center, Wire Rope Plant (USWA).	Cleveland, OH	6/9/83	6/6/83	TA-W-14,736	Steel distribution, warehouse, cyclone fence and wire rope plant.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Cincinnati, OH	6/9/83	6/6/83	TA-W-14,737	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center Wire Rope Plant (USWA).	Chicago, IL	6/9/83	6/6/83	TA-W-14,738	Steel distribution, paint and wire rope plant.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	St. Paul, MN	6/9/83	6/6/83	TA-W-14,739	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Kansas City, MO	6/9/83	6/6/83	TA-W-14,740	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	St. Louis, MO	6/9/83	6/6/83	TA-W-14,741	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Atlanta, GA	6/9/83	6/6/83	TA-W-14,742	Steel distribution.

APPENDIX—Continued

Petitioner: Union/workers of former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Memphis, TN	6/9/83	6/6/83	TA-W-14,743	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Birmingham, AL	6/9/83	6/6/83	TA-W-14,744	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Dallas, TX	6/9/83	6/6/83	TA-W-14,745	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Houston, TX	6/9/83	6/6/83	TA-W-14,746	Steel distribution.
U.S. Steel Corp., Supply Division, Steel Service Center (USWA)	Los Angeles (Veron), CA	6/9/83	6/6/83	TA-W-14,747	Steel distribution.
Cleveland Cliffs Iron Co. (Tilden Mine), (USWA)	Ishpeming, MI	6/10/83	6/6/83	TA-W-14,748	Iron ore.
Cleveland Cliffs Iron Co. (Republic Mine), (USWA)	Ishpeming, MI	6/9/83	6/6/83	TA-W-14,749	Iron ore.
Eveleth Mines (USWA)	Eveleth, MN	6/9/83	6/6/83	TA-W-14,750	Taconite pellets.
Hanna Mining Co., Buttler Taconite Plant (USWA)	Nashwauk, MN	6/9/83	6/6/83	TA-W-14,751	Taconite.
Hibbing Taconite Co. (USWA)	Hibbing, MN	6/9/83	6/6/83	TA-W-14,752	Taconite pellets.
Jones & Laughlin Steel Co., McKinley Mine (USWA)	Aurora, MN	6/9/83	6/6/83	TA-W-14,753	Soft ore.
Par III (ILGWU)	Dunmore, PA	6/9/83	5/31/83	TA-W-14,754	Blouses.
S & S Corrugated Paper Machinery Co. (workers)	Brooklyn, NY	6/14/83	6/10/83	TA-W-14,755	Machinery for manufacturing corrugated boards and boxes.
T & N Lone Star Warehouse Co. (USWA)	Lone Star, TX	6/10/83	6/8/83	TA-W-14,756	Warehouse and distribution for Lone Star Steel Co.
Texscan/Dantec, Inc. (workers)	Bloomington, IN	6/10/83	5/20/83	TA-W-14,757	Converters for pay television.
Jones & Laughlin Steel Co., Lind-Greenway Mine (USWA)	Aurora, MN	6/9/83	6/6/83	TA-W-14,758	Soft ore.

[FR Doc. 83-17381 Filed 6-27-83; 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 Office 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, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

- Employment and Training Administration
- State Job Training Plan
- ETA-RC56
- Biennially
- State Governments
- SIC: 944
- 15 responses; 150 hours

The State Job Training Plan, required by the JTPA for those States with one statewide JTPA program, will provide information on the activities to be conducted and participants to be served by the State under JTPA.

Revision

- Employment Standards Administration
- Application for Self-Insurance and Financial Statement
- LS-271 and 271a
- On occasion
- Business or other for-profit
- 100 responses; 150 hours, 2 forms

Forms are used by employers to secure authorization to self-insure benefits under the Longshoremen's and Harbor Workers' Compensation Act and its extensions.

- Bureau of Labor Statistics
- CES Validation—On-Site Review
- BLS 790V
- Annually
- State or Local Government
- SIC: 944

51 responses; 3060 hours; 1 form

The Validation Package is the principal source of information concerning the quality of States' adherence to BLS prescribed performance in all of the CES program. It is a dynamic vehicle to measure program performance of a state.

Extension (Burden change)

Employment Standards Administration
Application for Authority An Institution of Higher Education to Employ Its Full-time Students at Subminimum Wages
WH-201
Annually
Business or other for-profit; Non-profit Institutions
350 responses; 175 hours; one form

Information is needed to determine whether an institution should be authorized to pay subminimum wages to its full-time student employees under the provisions of Section 14(b)(3) of the FLSA. It is used by the Division to approve this authority for the respondents private institutions of higher learning.

Survivor's Notification of Beneficiary's Death
CM-1089
On occasion
Individuals or households
5,000 responses; 416 hours; one form

The CM-1089 is used to gather information from a beneficiary's survivor on behalf of a deceased miner continue.

Employment Standards Administration
Application for Special Certificates under the FLSA Requirements
WH-2, WH-205, WH-222, WH-226, WH-227, WH-247, WH-249, WH-373
On occasion
Individuals or households; State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
23,700 responses; 14,220 hours; eight forms

These applications are needed to determine which employers/respondents will be authorized to use the special minimum wage and other provisions of Sections 11 and 14 of the Fair Labor Standards Act. Respondents include public, non-profit private sheltered workshops, homeworker employers, and for-profit businesses.

Signed at Washington, D.C., this 23rd day of June 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-17380 Filed 6-27-83; 8:45 am]

BILLING CODE 4510-27-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Nuclear Regulatory Commission; Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on July 7-9, 1983, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the Federal Register on June 22, 1983.

The agenda for the subject meeting will be as follows:

Thursday, July 7, 1983

8:30 a.m.–8:45 a.m.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 a.m.–9:15 a.m.: Regulatory Requirements Regarding Performance of Nuclear Power Plant Circuit Breakers (Open)—Members of the NRC Staff will brief the Committee members regarding proposed generic requirements resulting from the Salem circuit breaker failures.

9:15 a.m.—12:15 p.m.: Anticipated Transients Without Scram (Open)—The committee will hear the report of its Subcommittee and consultants who may be present regarding proposed NRC action to resolve ATWS. Representatives of the NRC Staff will brief the Committee and will discuss proposed NRC rule changes (10 CFR Part 50) to resolve this matter.

1:15 p.m.–2:15 p.m.: Sizewell Technical Exchange (Open/Closed)—Representatives of the NRC Staff will brief the members of the Committee regarding proposed changes in pressurized water reactors to be used in British nuclear power plants. This session may involve closed portions if needed to discuss information provided in confidence by a foreign source.

12:15 p.m.—4:15 p.m.: Unresolved Safety Issue A-44, Station Blackout (Open)—The members will hear the report of its Subcommittee and consultants who may be present regarding proposed resolution of USI A-44.

The members will hear presentations from representatives of the NRC Staff regarding proposed NRC action for resolution of USI A-44, Station Blackout

4:15 p.m.—6:15 p.m.: Evaluation Plan for Proposed NRC Quantitative Safety Goals (Open)—The members will hear and discuss the activities of the cognizant ACRS Subcommittee regarding the proposed NRC action plan for evaluation of NRC quantitative safety goals. Members of the NRC Staff will participate in the discussion to the degree considered appropriate.

Friday, July 8, 1983

8:30 a.m.–8:45 a.m.: Future ACRS Activities (Open)—The members of the Committee will discuss anticipated Subcommittee and full Committee activities.

8:45 a.m.–9:45 a.m.: Meeting with Director, NRC, Office of Inspection and Enforcement (Open)—The Director of the Office of Inspection and Enforcement will brief the ACRS with respect to activities of the Office of Inspection and Enforcement and related IE regional activities.

9:45 a.m.–12:00 noon: Systematic Evaluation Program and National Reliability Evaluation Program (Open)—The Committee will hear a report from the NRC Staff regarding proposed NRC SEP Phase III and NREP programs. ACRS comments will be provided, as appropriate.

1:00 p.m.–1:30 p.m.: ACRS Subcommittee Activities (Open)— The members will hear and discuss the report of the cognizant ACRS Subcommittee Chairman regarding the proposed NRC Severe Accident Policy Statement and Severe Accident Research Program.

1:30 p.m.–2:00 p.m.: Discuss items for Meeting with NRC Commissioners (Open)—The member will review topics scheduled for discussion with NRC Commissioners, namely ACRS comments/recommendations regarding the proposed NRC research budget for FY 1985-86 and ACRS comments regarding seismic design margins.

2:00 p.m.–3:30 p.m.: Meeting with NRC Commissioners (Open)—The Members of the Committee will meet with the NRC Commissioners to discuss items noted above.

3:30 p.m.–5:00 p.m.: Seismic Qualification of Nuclear Power Plant Components (Open)—The members will hear and discuss NRC and industry efforts to seismically qualify nuclear power plant components. Representatives of the NRC Staff and the industry seismic qualification group will participate to the degree considered appropriate.

5:00 p.m.–6:00 p.m. ACRS Subcommittee Activities (Open)—The members will discuss proposed prioritization of unresolved generic issues for attention in the regulatory process. Members of the NRC Staff will participate as appropriate.

Saturday, July 9, 1983

8:30 a.m.–12:30 p.m.: Preparation of ACRS Reports to NRC (Open)—The Committee will complete its report to NRC regarding prioritization of unresolved generic items as well as reports regarding the items discussed during the course of this meeting.

1:30 p.m.–3:30 p.m.: ACRS Subcommittee Activity (Open)—The Committee will hear and discuss safety-related activities of designated Subcommittees including items such as the training and qualifications of individuals working at nuclear power plants, performance of metal components including consideration of pressurized thermal shock, the future scope/direction of ACRS activities, probabilistic risk assessment of the Indian Point Nuclear Power Station and the NRC systems interaction program.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 1, 1982 (47 FR 43474). In accordance with these procedures , 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 Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss information provided in confidence by a foreign source [5 U.S.C. 552b(c)(4)].

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 can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m. edt.

Dated: June 21, 1983.

John C. Hoyle,

Advisory Committee Management Officer

[FR Doc. 83-17340 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Anticipated Transients Without Scram; Cancellation

The ACRS Subcommittee on Anticipated Transients Without Scram (ATWS) scheduled for June 29, 1983, Washington, DC and published June 17, 1983 (FR 48 27858) has been cancelled indefinitely.

Dated: June 21, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-17341 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 20th day of June At Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, and application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Mitsui & Co. (U.S.A.), June 9, 1983, June 10, 1983, XSNM02050.	Enriched uranium 3.95 percent.	20,287	616	Reload fuel for Hamaoka I	Japan.
Mitsui & Co. (U.S.A.), June 9, 1983, June 13, 1983, XSNM02051.	Enriched uranium 3.95 percent.	5,171	156	Reload fuel for Hamaoka I	Do.
NUS Corporation, June 13, 1983, June 15, 1983, XU08574.	25,000 Kgs. depleted uranium UF_6.			To be used for R & D work for penetrators	Taiwan.

[FR Doc. 83-17339 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–409]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Exemption

I

Dairyland Power Cooperative (the licensee) is the holder of Provisional Operating License No. DPR–45 which authorizes operation of La Crosse Boiling Water Reactor (LACBWR) (the facility) at steady state reactor power levels not in excess of 165 megawatts thermal (rated power). The facility consists of a boiling water reactor located in Vernon County, Wisconsin. The license is subject to all rules, regulations, and Orders of the Commission.

II

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of Part 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1 of Appendix E requires each licensee to conduct a full-scale emergency preparedness exercise at least annually, with participation from State and local governments within the plume exposure pathway EPZ.

III

By letter dated April 8, 1983, the licensee requested an exemption from the schedular requirements of Section IV.F.1 of Appendix E. The last full-scale emergency preparedness exercise was conducted at the LACBWR site on August 4, 1982, and included partial participation by the State of Wisconsin. The next full-scale annual exercise, therefore, is due to be conducted August 9, 1983. The licensee requests that it be granted an exemption on a one-time basis to allow the next full-scale exercise to be conducted in May or June of 1984 and to allow an exercise without

full participation of offsite agencies during the week of December 5, 1983.

The licensee states that a refueling outage scheduled for late August or early September and preparations and submittals for a pending full-term operating license will require a substantial effort on the part of key cooperative and plant personnel. The additional burden of an emergency preparedness exercise at this time would make it difficult for them to adequately prepare for and implement a well designed and executed exercise.

Moreover, the licensee maintains that the States of Minnesota and Wisconsin have been involved in a number of major emergency preparedness exercises at other nuclear facilities. Thus, extension of the time interval between major LACBWR exercises will not adversely affect the emergency response capabilities of these States. Because the State of Wisconsin would be unable to participate in the exercise in December 1983 with LACBWR, they have agreed to participate in an exercise with the Kewaunee Nuclear Power Plant on November 1, 1983. This would make it 21 months since the State of Wisconsin's last full participation in an exercise. Wisconsin partially participated in an exercise with the Zion facility on January 18, 1983. In addition, the LACBWR facility will conduct a full scale exercise during the month of either May or June 1984 that will include full participation by the States of Wisconsin and Minnesota, Vernon County in Wisconsin and Houston County in Minnesota. The December 1983 exercise will involve the LACBWR facility with only notification communications with the cognizant offsite agencies.

Based on the above, we conclude that the licensee's request for a one-time delay of the next emergency preparedness exercise at the La Crosse Boiling Water Reactor until May or June of 1984, is reasonable and that granting the exemption will not significantly affect the state of emergency preparedness at LACBWR provided that a limited exercise without the full participation of offsite agencies is held in December 1983. We conclude, therefore, that the licensee's request for exemption should be granted with the condition of a limited exercise in December 1983.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter of April 8, 1983, as discussed above, 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 requested exemption is hereby granted.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated in Bethesda, Maryland, this 20th day of June 1983.

Darrell Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-17331 Filed 6-27-83 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power and Light Company; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-67, issued to Florida Power and Light Company (the licensee), for operation of the St. Lucie Plant, Unit No. 1 located in St. Lucie County, Florida.

The amendment would permit operation after approval of changes to the Technical Specifications resulting from the addition of fire protection equipment and reporting requirements. These changes are the result of the staff's fire protection safety evaluation report dated August 17, 1979. The changes called for resulted in the: (1) addition of fire protection detectors and an additional fire hose station as reflected in changes to Tables 3.3-10 and 3.7-3, respectively, of the technical specifications; (2) two revisions to the technical specifications to reflect the incorporation of sprinkler systems and yard hydrants and to provide for supplemental protection and reporting requirements if hose stations are out of service; and (3) new specifications dealing with yard fire hydrants and hydrant hose houses and spray and/or sprinkler systems. The changes are made in accordance with the licensee's application for amendment dated December 22, 1982.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations (ii) relates to changes that constitute additional restrictions or controls not presently included in the technical specifications. The changes now under consideration resulted from the staff's fire protection safety evaluation report that called for more restrictions and controls relative to reporting requirements and additional detectors and an additional hose station. The staff proposes to determine that the application does not involve a significant hazard since the modifications to the fire protection system enhance the ability of the licensee to detect, control and/or extinguish fires at St. Lucie 1. In addition, the technical specifications must be revised to reflect the added fire protection equipment and the associated reporting requirements.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By July 28, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition

for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Prodeedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the prodeeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert A. Clark: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harold R. Reis, Esquire, Lowestein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)—(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland, this 21st day of June, 1983.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 83-17332 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 70-734]

GA Technologies, Inc.; Negative Declaration Regarding Renewal of Special Nuclear Materials License No. SNM-696; Nuclear Fuel Fabrication Facility, San Diego, California

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License SNM-696 for the continued operation of the Nuclear Fuel Fabrication Facility at San Diego, California.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed renewal of Special Nuclear Materials License SNM-696. On the basis of this appraisal, the Commission has concluded that the environmental impact created by the proposed license renewal action would not be significant and does not warrant the preparation of an environmental impact statement and, accordingly, it has been determined that a Negative Declaration is appropriate.

The environmental impact appraisal (NUREG–0994) is available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. A copy may be purchased by writing to the U.S. Nuclear Regulatory Commission, Sales Manager, Division of Technical Information and Document Control, Washington, D.C. 20555.

Dated at Silver Spring, Maryland this 21 day of June, 1983.

For the Nuclear Regulatory Commission.

R.G. Page,

Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 83-17333 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corporation and Jersey Central Power and Light Company (Oyster Creek Nuclear Generating Station); Order Confirming Licensee Commitments on Post-TMI Related Issues

I

GPU Nuclear Corporation and Jersey Central Power and Light Company (the licensees) are the holders of Provisional Operating License No. DPR–16 which authorizes the operation of the Oyster Creek Nuclear Generating Station (the facility) at steady-state reactor power levels not in excess of 1930 megawatts thermal. The facility consists of a boiling water reactor (BWR) located in Ocean County, New Jersey.

II

Following the accident at Three Mile Island Unit No. 2 (TMI–2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities based on the experience from the accident at TMI–2 and the official studies and investigations of the accident. The staff's proposed requirements and schedule for implementation are set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements." Among these requirements are a number of items, consisting of hardware modifications, administrative procedure implementation and specific information to be submitted by the licensee, scheduled to be completed on or after July 1, 1981. On March 17, 1982, a letter (Generic Letter 82–05) was sent to all licensees of operating power reactors for those items that were scheduled to be implemented from July 1, 1981 through March 1, 1982. Subsequently on May 5, 1982, a letter (Generic Letter 82–10) was also sent to all licensees of operating power reactors for those items that were scheduled for implementation after March 1, 1982. These letters are hereby incorporated by reference. In these letters each licensee was requested to furnish within 30 days pursuant to 10 CFR 50.54(f) the following information for items which the staff has proposed for completion on or after July 1, 1981:

(1) For applicable items that have been completed, confirmation of completion and the date of completion, (2) For items that have not been completed, a specific schedule for implementation, which the licensee committed to meet, and (3) Justification for delay, demonstration of need for the proposed schedule, and a description of the interim compensatory measures being taken.

III

GPU Nuclear Corporation responded to the Generic Letter 82–05 by letters dated April 20 and June 15, 1982, February 18, April 15 and May 20, 1983. In these submittals, GPU Nuclear Corporation confirmed that some of the items identified in the Generic Letters had been completed and made firm commitments to complete the remainder. The attached Table summarizes the licensee's schedular commitment for Items II.B.3 and II.E.4.2.7.

Generic Letter 82–05 applied to fourteen items and of the fourteen items listed, two items were not included in the Commission's Order dated March 14, 1983 (48 FR 12179, March 23, 1983). The licensee requested that implementation of item II.B.3, "Post Accident Sampling," be deferred until the Cycle 11 refueling/maintenance outage. The NRC determined that postponement of equipment installation beyond the Cycle 10 outage would not be in the best interest of a sound emergency response position. Therefore, the Commission determined that item II.B.3 would be handled under a separate action. In addition, the licensee had also taken the position that item II.E.4.2(7), "Isolate Purge and Vent Valves on Radiation Signal," is not applicable to the Oyster Creek Plant. The staff did not concur with this conclusion and, therefore, the Commission also determined that item II.E.4.2(7) would be handled under a separate action.

The staff's evaluation of the licensee's delays for implementation of items II.B.3 and II.E.4.2.7 is provided herein.

II.B.3 Post Accident Sampling Stystem (PASS)

All installation work, which requires the plant to be in a shutdown condition, will be completed during the current (Cycle 10) refueling outage.

PASS will be fully operational within six (6) months after startup from the Cycle 10 refueling outage.

An alternate methodology for estimating the extent of post accident core degradation has been developed and demonstrated during the May 24, 1983, Emergency Preparedness Drill (Note: Region I will verify procedures prior to restart).

II.E.4.2.7 Isolate Purge and Vent Valves on Radiation Signal

The delay to Cycle 11 outage is necessary because the workload of the current outage does not allow for completion of the modification at this time. At the Oyster Creek Nuclear Generating Station, the reactor building ventilation exhaust is constantly monitored by a Process Radiation Monitoring System, containing two monitors.

During normal plant operation, shutdown, or refueling operations, the normal ventilation system provides fresh, filtered air to all levels and rooms of the Reactor Building. Normal ventilation provides a minimum of one air change per hour to all areas. Air flow is from filtered supply to uncontaminated areas to potentially contaminated areas and then to the stack. If at anytime the radiation level becomes higher then 17 mr/hr through the ventilation system, the normal ventilation is automatically shutdown and the exhaust is routed via the Standby Gas Treatment System (SGTS) The flow through the system is limited to 4000 CFM. In addition, the Stack Gas Monitoring System for the stack constantly monitors the release to the environment. Oyster Creek operating procedures and Technical Specifications require termination of release and or shutdown, if effluent limits are exceeded.

We find, based on the above evaluation, that (1) the licensee has taken corrective actions regarding the delays and has made a responsible effort to implement the NUREG–0737 requirements noted; (2) there is good cause for the several delays (unexpected design complexity, interface problems, and equipment delays); and (3) as noted

above, interim compensatory measures have been provided.

In view of the foregoing, I have determined that these modifications and actions are required in the interest of public health and safety, and therefore the licensee's commitments should be confirmed by Order.

IV

Accordingly, pursuant to Sections 103, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, it is hereby ordered effective immediately that the licensees shall:

Implement and maintain the specific items described in the Attachment to this Order in the manner described in the licensee's submittals noted in Section III herein no later than the dates in the Attachment.

The licensees may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. A request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A copy shall also be sent to the Executive Legal Director at the same address. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the licensees, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether, the licensee should comply with the requirements set forth in Section IV of this Order.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 17th day of June 1983.

For the Nuclear Regulatory Commission.

Darrell Eisenhut, *Director, Division of Licensing, Office of Nuclear Reactor Regulation.*

ATTACHMENT.—LICENSEE'S COMMITMENTS ON APPLICABLE NUREG-0737 ITEMS FROM GENERIC LETTER 82-05

Item	Title	NUREG-0737 schedule	Requirement	Licensee's completion schedule (or status) [2]
II.B.3	Post Accident Sampling System (PASS)	Jan. 1, 1982	Install Upgrade Post Accident Sampling Capability	Refueling Outage 10(2-83).[1]
II.E.4.2.7	Containment Isolation Dependability	July 1, 1981	Isolate Purge & Vent Valves on Radiation Signal	Refueling Outage 11 (4-85).

[1] PASS will be fully operational within six (6) months after startup.
[2] Where completion date refers to a refueling outage (the estimated date when the outage begins), the item will be completed prior to the restart of the facility.

[FR Doc. 83-17334 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

[License No. 52-13471-02; EA 83-21]

I. Gonzalez-Martinez Oncologic Hospital, Hato Rey, Puerto Rico 00919; Order Imposing Monetary Civil Penalty

I

I. Gonzalez-Martinez Oncologic Hospital, Centro Medico, Rio Piedras, Puerto Rico, P.O. Box 1811, Hato Rey, Puerto Rico 00919 (the "licensee") is the holder of License No. 52-13471-02 (the "license") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the licensee to possess and use teletherapy units for treating humans at Centro Medico, Puerto Rico, in accordance with conditions specified therein. The license was issued on June 12, 1981.

II

As a result of a routine safety inspection conducted on January 31, 1983 by the Nuclear Regulatory Commission Region II inspection staff, the NRC staff determined that the licensee conducted repair and maintenance operations on its teletherapy unit in violation of a condition of its NRC license. The operation involved removal and repair of the pneumatic cylinder that drives the source drawer in and out of its shielded position. The NRC served the licensee a written Notice of Violation and Proposed Imposition of Civil Penalty by letter dated March 23, 1983. The Notice identified the Nuclear Regulatory Commission license condition that had been violated, disclosed the inspection findings substantiating the violation, and stated the amount of the civil penalty proposed for the violation. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty with letters dated April 19, 1983.

III

Under consideration of the I. Gonzalez-Martinez Oncologic Hospital's response (April 19, 1983) and the statements of fact, explanation, and argument for remission or mitigation contained therein as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement determined that the violation did occur as set forth in the Notice of Violation and that the licensee did not present substantial bases for mitigation or remission of the proposed penalty.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, Pub. L. 96-295, and 10 CFR 2.205, It is hereby ordered that:

The licensee pay a civil penalty in the amount of Two Thousand Dollars within 30 days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirement as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above and

(b) Whether on the basis of such violation this Order shall be sustained.

Dated as Bethesda, Maryland this 16th day of June 1983.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Acting Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

The violation and associated civil penalty presented in the Notice of Violation (dated March 23, 1983) are restated below. The licensee's responses (two letters, dated April 19, 1983) are summarized, and the NRC evaluation and conclusion regarding the responses are presented.

Violation

License Condition 22 requires the licensee to ensure that only persons specifically authorized by the NRC or an Agreement State are allowed to perform maintenance or repair operations on its teletherapy unit involving work on the source drawer, the shutter, or other mechanism that could expose the source, reduce the shielding around the source, or compromise the safety of the unit and result in increased radiation levels.

Contrary to the above, on and immediately before January 31, 1983, the licensee allowed an individual, not authorized by the NRC or an Agreement State, to perform maintenance and repair on its teletherapy unit involving work on the source drawer operating mechanism under conditions that could have exposed the source, and did compromise the safety of the unit in that while the operating mechanism was removed, there was no physical restraint to preclude inadvertent withdrawal of the source from the shield assembly.

This is a Severity Level III Violation (Supplement VI). (Civil Penalty—$2,000)

Licensee Response

The licensee admitted the violation, stated that it had resulted from a misunderstanding of the ambiguously stated license condition, and described the actions taken to correct the violation and to prevent its recurrence. The licensee denied the part of the violation which read "there was no physical restraint to preclude inadvertent withdrawal of the source drawer and source from the shield assembly" and supported this contention as follows:

(1) As stated in Inspection Report No. 52-13471-02/83-01, "The source drawer was secured in the shielded position by the t-bar, which was in turn clamped by vise grips to hold it against the source drawer."

(2) The power to the teletherapy apparatus was disconnected.

(3) The power to the main electrical breakers was disconnected and the handle to the breaker was removed and secured elsewhere.

(4) The teletherapy control console was locked in the OFF position and the key was secured.

(5) The teletherapy room was locked, properly secured, and posted during this period.

(6) The room was continuously monitored by a high radiation level alarm.

(7) A radiation detection survey meter was available as a backup instrument in case of failure of the room monitor.

The licensee further stated that the teletherapy maintenance had been performed after telephone consultation with a person licensed by the NRC to perform maintenance on the teletherapy unit.

In consideration of these statements, the licensee requested remission of the proposed penalty.

Evaluation and Conclusion

Addressing the licensee statements in their order of presentation, the statement that License Condition 22 is ambiguous is unsupported. The condition prohibits work on the source removed and repaired the pneumatic piston that drives the source drawer in and out of its shielded position. This is clearly a "mechanism that could expose the source."

The licensee statements supporting its assertion that physical restraint did exist to proclude inadvertent withdrawal of the source drawer and source from its shield assembly are correct as stated. The word "secured" was placed in quotes in the Inspection Report to indicate that although the individual employed by the licensee had taken action to prevent inadvertent withdrawal of the source drawer in the forward direction, comparable precautions against inadvertent withdrawal from the back of the unit had not been taken.

The licensee statements (items 2, 3, and 4) regarding security of power to the unit are correct by irrelevant to the hazard with which we were concerned-possible mechanical manipulation of source drawer and pneumatic cylinder.

The fact that the teletherapy room door was locked protected hospital personnel other than the individual conducting the maintenance and repair, but it was this man who was at risk.

The fact that the teletherapy room was continuously monitored by a high radiation alarm, as required by an NRC License Condition, might have prevented a continued exposure but not an instantaneous and perhaps significant exposure in the event of an accident.

The licensee precaution of discussing the proposed maintenance and repair of the unit with qualified experts before starting the work did not meet the explicit requirement of the license condition. Certain repair and maintenance functions are restricted to persons licensd to perform the functions because control of the involved risks requires extensive training and experience. Telephone consultation is not an acceptable substitute for such training and experience.

Based on the foregoing evaluation, it is concluded that the licensee did not provide a substantial basis for mitigation or remission of the proposed penalty.

[FR Doc.83-17338 Filed 6-27-83; 8:45am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8:30, "Health Physics Surveys in Uranium Mills," describes health physics surveys acceptable to the NRC staff for protecting uranium mill workers from radiation. The guidance can also be applied, in part, to other types of uranium recovery facilities and portions of conversion facilities since some of the processes used in these facilities are similar to those in uranium mills.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office Price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C 552(a))

Dated at Silver Spring, Maryland this 20th day of June 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-17337 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas & Electric Corp.; R. E. Ginna Nuclear Power Plant; Availability of an Environmental Evaluation Relating to the Full-Term Operating License Review

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (staff) has issued an Environmental Evaluation related to the application for Full-Term Operating License (FTOL) filed by the Rochester Gas and Electric Corporation for its R. E. Ginna Nuclear Power Plant located in Wayne county, New York.

In preparation for the Atomic Safety and Licensing Board's (ASLB) hearing on the conversion of Provisional Operating License (POL) No. DPR-18 for the R. E. Ginna Nuclear Power Plant to a Full-Term Operating License (FTOL), the NRC staff performed an assessment of the existing Final Environmental Statement (FES) dated December 1973.

The NRC staff has evaluated the environmental effects of the continued operation of the Ginna facility and re-examined the impacts initially presented in the 1973 FES. Based on this evaluation, the NRC staff has determined that: (1) there are no new impacts that differ significantly from those evaluated in the FES, there are no substantial changes in the proposed actions relevant to environmental concerns and there are no significant new circumstances of information relevant to environmental concerns bearing on the proposed action or its impact and, thus, issuance of a supplement to the FES is not required under the National Environmental Policy Act (NEPA); and (2) the conclusion on page v., paragraph 7 of the FES is still valid, with the exception that the Technical Specifications called for are now included in Appendix I to 10 CFR 50 and the State Pollution Discharge Elimination System Program.

The Environmental Evaluation is being made available at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Local Public Document Room, Rochester Public Library, 115 South Avenue, Rochester, New York 14604, for inspection and copying.

Dated at Bethesda, Maryland, this 17th day of June 1983.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reractors Branch No. 5, Division of Licensing.

[FR Doc. 83-17335 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station); Modification of January 13, 1981, November 25, 1981, and January 14, 1982 Orders

I

The Vermont Yankee Nuclear Power Corporation (the licensee) is the holder of Facility Operating License No. DPR-28 which authorizes the licensee to operate the Vermont Yankee Nuclear Power Station at power levels not in excess of 1593 megawatts thermal (rated power). The facility is a boiling water reactor located at the licensee's site in Windham County, Vermont.

II

On January 13, 1981, the Commission issued an Order (46 FR 9323) modifying the license requiring: 1) the licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661; and 2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order required installation of any plant modification needed to provide compliance with with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than September 30, 1982, or, if the plant is shutdown on that date, before the resumption of power thereafter. On November 25, 1981, the Commission issued an Order (46 FR 58760) modifying the completion date of the January 13, 1981 Order, and on January 14, 1982, the Commission issued an Order (47 FR 3442) modifying the completion date of the November 25, 1981 Order. The January 14, 1982 Order changed the completion date to prior to the start of Cycle 10 (at the completion of the licensee's 1983 refueling outage).

III

On October 31, 1979, the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria, significant prgress has been made and it was the intent of the licensee to meet the extension date specified in the January 14, 1982 Order. However, as identified in a June 13, 1983, letter, the analysis if the large bore torus attached piping was particularly difficult, since the main pipe runs each contain several branch lines which are not easily anchored and isolated from torus-induced dynamic loads. This has resulted in more extensive piping support requirements than anticipated, all of which could not be installed during the current outage. Of the twelve large core piping runs affected, only five runs have some supports which have not yet been installed. Of these five runs, two require one additional support and one requires two additional supports to meet all load combinations speified in NUREG-0661. Of the remaining two piping runs, 27 supports have already been installed; however, several additional supports are needed to satisfy the Mark I Program requirements.

The installation of these supports and some dead weight support modifications are the only items in the Mark I Long-Term program not completed. All of the major modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping will have been completed. All of the torus attached piping modifications and minor modifications will have also been completed, except those identified in this Order. This constitutes approximately 98% completion of the overall torus related modification work.

The Commission believes that since all the modifications will have been completed except for the installation of additional supports on five of the large bore piping runs and some dead weight support modifications, most of the intended margins of safety of the containment systems will have been achieved. In consideration of the range of modification completion dates presented in SECY-81-678 that was approved be the Commission, the Commission has concluded that the licensee's proposed completion schedule is both responsive and practicable.

The Commission has therefore determined to modify the January 13, 1981 Order, as modified by the Orders of November 25, 1981, and January 14, 1982, to extend the previously imposed completion dates for needed plant modifications. This Order continues in effect the exemption to general Design Criteria 50 of Appendix A to 10 CFR Part 50 granted on January 13, 1981.

The Commission has determined that good cause exists for the extension of

that exemption, that such extension is authorized by law, will not endanger life or property or the common defense and security, and is in the public interest.

IV

Accordingly pursuant to the Atomic Energy Act of 1954, as amended, including Sections 103 and 161i, and the Commission's regulations in 10 CFR Parts 2 and 50, IT IS ORDERED that the completion date specified in Section V of the January 13, 1981, "Order for Modification of License and Grant of Extension of Exemption," as modified by the Orders of November 25, 1981 and January 14, 1982 is hereby changed to read as follows: "Not later than 90 days after the start of Cycle 10." The Order of January 13, 1981, except as modified herein, remains in effect in accordance with its terms.

V

The licensee may request a hearing on this Order within 30 days of the date of publication of this Order in the **Federal Register**. A request for hearing shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the request shall also be sent to the Secretary of the Commisson and the Executive Legal Director at the same address.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License and Grant of Extension of Exemption" as modified by Orders dated November 25, 1981, and January 14, 1982, should be changed to "Not later than 90 days after the Start of Cycle 10."

This Order shall become effective upon the licensee's consent or expiration of the period within which the licensee may request a hearing or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 17th day of June 1983.

Robert A. Purple,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-17336 Filed 6-27-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

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

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on May 20, 1983 (48 FR 22829). Individual authorities established or revoked under Schedules A, B, or C between May 1, 1983 and May 31, 1983 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

National Endowment for the Arts

One position of Director of Locals Test Programs. Effective May 4, 1983.

One position of Deputy to the Chairman for Public Partnership. Effective May 4, 1983.

One position of Assistant Director of Folk Arts. Effective May 4, 1983.

Schedule B

The following exception is established:

Department of Justice

Not to exceed 50 positions at grades GS-11 through 15 in the Drug Enforcement Administration assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime. Effective May 6, 1983.

Schedule C

The following exceptions are established:

Department of Agriculture

One Private Secretary to the Assistant Secretary for Science and Education. Effective May 5, 1983.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective May 5, 1983.

One Confidential Assistant to the Executive Assistant to the Secretary, Office of the Secretary. Effective May 5, 1983.

One Confidential Assistant to the Inspector General, Office of the Inspector General. Effective May 5,1983.

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective May 10, 1983.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs, Office of Governmental and Public Affairs. Effective May 10, 1983.

One Private Secretary to the Deputy Under Secretary for International Affairs and Commodity Programs. Effective May 13, 1983.

Department of Commerce

One Private Secretary to the Assistant Secretary for trade Development, International Trade Administration. Effective May 9, 1983.

One Confidential Assistant to the General Counsel, Office of the Secretary. Effective May 16, 1983.

One Confidential Assistant to the Under Secretary for International Trade, International Trade Administration. Effective May 25, 1983.

Department of Defense

One Confidential Assistant to the Director for Emergency Planning, Office of the Deputy Under Secretary of Defense (Policy). Effective May 2, 1983.

One Private Secretary to the Secretary of Defense Representative on Mutual and Balanced Force Reduction and Conference on Security and Cooperation in Europe, Office of the Assistant Secretary of Defense (International Security Policy). Effective May 3, 1983.

One Private Secretary to the Assistant Secretary, Manpower, Reserve Affairs and Logistics. Effective May 16, 1983

One Private Secretary to the Military Assistant to the Vice President for National Security affairs. Effective May 16, 1983.

Department of Education

One Confidential Assistant to the assistant Secretary, Office of Legislation and Public Affairs. Effective May 10, 1983.

One Special Assistant to the Deputy Assistant Secretary, Office for Civil Rights. Effective May 10, 1983.

One Confidential Assistant to the Deputy Under Secretary for

Intergovernmental and Interagency Affairs. Effective May 11, 1983.

One Special Assistant to the Director, National Institute of Education. Effective May 16, 1983.

Department of Energy

One Public Affairs Specialist, Office of the Assistant Secretary for Congressional, Intergovernmental, and Public Affairs. Effective May 2, 1983.

One Advisor to a Member of the Commission, Federal Energy Regulatory Commission. Effective May 11, 1983.

One Staff Assistant to the Director, Office of Energy Research. Effective May 16, 1983.

One Research Assistant to the Special Assistant to the Secretary for Programs and Policies, Office of the Secretary. Effective May 31, 1983.

Department of Health and Human Services

One Special Assistant to the Regional Director in Boston, Massachusetts, Office of the Regional Director. Effective May 9, 1983.

One Confidential Assistant to the Secretary, Office of the Secretary. Effective May 16, 1983.

One Confidential Staff Assistant to the Chief of Staff, Office of the Secretary. Effective May 16, 1983.

One Clerical Assistant to the Chief of Staff, Office of the Secretary. Effective May 17, 1983.

Department of Housing and Urban Development

One Executive Assistant to the Regional Administrator in Chicago, Illinois, Office of the Regional Administrator. Effective May 2, 1983.

One Special Assistant to the President, Government National Mortgage Association. Effective May 3, 1983.

One Special Assistant to the Secretary, Office of the Secretary. Effective May 10, 1983.

One Deputy Assistant Secretary for Public Affairs, Office of the Assistant Secretary for Public Affairs. Effective May 16, 1983.

One Special Assistant to the Deputy Assistant Secretary for Multifamily Housing. Effective May 19, 1983.

One Confidential Assistant to the General Counsel, Office of the General Counsel. Effective May 24, 1983.

Department of the Interior

One Congressional Affairs Officer, U.S. Fish and Wildlife Service. Effective May 2, 1983.

One Special Assistant to the Assistant Director for Legislative and Congressional Affairs, National Park Service. Effective May 10, 1983.

One Special Assistant to the Assistant to the Secretary, Office of the Secretary. Effective May 13, 1983.

Department of Justice

One Special Assistant to the Director, National Institute of Justice, Office of Justice Assistance, Research and Statistics. Effective May 16, 1983.

One Special Assistant to the Associate Commissioner, Information Systems, Immigration and Naturalization. Effective May 19, 1983.

Department of Labor

One Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs. Effective May 2, 1983.

One Secretary to the Secretary of Labor, Office of the Secretary. Effective May 2, 1983.

One Regional Representative in Dallas, Texas, Office of the Deputy Under Secretary for Intergovernmental Affairs. Effective May 2, 1983.

One Special Assistant to the Assistant Secretary for Employment and Training. Effective May 13, 1983.

One Staff Assistant to the Deputy Under Secretary, Office of the Deputy Under Secretary for Intergovernmental Affairs. Effective May 19, 1983.

One Special Assistant to the Assistant Secretary, Occupational Safety and Health Administration. Effective May 23, 1983.

Department of State

One Special Assistant to the Senior Deputy Assistant Secretary, Bureau of International Organization Affairs, Effective May 3, 1983.

One Special Assistant to the Chairman, International Joint Commission. Effective May 5, 1983.

One Special Assistant to the Senior Deputy Assistant Secretary, Bureau of International Organization Affairs. Effective May 5, 1983.

Department of Transportation

One Special Assistant to the Assistant Administrator for Public Affairs, Office of Public Affairs. Effective May 2, 1983.

One Confidential Secretary to the Secretary, Office of the Secretary. Effective May 19, 1983.

One Secretary (Typing) to the Coordinator for Minority Affairs, Office of the Secretary. Effective May 19, 1983.

ACTION

One Special Assistant to the Associate Director, Domestic and Anti-Poverty Operations. Effective May 2, 1983.

One Special Assistant to the Public Information Officer. Effective May 5, 1983.

One Special Assistant to the Deputy Assistant Director. Effective May 16, 1983.

One Special Assistant to the Deputy Director. Effective May 19, 1983.

Agency for International Development

One Deputy Director, Office of Public Affairs. Effective May 17, 1983.

Civil Aeronautics Board

One Congressional Relations Representative, Office of Congressional, Community and Consumer Affairs. Effective May 24, 1983.

Consumer Product Safety Commission

One Secretary (Typing) to the Chairman, Office of the Chairman. Effective May 10, 1983.

Executive Office of the President

One Confidential Assistant to the General Counsel, Office of the U.S. Trade Representative. Effective May 16, 1983.

One Legislative Assistant to the Assistant Director for Legislative Affairs, Office of Management and Budget. Effective May 25, 1983.

Export-Import Bank of the U.S.

One Secretary (Typing) to the President and Chairman, Office of the Board of Directors. Effective May 25, 1983.

Federal Home Loan Bank Board

One Secretary to the Executive Staff Director, Office of the Chairman. Effective May 10, 1983.

Federal Trade Commission

One Deputy Director, Office of Congressional Relations. Effective May 16, 1983.

Office of Personnel Management

One supervisory Special Assistant to the Director, Office of the Director. Effective May 13, 1983.

Small Business Administration

One Confidential Assistant to the Associate Deputy Administrator, Office of the Administrator. Effective May 2, 1983.

One Confidential Program Assistant to the Associate Administrator for Finance and Investment, Office of Finance and Investment. Effective May 2, 1983.

One Special Assistant to the Regional Administrator in Philadelphia, Pennsylvania, Office of the Regional Administrator. Effective May 16, 1983.

One Special Assistant for the National Initiatives Conferences, Office of Women's Business Ownership. Effective May 19, 1983.

United States Tax Court

One Secretary (Confidential Assistant) to the Judge. Effective May 11, 1983.

One Secretary (Confidential Assistant) to the Judge. Effective May 11, 1983.

One Secretary (Confidential Assistant) to the Judge. Effective May 11, 1983.

Veterans Administration

One Confidential Assistant to the Deputy Administrator. Effective May 16, 1983.

One Confidential Assistant to the Deputy Administrator. Effective May 16, 1983.

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

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 83-17258 Filed 6-27-83; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-19901; File No. SR-Amex-83-13]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Proposed Rule Change Relating To Amendment of Article IV, Section 1 of the Exchange Constitution and the Fixed Income Security Options Trading Permit Offering Plan

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 June 6, 1983, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend Article IV, Section 1 of the Exchange Constitution and the Fixed Income Security Options Trading Permit ("FIP") Offering Plan to give the Board of Governors discretion to determine certain fees payable by permit holders, to extend the period during which a permit holder may act as an Interest Rate Options specialist, and to extend the life of the Plan for a limited period.

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 Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change. (a) Purpose. Article IV, Section 1(h) of the Exchange Constitution and the FIP Plan authorize the Exchange to offer 50 limited access permits of a fixed duration, each entitling the holder to execute principal transactions only in options on fixed income securities ("Interest Rate Options"). The FIPs are renewable for a maximum period of three years at an annual fee of $10,000. If not renewed, the Exchange may, at the Board's discretion, reissue the permits to other qualified applicants.

A FIP holder may act as a specialist in Interest Rate Options during the first year of the permit by paying an additional fee of $15,000, provided that he is allocated an option in which to specialize. A FIP used for specializing during its initial year may be renewed, but only for the purpose of conducting a principal business as a registered options trader. The right to specialize during the initial year of the permit was included in the FIP Plan to encourage specialist units to assume the financial responsibilities and risks attendant upon the introduction of a new product such as Interest Rate Options.

In view of the fact that the FIP specialist rights will expire in December, 1983, the units presently specializing in Interest Rate Options are in the process of reassessing their situations and their financial commitments to this new product. They have made substantial investments of both capital and manpower to get the new product through the start-up period. They could, of course, purchase additional Amex memberships to carry on their specialist activities, but the current trading volume level may not justify the acquisition of one or more regular memberships.

The Constitution therefore has been amended to give the Board discretion to extend, for the balance of the program, the periods within which a FIP may specialize, to lower or waive the $15,000 specialist fee for such periods, and to extend the Plan's timeframe for up to three additional years. The FIP Plan also has been amended so as to be consistent with the proposed Constitutional amendments, thereby making it possible to offer additional FIPs on the same terms and conditions, should the need arise. These changes will give the Board the necessary flexibility to continue this inexpensive form of access to Interest Rate Options trading in the early stages of the program, thereby helping foster the growth of this product as the market matures. Effective upon the Securities and Exchange Commission's approval of the proposed amendments, the Board of Governors has approved a resolution to extend the FIP holders' specialist rights and to waive the $15,000 annual specialist fee for the second and third years of the program.

(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) by providing for the equitable allocation of fees among the Exchange's members, and Section 6(b)(5) by perfecting the mechanism of a free and open market in Interest Rate Options.

B. Self-Regulatory Organization's Statement on Burden on Competition. The proposed rule changes will not impose a burden on competition. Rather, they will allow for the elimination of a burdensome fee and promote a more liquid market, thereby fostering competition between the Exchange and other markets.

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 21, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-17399 Filed 6-27-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19897; File No. SR-NYSE-83-21]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Proposed Rule Change Consisting of Procedures To Implement Enhancements to the NYSE's DOT and Limit Order Systems

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 14, 1983, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I and II below,[1] which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

[1] Subsequent amendments to this rule filing were submitted by the Exchange to the Commission on June 17, 1983. *See* Letter of Michael Cavalier, Branch Chief, Division of Market Regulation, from James E. Buck, Secretary, NYSE, dated June 17, 1983.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of procedures to be followed by members and member organizations to implement enhancements to the NYSE's Designated Order Turnaround ("DOT") System and Limit Order ("LMT") System. The key aspects of the proposed procedures are:

- Will be implemented on a Floor-wide basis.[2]
- Involves system-generated reporting of DOT and LMT order if the specialist fails to report an execution under certain circumstances and within predetermined periods of time.
- The specialist will guarantee the prices of system-generated reports except under certain circumstances.
- No fee or other charge will be made by the specialist for the execution of DOT orders.
- Universal contra comparison will be introduced to the LMT System.

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 III below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement on the Purpose of, and Statutory Basis for, the Proposed Rule Change. (1) *Purpose.* The purpose of the proposed rule change is to facilitate the implementation and operation of certain enhancements to the Exchange's DOT and LMT System in order to ensure timely reporting of executions through these systems and to increase the cost-effectiveness and efficiency of processing such executions. These enhancements represent a continuation of the Exchange's efforts to upgrade its system support facilites.

The procedures to be followed in implementing the DOT and LMT enhancements are intended as "rules" and therefore constitute a "proposed rule change" within the meaning of Rule 19b-4 under the Act. If approved by the Commission, they would supersede any existing rules of the Exchange inconsistent therewith.

The Exchange plans to implement the various enhancements in stages as specified below. Moreover, the DOT and LMT enhancements may not be implemented Floor-wide initially, but may be expanded on a gradual basis as to stocks and DOT/LMT subscribing member organizations.

DOT System Enhancements. The Exchange is proposing to provide system-generated reports for DOT orders whenever the specialist fails to report an execution or a "stop" [3] once five minutes has elasped [4] after such order reaches the Floor. In addition, if the specialist "stops" an order, he will have until 30 minutes after the "stop" is issued to report an execution before the system generates an automatic report at the "stop" price (target date-September, 1983).

According to Exchange statistics for the month of April, 1983, 85.2% of all DOT orders were responded to by the specialist (*i.e.*, he issued execution or "stop" reports) within two minutes of the receipt of such orders on the Floor; 94.5% were responded to within five minutes. System-generated reporting is not intended to replace the existing procedures the specialist uses to report an execution or a "stop" using mark-sense DIAN cards. Rather, the enhancement is designed to ensure that *all* DOT orders are responded to on a timely basis. The proposed procedures provide the Exchange with the flexibility to set and change the number of minutes for system-generated reporting as it deems appropriate. This flexibility allows the Exchange to make adjustments based on its experience with this aspect of the system and as necessary from time to time, based on the effect of high volume periods or other market-related factors.

The price of system-generated reports will be based on a reference price which is appended to each individual or accumulated order ("bunch").[5]

[2] The NYSE also has filed a proposed rule change that would extend the DOT enhancements to, at maximum, 100 NYSE stocks. *See* SR-NYSE-83-20. The Commission has approved this proposed rule change on an accelerated basis. *See* Securities Exchange Act Release No. 19896 (June 20, 1983).

[3] A "stop constitutes a guarantee by a member, *i.e.*, the specialist, to purchase or sell securities named in an order at a specified price.

[4] In a amendment to SR-NYSE-83-21, the NYSE indicated that although the system initially will utilize a five minute period before which an automatic execution report will be generated, the NYSE intends to retain discretion in adjusting this time frame. The NYSE, however, stated that it first will obtain Commission approval under Rule 19b-4 before it shortens the time period to less than three minutes.

[5] DOT orders are "bunched" if the Active Stock Feature is activated in a stock. *See* SR-NYSE-82-21.

Individual or bunched orders will reflect a price based on the "Tape reported" last NYSE sale just prior to the order or bunch being delivered to the Floor by the system. However, note that if a DOT order has been "stopped", the price of the system-generated report will be at the "stop" price as indicated above. Recognizing that occasionally sales will be reported to the Tape at erroneous prices by staff reporters, the procedures provide that specialists and member organizations will not be required to accept system-generated reports at prices resulting from such errors. Through operational means, such erroneous system-generated reports can be cancelled by the Exchange and the order reinstated or the execution price corrected, as appropriate given the situation. The proposed procedures also enhance the efficiency of the DOT error correcting procedure. As is presently the case, the specialist will continue to be reguired to guarantee the excution prices he reports through the system unless the DOT subscribing organization requests a price correction and, provided the erroneous price is no more than one-half of a point away from the actual price.[6] In accordance with the proposed procedures, if the specialist fails to report an execution through DOT within the predetermined number of minutes and as a result, the system generates a report at the last sale reference price noted above, the price of such report shall be binding (except as indicated above with respect to Tape reporting errors) and the specialist will absorb *in its entirety*, any difference between the reported price and the price of the execution, unless the DOT subscribing organization requests a price correction. In the latter case, the specialist shall correct the execution report sent through the system to the price of the execution, if he receives the request for a price correction prior to the opening on the third business day following the day of the transaction.

In order to illustrate this procedure, assume that the NYSE quotation in a stock at the time a DOT sell order is delivered to the Floor by the system was 20 bid; offered at 20¼ and the "Tape reported" last NYSE sale just prior to the order being delivered to the Floor was 20⅛. The specialist executes the DOT order at 20, reports the transaction to the Tape at the price, but fails to return the report to the system within five minutes. This results in his receiving a confirmation of a system report at 20⅛ the (last sale reference price on the order). Under the proposed procedures, the buyer on the transaction would receive a price of 20, which was the price of the execution and the seller would receive a price of 20⅛, which was the price of the system-generated report. The specialist will be required to absorb the difference between these prices, unless the DOT subscribing organization, *i.e.*, the seller in this example, requests a price correction. Note that this procedure does not affect the specialist's present procedure for reporting DOT transactions to the Tape at the price of the execution.

The above error correcting procedure is cost-effective to member organizations who normally average $75 per trade to correct an erroneous price. Having the specialist guarantee the prices of system-generated reports also provides an incentive for the specialist to report DOT executions before such reports are generated, *i.e.*, within five minutes. The percentage of DOT orders which the procedure may be affecting is quite small. As noted above, during April 1983, 94.5 % of all DOT orders were responded to by the specialist within five minutes. Thus, in the present scenario, the procedure may affect approximately 5.5 % of DOT orders, and only in cases where there is a price disparity between the price of the execution and the system-generated reporting price.

The Exchange also has addressed situations in which the specialist receives a confirmation of a system report and due to an error, the specialist had not executed the order or was unaware of having recieved the order on which such report is based. The Exchange recognizes that such situations whereby the specialist has not executed a DOT order within five minutes will be infrequent. Referring again to the above DOT "turnaround" statistics for April, of the approximately 5.5% of DOT orders which had not been responded to by the specialist within five minutes, it is likely that a significant portion of such orders had been executed or "stopped" within that time but that the specialist had failed to report the execution or "stop" to the system. The Exchange considers instances in which a DOT order was not executed or "stopped" for whatever reason to be an error because the DOT System delivers market orders that are executable immediately upon reaching the Crowd. Therefore, in the normal case, they are immediately executed or "stopped" especially given the relatively small size of such orders. The Exchange has provided the following procedure which the specialist will follow in unusual cases where the system generates a report on an order which the specialist had not executed:

- If such system-generated report is delivered to the Floor and the reported price of the execution is at the current quotation on the Floor at that time (buy on offer or sell on bid) and such current quotation is on behalf of the book or the Crowd, the specialist shall give up to the book or the Crowd, based on priority. In the event the specialist has priority over an order in the Crowd at the price of the current quotation, he may retain priority and accept the report for his own account.
- If such system-generated execution report is delivered to the Floor and the reported price of the execution is either between or outside the current quotation on the Floor at that time, the specialist accepts the execution for his own account.[7] The exchange recognizes that such system-generated execution reports, if not uniquely identified on the Tape, would occasionally appear to be trade-throughs.[8] In order to avoid the need to go through the trade-through rules complaint/response procedure in such instances, system-generated reports which reach the Floor at a price which is outside the composite quotation at that time will be printed as sold sales which is the only currently availiable means of identifying such trades on the Tape. In view of the few expected instances in which the specialist will not have executied or "stopped" a DOT order, as explained above, the Exchange does not expect this procedure will materially increase the number of sold sales which are reported to the Tape.

A further cost-effective measure to member organizatons is provided by the fact that no fee or other charge will be made by the specialist for the execution of DOT orders. This measure also enhances the Exchange's competitive position in relation to executions of small orders in systems in other market centers such as PACE (Philadelphia Stock Exchange) and SCOREX (Pacific Stock Exchange). It is the NYSE's understanding that such systems also do not provide for the specialist to charge a fee for executions.

Other system improvements are being made to reduce paper handling on the Floor and the specialist's workload and to facilitate the comparison of transactions through the system. The

[6] *See* filing SR-NYSE-82-17 for an explanation of the Exchange's modification of Rules 123A.47 and 411 in order to have the specialist guarantee the execution prices reported via the DOT System.

[7] Note that a similar procedure exists in the Registered Representative Rapid Response Service ("R4") experiment with respect to R4 reports which the specialist is obligated to accept for his own account. For details refer to filing SR-NYSE-82-14 which also discusses the rules which are affected by this procedure. The same rules would be affected with respect to DOT executions which the specialist must accept in the above instances.

[8] NYSE Rule 15A applies if a member initiates a trade-through on the Exchange, *i.e.*, purchases stock on the Exchange at a higher price than the offer displayed at that time by another ITS market center (or sales, etc.)

following is a summary of these changes:

- Administrative messages ("ADMINs") requesting a status report on an order will be responded to automatically when possible; *i.e.*, if the system memory indicates the order has been "stopped", executed or cancelled.
- Cancellation received subsequent to the execution of an order will be returned to the firm automatically by the system as "too late to cancel." Cancellations received before the specialist responds to an order or the system generates a report will automatically "turn off" the system's ability to generate a report and will be forwarded to the Post for further instructions by the specialist.
- When a report has been generated, a "names later"[9] feature will allow the specialist to give up a name(s) from the book or the Crowd on a mark-sense card for input to comparison. The system automatically defaults to the specialist if he does not submit a "give-up."

LMT Enhancements (targeted for 4th quarter 1983). The proposed system upgrades to LMT are expected to benefit member organizations with respect to improved system limit order handling in much the same way as DOT enhancements will for market orders. Insofar as ensuring prompt "turnaround" time for LMT orders, the Exchange proposes to provide system-generated reports for such orders at the limit price of the order if the system indicates that the price of the limit order has been penetrated and the specialist has not reported an execution within fifteen minutes after this occurs. As with DOT, this fifteen minute time period for system-generated reporting may be subject to change from time to time. In addition, if the system indicates *in error* that the price of a limit order was penetrated (due to a reporter's error in recording last sale information to the Tape), specialists and member organizations will not be obligated to accept executions resulting from such errors. The Exchange will have the capability of preventing the system from generating a report in such case if it is discovered prior to the fifteen minute period. If a report is generated, the Exchange may cancel the report and reinstate the order.

A further advantage to LMT subscribing member organizations is derived from introducing the use of universal contra party names to report and compare executions through the system. The use of universal contras has proven effective in reducing the frequency of uncompared trades in OARS[10] and in the DOT System. Universal contras facilitiate comparison of transactions by isolating one side from comparison problems caused by the other side to the trade.

As noted in the proposed procedures, other improvements to LMT will function in the same way as in the DOT System. Briefly, this pertains to system responses to ADMINs and cancellations, the availability of a "names later" feature for system-generated reports and the specialist's acceptance and guarantee of execution prices automatically reported by the system.

(2) *Statutory Basis for the Proposed Rule Change.* The rule changes proposed herein further the Congressional findings in Section 11A(a)(1) of the Act, as amended, in that they will help facilitate economically efficient executions of securities transactions through new data processing and communication techniques. They also will advance the prompt and accurate clearance and settlement of securities transactions which is consistent with Section 17A(a)(1) of the Act.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Exchange believes that these rule changes will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange's purpose in proposing these rule changes is to provide fast, accurate and cost-efficient executions and reports through its DOT and LMT Systems which compete for small order flow with order execution systems in other market centers. These rule changes thus promote competition between the Exchange and other market centers.

(C) Self-Regulatory Orglanization's Statement of Comments on the Proposed Rule Change Received From Members, Participants or Others. The Exchange has not solicited written comments on these rules changes. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Solicitation of Comments

In recent years, the markets have experienced sustained levels of high share and transaction volume which has resulted in increased pressures for more efficient methods of processing small orders. the competitive impact of these pressures has been reflected in the development of a number of automatic execution systems operated by the regional exchanges and the NYSE's DOT System and R4 pilot.[11] The proliferation, expansion and modification of these systems raise fundamental market structure concerns [12] and necessitate careful consideration of the appropriate characteristics that should be incorporated in any small order execution system. In this regard, the Commission requests that commentators, in addition to any general comments concerning the proposed rule change, address whether the DOT modifications raise any particular market structure concerns.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld form the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 20, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-17400 Filed 6-27-83; 8:45 am]

BILLING CODE 8010-01-M

[9] The use of the "names later" feature in the R4 experiment is explained in SR-NYSE-82-14.

[10] *See* SR-NYSE-80-25.

[11] The American Stock Exchange also operates a system similar to DOT, known as the Post Execution Report System or PER.

[12] For example, in March 1983, the NYSE filed a proposed rule change with the Commission that would extend R4 for one year, at the same time expanding the program in a number of respects. Because the operation of R4 in its present form and in the NYSE's proposed expanded pilot raised a number of important market structure issues, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change. *See* Securities Exchange Act Release No. 19858 (June 9, 1983).

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms under review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposals for the collection of information under the provisions of the paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395–7313.

Agency Clearance Officer: John O. Catron, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751–2523, FTS 858–2523.

Type of Request: New.

Title of Information Collection: Manpower Needs Assessment.

Frequency of Use: One-time collection.

Type of Affected Public: Businesses or other for-profit.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 340.

Estimated Total Annual Burden Hours: 85.

Estimated Annual Cost to Federal Government: $24,900.

Need For and Uses of Information: This proposed information collection in northwest Alabama is needed and will be used to determine the requirements for current and adjusted curricula which can more realistically reflect the occupational trends and needs of industries in the targeted survey area. The goal is toward job creation.

Dated: June 20, 1983

John W. Thompson,

Assistant General Manager, Senior Agency Official.

[FR Doc. 83-17290 Filed 6-27-83; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 23634]

Flight Time, Duty Time, and Rest Requirements for Flight Crewmembers Utilized by Air Carriers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of advisory committee for regulatory negotiation and notice of first meeting.

SUMMARY: The FAA hereby announces the establishment of an advisory committee to develop a report including a recommended rulemaking proposal concerning flight time, duty time, and rest requirements for flight crewmembers engaged in air transportation. The committee will develop its recommendation using a negotiation process. The committee will be comprised of persons who represent the interests affected by the flight time rules, such as persons representing flight crewmembers, air carriers, air taxis, and the public/consumers. This notice also announces the time and place of the first advisory committee meeting, which will be open to the public.

ADDRESS: The first meeting of the advisory committee will be held the Holiday Inn, 480 King Street, Alexandria, Virginia.

DATE: The first meeting of the advisory committee will begin at 9:30 a.m. on June 29, 1983.

FOR FURTHER INFORMATION CONTACT:

FAA Contact

Edward P. Faberman, Deputy Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20590, Telephone: (202) 426–3773

Convenor/Mediator

Nicholas A Fidandis, Director, Mediation Services, Federal Mediation and Conciliation Service, Washington, D.C. 20427, Telephone: (202) 653–5240.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 1983, the FAA published a notice of intent to establish an advisory committee for regulatory negotiation to develop a report including a recommended rulemaking proposal concerning flight time, duty time, and rest requirements for flight crewmembers engaged in air transportation (48 FR 21339; May 12, 1983). Comments and suggestions were invited in the notice concerning the membership of the committee, the issues that it should consider, the interests affected by the rulemaking, and the procedures that should be followed by the committee.

A number of comments were received in response to the notice and have been reviewed by the FAA. Most of the submissions supported the establishment of the advisory committee and/or were requests to serve on the committee. Based on the FAA's review of the submissions and for the reasons stated in the notice of intent, the FAA continues to believe that the establishment of an advisory committee for regulatory negotiation to improve the flight and duty time rules is necessary and is in the public interest. Such a committee has, therefore, been established. Copies of all the comments on the notice of intent that have been received by the FAA will be provided by the committee members to help them prepare for the negotiation process.

There were, however, several matters raised by the commenters that the agency believes should be addressed in this notice. Several commenters asked to be appointed as members of the committee. In selecting the members of the committee, as stated in the May 12 notice, it was important that each affected interest be represented and that the agency identify participants who could adequately represent these interests in the negotiations. To ensure that effective negotiation can be carried out, the number of members must necessarily be limited. Although there were many well-qualified applicants and several have been made members, not all could be appointed to the committee. The agency, however, appreciates the interest expressed by all the applicants. The agency further notes that the subject matter of this committee is flight crewmember flight and duty time requirements. The committee will not cover additional subjects.

All commenters are reminded that non-members will be given an opportunity to present information to the committee and that all interested individuals or organizations will be given full opportunity to comment on the notice of proposed rulemaking (NPRM) that the FAA plans to issue concerning the flight and duty time rules.

One commenter suggests that the procedures set forth in the notice go beyond the recommendations of the Administrative Conference of the United States (ACUS) and that they intrude upon the procedural safeguards of the Administrative Procedure Act (APA). This comment is inaccurate. The procedures are consistent with the

ACUS recommendations. In this connection, ACUS filed comments "wholeheartedly" supporting the FAA's proposal. As to the comment on the APA, we have been very careful to ensure that the procedures and resultant NPRM are fully consistent with the requirements of the Act.

Committee Membership

The following organizations are represented on the committee:

1. Federal Aviation Administration.
2. National Air Carrier Association.
3. National Air Transportation Association (NATA).
4. Air Line Pilots Association (ALPA).
5. Allied Pilots Association.
6. Flight Engineers International Association.
7. Alaska Air Carriers Association.
8. Aviation Consumer Action Project (ACAP).
9. Air Transport Association (ATA)
10. Regional Airline Association.
11. Helicopter Association International
12. Pan American World Airways.
13. People Express.
14. New York Air.
15. Southwest Airlines.
16. DHL Cargo.
17. International Brotherhood of Teamsters.

Communications to the committee members concerning advisory committee matters may be addressed to: [Name of Members], Regulatory Negotiation Advisory Committee, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

Committee Meetings

The first meeting of the advisory committee is scheduled for 9:30 a.m. on June 29, 1983, at the Holiday Inn, Alexandria, Virginia. The meeting will be open to the public; however, only parties may participate as members. Decisions with respect to future meetings will be announced at the first meeting. Notices of futures meetings will be published in the **Federal Register** if time permits; however, published notices may not be possible. For example, the first meeting may continue for several days, break for a few days and then resume.

Issued in Washington, D.C., on June 24, 1983.

Michael J. Fenello,

Deputy Administrator.

[FR Doc. 83-17570 Filed 6-27-83; 9:49 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 18-83]

Notes; Series J-1987; Interest Rate

The Secretary announced on June 21, 1983, that the interest rate on the notes designated Series J-1987, described in Department Circular—Public Debt Series—No. 18-83 dated June 15, 1983, will be 10½ percent. Interest on the notes will be payable at the rate of 10½ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-17271 Filed 6-27-83; 8:45 am]

BILLING CODE 4810-40-M

Internal Revenue Service

[Delegation Order No. 156 (Rev. 3); Chief Counsel No. 1031.3B (Rev. 1)]

Delegation of Authority; Disclosure of Tax Information

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This revised delegation order authorizes certain officials of the Internal Revenue Service to disclose tax information and to permit testimony or the production of documents. The text of the delegation order appears below.

EFFECTIVE DATE: June 23, 1983.

FOR FURTHER INFORMATION CONTACT: R. L. Rizzo, PM:S:DS, 1111 Constitution Ave., NW., Room 1603, Washington, D.C. 20224, telephone number 202-566-4263 (not a Toll-Free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Authority to Permit Disclosure of Tax Information and to Permit Testimony or the Production of Documents

[Order No. 156 (Rev. 3) Chief Counsel Order No. 1031.3B]

Effective date: June 23, 1983.

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37 and in the Chief Counsel by General Counsel Order No. 4 and by Treasury Department Order No. 190 (as revised), authority to act in matters officially before their respective functions is hereby delegated.

The authority to disclose returns and return information under IRC 6103(h)(1) and (h)(4) and return information under IRC 6103(k)(6) is not delegated herein as the language of these provisions themselves permits officers and employees of the Internal Revenue Service and the Office of the Chief Counsel to disclose such information. The authority to disclose returns and return information under IRC 6103(k)(4) is also not delegated herein as Delegation Order 114 (as revised) governs these disclosures.

(1) The Deputy Commissioner; Associate Commissioners; Assistant Commissioners; Deputy Assistant Commissioners; Division Directors (or equivalent level position); Assistant Director, Disclosure and Security Division; Deputy Chief Counsel; Associates Chief Counsel; Deputy Associates Chief Counsel; Chief Counsel Division Directors; Regional Commissioners; Regional Inspectors; Regional Counsels; Deputy Regional Counsels; District Counsels; District and Service Center Directors; Director, National Computer Center; and Director, Data Center are authorized.

(a) To disclose or, in specific instances, authorize the disclosure of returns or return information to such persons as the taxpayer may designate in a written request, subject to the conditions prescribed in IRC 6103(c) and the Treasury Regulations thereunder. The authority to withhold return information upon a determination that such disclosure would seriously impair Federal tax administration is also delegated. The authority delegated in this paragraph to disclose returns or return information may be redelegated to Internal Revenue Service employees and employees of the Office of Chief Counsel to the extent necessary within the exercise of their official duties. The authority delegated in this paragraph to withhold return information may be redelegated not lower than Chiefs, Special Procedures function; Group Managers (or their equivalent); Chiefs, Appeals Offices; Chiefs, Criminal Investigation Branch; and Disclosure Officers.

(b) To disclose or, in specific instances, authorize the disclosure of returns, upon the written request of an individual taxpayer, partner, corporate officer, shareholder, administrator, executor, trustee, or other person having a material interest subject to the conditions prescribed in IRC 6103(e). The authority to disclose or, in specific instances, authorize the disclosure of return information to such persons, upon a determination that disclosure would not seriously impair Federal tax administration, as prescribed in IRC

6103(e)(7), is also delegated. The authority to withhold return information upon a determination that disclosure would seriously impair Federal tax administration is also delegated. The authority delegated in this paragraph to disclose or authorize the disclosure of returns or return information may be redelegated to Internal Revenue Service employees and employees of the Office of Chief Counsel to the extent necessary within the exercise of their official duties. In the event a disclosure of return information would seriously impair Federal tax administration, the decision to withhold such return information will be referred to officials not lower than Chiefs, Special Procedures function; Group Managers (or their equivalent); Chiefs, Appeals Offices; Chiefs, Criminal Investigation Branch; and Disclosure Officers.

(c) To disclose or, in specific instances, authorize the disclosure of returns or return information to officers and employees of the Department of Justice including United States attorneys, in a matter involving tax administration, subject to the conditions prescribed in IRC 6103(h)(2), the Treasury Regulations thereunder, and (h)(3)(A). The authority delegated in this paragraph may be redelegated not lower than Chiefs, Special Procedures function; and Group Managers (or their equivalent including Disclosure Officers). The authority delegated in this paragraph to Chief Counsel employees may be redelegated not lower than Chiefs, Appeals Offices; and to attorneys of the Office of Chief Counsel directly involved in such matters. (See paragraph (17) below.)

(d) To disclose or, in specific instances, authorize the disclosure of returns or return information to officers and employees of the Department of Treasury, as specified in IRC 6103(1)(4)(B) or, upon written request, to employees and other persons specified in IRC 6103(1)(4)(A) for use in personnel or claimant representative matters, and to make relevancy and materiality determinations as provided in section 6103(1)(4)(A), subject to the conditions prescribed in IRC 6103(1)(4). The authority delegated in this paragraph may be redelegated only to Assistant Division Directors (or equivalent level position); Assistant Regional Commissioners; Regional Director of Appeals; Assistant Regional Inspectors; Regional Chief, Personnel Branch; Assistant District and Service Center Directors; Division Chiefs; Disclosure Officers; National Office Branch Chiefs, Internal Security Division; Staff Assistants to Regional Counsels; and to attorneys of the Office of Chief Counsel and Inspectors directly involved in such matters. (See paragraph 13(e).)

(e) To disclose or, in specific instances, authorize the disclosure of returns or return information to the extent necessary in connection with contractual procurement by the Service or Office of the Chief Counsel of equipment or other property or services, subject to the conditions prescribed in IRC 6103(n) and the Treasury Regulations thereunder. The authority delegated in this paragraph may be redelegated only to Assistant Division Directors (or equivalent level position); Assistant Regional Commissioners; Regional Director of Appeals; Assistant Regional Inspectors; Assistant District and Service Center Directors; Division Chiefs; Chief Counsel Assistant Division Directors; Associate Regional Counsel; and Disclosure Officers.

(f) To disclose, or in specific instances, authorize the disclosure of return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) or to disclose return information under circumstances involving a threat or other imminent danger of death or other physical injury, which is directed against the President or other government official, to the U.S. Secret Service, subject to the conditions prescribed in IRC 6103(i)(3). The authority delegated in this paragraph is also delegated to Assistant District and Service Center Directors. This does not limit the authority granted in paragraph 6(d) of this order.

(g) To determine whether a disclosure of standards used or to be used for selection of returns for examination, or date used or to be used for determining such standards will seriously impair assessment, collection or enforcement under the internal revenue laws pursuant to IRC 6103(b)(2). The authority delegated in this paragraph may be redelegated to Disclosure Officers.

(2) The Deputy Commissioner; Associate Commissioners; Assistant Commissioners; Deputy Assistant Commissioners; Division Directors (or equivalent level position); Assistant Director, Disclosure and Security Division; Regional Commissioners; Regional Inspectors; District and Service Center Directors; Director, National Computer Center; and Director, Data Center are authorized to determine whether a disclosure of returns or return information in a Federal or State judicial or administrative proceeding pertaining to tax administration would identify a confidential informant or seriously impair a civil or criminal tax investigation, subject to the conditions prescribed in IRC 6103(h)(4). The authority delegated in this paragraph may not be redelegated.

(3) The Deputy Commissioner; Associate Commissioner (Policy and Management); Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (Support and Services); regional Commissioners; Director, Disclosure and Security Division; Assistant Director, Disclosure and Security Division; and District and service Center Directors are authorized:

(a) To furnish an affirmative or negative response to a written inquiry from an attorney of the Department of Justice (including a United States Attorney) involved in a judicial proceeding pertaining to tax administration, or any person (or his/her legal representative) who is a party to such proceeding, as to whether a prospective juror has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service, subject to the conditions prescribed in IRC 6103(h)(5). The authority delegated in this paragraph may be redelegated only to Assistant District and Service Center Directors; Division Chiefs, and Disclosure Officers.

(b) To disclose or, in specific instances, authorize the disclosure of:

(i) Accepted offers-in-compromise to members of the general public, subject to the conditions prescribed in IRC 6103(k)(1).

(ii) The amount of an outstanding obligation secured by a lien, notice of which has been filed pursuant to section 6323(f), to any person who furnishes satisfactory written evidence establishing a right in or intent to obtain a right in property subject to such lien, subject to the conditions prescribed in IRC 6103(k)(2). The authority to disclose or, in specific instances, authorize the disclosure of the amount of such outstanding obligation is also delegated to the Associate Commissioner (Operations); Assistant Commissioner (Collection); and Deputy Assistant Commissioner (Collection).

(iii) Taxpayer identity information with respect to any income tax return preparer and information as to whether any penalty has been assessed against such preparer to officers and employees of any agency charged under State or local law with the regulation of such preparers, upon written request and subject to the conditions prescribed in IRC 6103(k)(5);

(iv) Returns or return information with respect to taxes imposd by IRC chapters 2, 21, and 24 to the Social Security

Administration, upon written request and subject to the conditions prescribed in IRC 6103(l)(1)(A);

(v) Returns or return information with respect to taxes imposed by IRC chapter 22 to the Railroad Retirement Board, upon written request and subject to the conditions prescribed in IRC 6103(1)(1)(C).

(vi) Returns or return information with respect to taxes imposed by IRC subtitle E (relating to taxes on alcohol, tobacco and firearms) to officers and employees of the Bureau of Alcohol, Tobacco and Firearms, upon written request and pursuant to IRC 6103(o)(1).

The authority delegated in subparagraphs (iv) and (v) is also delegated to the Associate Commissioner (Operations); the Associate Chief Counsel (Technical); and the Assistant Commissioner (Examination). The authority delegated in this paragraph may be redelegated only to Assistant District and Service Center Directors; Division Chiefs; and Disclosure Officers. In addition, the authority delegated in subparagraph (i) may also be redelegated only to Chiefs, Special Procedures function; Special Procedures function Advisor Reviewers; and Group Managers (or their equivalent). The authority delegated in subparagraph (ii) may also be redelegated only to Chiefs, Special Procedures function; Special Procedures function Advisor Reviewers; Group Managers (or their equivalent); and Revenue Officers. The authority delegated in subparagraph (iv) may be redelegated not lower than Branch Chief.

(4) The Deputy Commissioner; Regional Commissioner; District and Service Center Directors are authorized to disclose or, in specific instances, authorize the disclosure of returns or return information to designated State tax officials, upon written request by the head of a State tax agency, for the purpose of and to the extent necessary in the administration of State tax laws, pursuant to the provisions of IRC 6103(d) and subject to the conditions prescribed in IRC 6103 (h)(4) and (p)(8). The authority to withhold return information pursuant to IRC 6103 (d) and (h)(4) upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph does not extend to the entry into Federal/State Agreements on the Coordination of Tax Administration. The authority delegated in this paragraph may be redelegated to any supervisory level deemed appropriate, but such redelegation shall not extend to the authority to withhold return information.

(5) The Deputy Commissioner; Regional Commissioners; District and Service Center Directors; and Director, National Computer Center are authorized to disclose or, in specific instances, authorize the disclosure of returns or return information pursuant to Federal/State Agreements on the Coordination of Tax Administration entered into between the head of any State tax agency and the Commissioners of Internal Revenue, pursuant to the provisions of IRC 6103 (d) and subject to the conditions prescribed in IRC 6103(h)(4) and (p)(8). The authority to withhold return information pursuant to IRC 6103 (d) and (h)(4) upon a determination that such disclosure would identify a condfidential informant or seriously impair any civil of criminal tax investigation is also delegated. The authority delegated in this paragraph may be redelegated to any supervisory level deemed appropriate, but such redelegation shall not extend to the authority to withold return information.

(6) The Deputy Commissioner; Associate Commissioner (Policy and Management); Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (Support and Services); Director, Disclosure and Security Division; and Assistant Director, Disclosure and Security Division are authorized:

(a) To disclose or, in specific instances, authorize the disclosure of returns and return information to Congressional committees and other persons, upon written request and subject to the conditions prescribed in IRC 6103(f). The authority delegated in this paragraph is also delegated to the Assistant to the Commissioner (Legislative Liaison). The authority delegated in this paragraph may not be redelegated.

(b) To disclose or, in specific instances, authorize the disclosure of returns or return information to officers and employees of a Federal agency pursuant to an *ex parte* order by a Federal District Court judge or magistrate when needed for use in the enforcement of a Federal criminal statute (not involving tax administration), or to locate a fugitive from justice subject to the conditions prescribed in IRC 6103 (i)(1) or (i)(5) and the Treasury Regulations thereunder. The authority to withhold any return or return information, pursuant to IRC 6103(i)(6), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. This authority may not be redelegated.

(c) To disclose or, in specific instances, authorize the disclosure of return information (other than taxpayer return information) to officers and employees of a Federal agency upon written request by the head of such agency or the Inspector General thereof, or in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, when needed for use in the enforcement of a Federal criminal statute (not involving tax administration), subject to the conditions prescribed in IRC 6103(i)(2). The authority to withhold return information (other than taxpayer return information), pursuant to IRC 6103(i)(6), upon a determination that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation is also delegated. The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. This authority may not be redelegated.

(d) To disclose or, in specific instances, authorize the disclosure of:

(i) return information (other than taxpayer return information) which may constitute evidence of a violation of Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency pursuant to IRC 6103(i)(3)(A);

(ii) return information to the extent necessary to apprise appropriate officers of employees or a Federal or State law enforcement agency of circumstances involving an imminent danger of death or physical injury to any individual pursuant to IRC 6103(i)(3)(B)(i);

(iii) return information to the extent necessary to apprise appropriate officers or employees of a Federal law enforcement agency of circumstances involving the imminent flight of an

individual from Federal prosecution pursuant to IRC 6103(i)(3)(B)(ii);

With respect to subparagraph (i), the authority to withhold any return information pursuant to IRC 6103(i)(6) upon a determination that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation is also delegated.

The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. The authority delegated in this paragraph may be redelegated only to the Assistant Director, Disclosure and Security Division; and Branch Chiefs and Section Chiefs, Disclosure and Security Division, but such redelegation shall not extend to the authority to withhold return information (other than taxpayer return information). This authority is in addition to the authority previously delegated in paragraph (1)(f).

(e) To notify the Attorney General or his delegate or the head of a Federal agency that certain returns or return in formation obtained pursuant to IRC 6103(i) (1), (2) or (3)(A) shall not be admitted into evidence under IRC 6103(i)(4) (A)(i) or (B), upon a determination, in accordance with IRC 6103(i)(4)(C), that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation. The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. This authority may not be redelegated.

(f) To disclose or, in specific instances, authorize the disclosure of returns or return information to officers and employees of the General Accounting Office, upon written request by the Comptroller General of the United States and subject to the conditions prescribed in IRC 6103(i)(7). The authority to withhold any return or return information, pursuant to IRAC 6103(i)(6), upon a determination that such disclosure would impair any civil or criminal tax investigation or reveal the identity of a confidential informant is also delegated. The authority delegated in this paragraph may not be redelegated.

(g) To disclose or, in specific instances, authorize the disclosure of the mailing address of taxpayer to officers and employees of an agency when needed in connection with a Federal claim against such taxpayer, upon written request and subject to the conditions prescribed in IRC 6103(m)(2). The authority delegated in this paragraph is also delegated to Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors. Upon approval by the Director, Disclosure and Security Division or his/her delegate of a contractual agreement for such disclosures, the authority delegated in this paragraph is also delegated to the Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Assistant Commissioner (Returns and Information Processing); Deputy Assistant Commissioner (Returns and Information Processing); Director, Software Division; and Director, National Computer Center. The authority delegated in this paragraph may be redelegated only as set forth below. The authority delegated it this paragraph to the Director, Disclosure and Security Division and the Assistant Director, Disclosure and Security Division may be redelegated only to the Branch Chiefs and Section Chiefs, Disclosure and Security Division. The authority delegated to the Regional Commissioners; Director, National Computer Center; District and Service Center Directors; and Assistant District and Service Center Directors may be redelegated only to the Disclosure Officer, National Computer Center and Regional, District and Service Center Disclosure Officers. The authority delegated in this order does not include authority to enter into a contractual agreement, which is contained in Delegation Order No. 100, as revised.

(h) To disclose or, in specific instances, authorize the disclosure of the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health, upon written request and subject to the conditions prescribed in IRC 6103(m)(3). Upon approval by the Director, Disclosure and Security Division or his/her delegate of a contractual agreement for such disclosures, the authority delegated in this paragraph is also delegated to the Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Director, Software Division; Director, National Computer Center; and Service Center Directors. The authority delegated in this paragraph to the Director, Disclosure, and Security Division and the Assistant Director, Disclosure and Security Division, may be redelegated only to Branch Chiefs and Section Chiefs, Disclosure and Security Division. The authority delegated to the Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Director, Software Division; Director, National Computer Center; and Service Center Directors may not be redelegated. The authority delegated in this paragraph does not include authority to enter into a contractural agreement, which is contained in Delegated Order No. 100, as revised.

(i) To disclose, or in specific instances, authorize the disclosure of the mailing addrerss of any taxpayer who has defaulted on a loan made from the student loan fund established under part B or E of title IV of the Higher Education Act of 1965 or a loan made to a student at an institute of higher education pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962, to the Secretary of Education upon written request and subject to the conditions prescribed in IRC 6103(m)(4). Upon approval by the Director, Disclosure and Security Division or his/her delegate of a contractual agreement for such disclosures, the authority delegated in this paragraph is also delegated to the following officials: Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Director, Software Division; Director, National Computer Center; and Service Center Directors. The authority delegated in this paragraph to the Director, Disclosure and Security Division and the Assistant Director, Disclosure and Security Division, may be redelegated only to Branch Chiefs and Section Chiefs, Disclosure and Security Division. The authority delegated to the Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Director, Software Division; Director, National Computer Center; and Service Center Directors may not be redelegated. The authority delegated in this paragraph does not include authority to enter into a contractual agreement, which is contained in Delegation Order No. 100, as revised.

(7) The Deputy Commisisoner; Associate Commissioner (Data Processing); and Assistant Commissioner (Returns and Information Processing) are authorized:

(a) To disclose or, in specific instances, authorize the disclosure of returns or return information for statistical use to officers and employees of the Department of Commerce, Bureau of Census, upon the written request of the Secretary of Commerce or to officers and employees of the Department of the Treasury, subject to the conditions prescribed in IRC 6103(j)(1)(A) and the Treasury Regulations thereunder and

(j)(3). The authority delegated in this paragraph may be redelegated only to the Director, Statistics of Income Division.

(b) To disclose or, in specific instances, authorize the disclosure of return information for statistical use to officers and employees of the Department of Commerce, Bureau of Economic Analysis, upon the written request of the Secretary of Commerce, or to officers and employees of the Federal Trade Commission, upon written request of the Chairman, subject to the conditions prescribed in IRC 6103 (j)(1)(B) and (j)(2) and the Treasury Regulations thereunder. The authority delegated in this paragraph may be redelegated only to the Director, Statistics of Income Division.

(8) The Deputy Commissioner; Assistant to the Commissioner (Public Affairs); Director and Assistant Director, Public Affairs Division; Regional Commissioners; and District Directors are authorized to disclose or, in specific instances, authorize the disclosure of taxpayers' names and the city, state and zip code of their mailing addresses to the press and other media for purposes of notifying persons entitled to undelivered tax refunds, subject to the conditions prescribed in IRC 6103(m)(1). The authority delegated in this paragraph may be redelegated to Assistant District Directors and Public Affairs Officers.

(9) The Deputy Commissioner; Associate Commissioner (Policy and Management); and Assistant Commissioner (Support and Services) are authorized:

(a) Upon written request of the President, to disclose, or in specific instances, authorize the disclosure of return information (other than return information that is adverse to the taxpayer) of an individual who is under consideration for appointment to a position in the executive or judicial branch of the Federal Government to the authorized representative of the Executive Office of the President or to the Federal Bureau of Investigation on behalf of the President, subject to the conditions prescribed in IRC 6103 (g)(2) and (g)(4). Authority is also delegated to disclose or, in specific instances, authorize the disclosure of return information with respect to the categories of individuals discussed above to the heads of Federal agencies upon written request, or the Federal Bureau of Investigation on behalf of and upon the written request of such agency heads, subject to the conditions described in IRC 6103 (g)(2) and (g)(4). Upon receipt of any request for return information under IRC 6103(g)(2), authority to notify the individuals with respect to whom the request has been made is also delegated. The authority delegated in this paragraph may be redelegated but not lower than:

(i) Deputy Assistant Commissioner (Support and Services), in the case of requests by or on behalf of the President where the return information to be disclosed is not adverse to the taxpayer;

(ii) Assistant Director, Disclosure and Security Division, in the case of requests by or on behalf of the heads of Federal agencies where the return information to be disclosed is adverse to the taxpayer;

(iii) Branch Chiefs, Disclosure and Security Division, in the case of requests by or on behalf of the heads of Federal agencies where the return information to be disclosed is not adverse to the taxpayer; and

(iv) Section Chiefs, Disclosure and Security division, concerning the notification of individuals with respect to whom a request has been made.

(b) To make the determination that an agency, body or commission or the General Accounting Office has failed to or does not meet the requirements of IRC 6103(p)(4). Subject to the administrative review applicable to State tax agencies described in IRC 6103(p)(7), authority to withhold returns and return information from any agency, body or commission or the General Accounting Office until a determination is made that the requirements of IRC 6103(p)(4) have been or will be met is also delegated. The authority delegated in this paragraph may not be redelegated.

(10) The Deputy Commissioner; Associate Commissioner (Operations); Assistant Commissioner (Employee Plans and Exempt Organizations); Deputy Assistant Commissioner (Employee Plans and Exempt Organizations); Director, Disclosure and Security Division; Assistant Director, Disclosure and Security Division; Regional Commissioners; District Directors of Key Districts for Employee Plans and Exempt Organization matters; Service Center Directors; Director, National Computer Center; and Director, Data Center are authorized to disclose, or in specific instances, authorize the disclosure of:

(a) Statements, notifications, reports, or other return information described in IRC 6057(d) to officers and employees of the Social Security Administration for the administration of section 1131 of the Social Security Act, upon written request and subject to the conditions prescribed in IRC 6103(l)(1)(B). The authority delegated in this paragraph to the Assistant Commissioner and Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) may be redelegated, but not lower than Branch Chief, Employee Plans Division. The authority delegated in this paragraph to the Director and Assistant Director, Disclosure and Security Division may not be redelegated. The authority delegated in this paragraph to Regional Commissioners may be redelegated not lower than Assistant Regional Commissioner. The authority delegated in this paragraph to the District Directors of Key Districts may be redelegated, but not below Chiefs, Technical Staffs, Employee Plans and Exempt Organizations Division. The authority delegated in this paragraph to Service Center Directors may be redelegated, but not lower than Section Chiefs (or their equivalent). The authority delegated in this paragraph to the Director, National Computer center and Director, Data Center may be redelegated, but not lower than Branch Chiefs (or their equivalent).

(b) Returns or return information, including compensation information, to officers and employees of the Department of Labor and Pension Benefit Guaranty Corporation for the administration of Titles I and IV of the Employee Retirement Income Security Act of 1974, upon written request and subject to the conditions prescribed in IRC 6103(l)(2) and the Treasury Regulations thereunder. The returns or return information which may be disclosed under this paragraph include:

(i) Upon specific written request, the information specified in 26 CFR 301.6103(1)(2)– 1(a), 2(a), 3(b)(1), and 3(b)(2);

(ii) Upon receipt by the Commissioner of Internal revenue of an annual written request, the information specified in 26 CFR 301.6103(1)(2)–3(a);

(iii) Upon receipt by the Commissioner of Internal Revenue of a general written request, information specified in 26 CFR 301.6103(1)(2)–3(d).

The authority delegated in this paragraph to the Assistant Commissioner and Deputy Assistant Commissioner (Employee Plans, and Exempt Organizations) may be redelegated, but not lower than Branch Chiefs of Employee Plans and Actuarial Division, except for Chief, Projects and Miscellaneous Section, Employee Plans Technical Branch. The authority delegated in this paragraph to the Director and Assistant Director, Disclosure and Security Division may not be redelegated. The authority delegated in this paragraph to Regional Commissioners may be redelegated not lower than Assistant Regional Commissioner. The authority delegated

in this paragraph to District Directors of the Key Districts may be redelegated, but not lower than Chiefs, Technical Staff, Employee Plans and Exempt Organizations Division; Group Managers, Employee Plans and Exempt Organizations Division; and Employee Plans Specialist. The authority delegated in this paragraph to Service Center Directors may be redelegated, but not lower than Section Chiefs (or their equivalent). The authority delegated in this paragraph to Service Center Directors may be redelegated, but not lower than Section Chiefs (or their equivalent). The authority delegated in this paragraph to the Director, National Computer Center and Director, Data Center may be redelegated, but not lower than Branch Chiefs (or their equivalent). The authority delegated in this paragraph is also delegated to the Director, Appeals Division; Regional Director of Appeals; Chief, Appeals Office; and Associate Chief, Appeals Office and may not be redelegated.

(11) The Deputy Commissioner; Associate Commissioner (Operations); Assistant Commissioner (Employee Plans and Exempt Organizations); and Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) are authorized to disclosure or, in specific instances, authorize the disclosure of drafts of proposed exemptions or of proposed denials of exemption requests, denial letters, and copies of information submitted by taxpayers requesting exemptions to the proper officers of the Department of Labor for consultation and coordination as required by IRC. The authority delegated in this paragraph may be redelegated not lower than Chief, Projects and Miscellaneous Section, Employee Plans Technical Branch.

(12) Disclosure of information to appropriate Federal, State or local law enforcement officials may be made by Internal Revenue Service employees, and employees of the Office of Chief Counsel, concerning non-tax crimes which do not involve return information or the income or other financial information of an individual or entity, in accordance with the provisions of Chapter (35)00 of the Disclosure of Official Information Handbook, IRM 1272. In situations where there is a question as to whether the information to be disclosed is or is not return information, such as those described in IRM 1272, the Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (Support and Services); Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors are authorized to approve or deny such requests for disclosure. The Assistant Commissioner (Support and Services) and the Deputy Assistant Commissioner (Support and Services) should act in all such matters only after coordination with the Disclosure Litigation Division, Office of Chief Counsel. Regional Commissioners; District and Service Center Directors; and Assistant District and Service Center Directors should act in all such matters only after coordination with the Office of Regional or District Counsel, as appropriate. The authority delegated in this paragraph may not be redelegated.

(13) The authority vested in the Commissioner of Internal Revenue by 26 CFR 301.9000–1 is delegated by this Order to the Deputy Commissioner. It is also delegated to the following officials to the extent described below. (No authorization is needed in cases referred to the Department of Justice which are discussed in paragraph (1)(c) where the testimony or disclosure is made on behalf of the government.)

(a) Regional Commissioners are authorized to determine whether officers and employees of the Internal Revenue Service assigned to their regions, including employees of the Office of the Regional Counsel, but not including employees of the Regional Inspector, will be permitted to testify or produce Service records because of a request or demand for the disclosure of such records or information. The Regional Commissioners should act in all such matters only after coordination with the Office of Regional Counsel. However, the personal testimony of a Regioanl Commissioner shall require authorization in accordance with (b) below. The authority delegated in this paragraph may not be redelegated. (See (d) and (e) below.) The authority delegated in this paragraph shall not extend to the disclosure of Internal Revenue Service records and information in response to a subpoena or request or other order of the Tax Court. (See General Counsel Order No. 4, 44 Federal Register 58017 (1979), which provides the authority for disclosure of Internal Revenue Service records and information in tax court proceedings.)

(b) The Assistant Commissioner (Support and Services) and the Deputy Assistant Commissioner (Support and Services) are authorized to determine whether officers and employees of the Internal Revenue Service assigned to the National Office, including employees of the Office of Chief Counsel, and employees assigned to Regional Inspectors will be permitted to testify or produce Service records because of a request or demand for the disclosure of such records or information. The Assistant Commissioner (Support and Services) or the Deputy Assistant Commissioner (Support and Services) should act in all such matters only after coordination with the Disclosure Litigation Division, Office of Chief Counsel. The authority delegated in this paragraph may not be redelegated. (See (d) and (e) below.) The authority delegated in this paragraph shall not extend to the disclosure of Internal Revenue Service records and information in response to a subpoena or request or other order of the Tax Court. (See General Counsel Order No. 4, 44 Federal Register 58017 (1979).)

(c) The District Directors and Service Center Directors are authorized to determine whether officers and employees of the Internal Revenue Service assigned to their district or service center (including regional appellate employees located in the district) will be permitted to testify or produce Service records because of a request or demand for disclosure of such records or information. For purposes of this paragraph, employees of the Office of the District Counsel come under the authority of the District Director. Employees of the Regional Inspector are covered under paragraph (b), above. The District and Service Center Directors should act in all such matters only after coordination with the Office of the District Counsel. However, the personal testimony of a District Director or Service Center Director shall require authorization in accordance with (a) above. The authority in this paragraph may not be redelegated. (See (d) and (e) below.) The authority delegated in this paragraph shall not extend to the disclosure of Internal Revenue Service records and information in response to a subpoena or request or other order of the Tax Court. (See General Counsel Order No. 4, 44 Federal Register 58017 (1979.)

(d) The authority delegated in paragraphs (a), (b) and (c) shall not extent to testimony or the production of Service records because of a request or demand for the disclosure of such records or information:

(i) By a Congressional Committee;

(ii) Involving a disclosure to the President or certain other persons pursuant to IRC 6103(g);

(iii) Involving a disclosure to the Comptroller General pursuant to IRC 6103(i)(7); or

(iv) Involving a disclosure to correct a misstatement of fact pursuant to IRC 6103(k)(3).

(e) The Director, General Legal Services Division and Assistant Regional Counsel (GLS), with the concurrence of the Director, General Legal Services Division are authorized to determine whether officers and employees of the Internal Revenue Service, including employees of the Office of Chief Counsel, will be permitted to testify or produce internal revenue records or information because of a request or demand for the disclosure of such records or information, if the request or demand is made in connection with personnel or claimant representative matters under the jurisdiction of the General Legal Services Division for which they have been delegated authority to disclose returns or return information as described in paragraph 1(d). The authority delegated above in this paragraph to the Director, General Legal Services Division may be redelegated only to the Assistant Director, General Legal Services Division and to Branch Chief and attorneys of the Office of Chief Counsel directly involved in such matters. This paragraph does not limit the authority granted in (a), (b), or (c) above.

(f) The authority delegated to Regional Commissioners and District and Service Center Directors in paragraphs (a) and (c) shall not extend to testimony or the production of Service records because of a request or demand for the disclosure of such records or information which may require a disclosure to a competent authority under a tax convention, whether or not such records or information were previously disclosed pursuant to such convention. The Associate Commissioner (Policy and Management), Assistant Commissioner (Policy and Management), Assistant Commissioner (Support and Services) and the Deputy Assistant Commissioner (Support and Services) should act in all such matters only after authorization by the appropriate United States competent authority. (See Delegation Order 114, as revised).

(g) In addition to paragraphs (a), (b), (c) and (e) above, authority is further delegated to Regional Commissioners; Assistant Regional Commissioners (Resources Management); Regional Inspectors; Regional and District Counsel; District and Service Center Directors; and Director, Data Center, to release or, in specific instances, authorize the release of information from the leave and payroll records of employees under their jurisdiction, and to the Fiscal Management Officer to release or, in specific instances, authorize the release of information from the leave and payroll records of all employees of the National Office, when such information is requested or subpoenaed in connection with private litigation, upon determination that release of the information would not be detrimental to the Internal Revenue Service. This delegation does not include authority to release or authorize the release of information contained in official personnel folders, which is covered by IRM 0293. When any uncertainty exists as to the advisability of furnishing leave and pay information in a particular case, the matter should be referred to the National Office, Attention PM:PFR:F, with a complete report of the circumstances. The authority delegated in this paragraph may not be redelegated.

The provisions of this paragraph (13(a)–(g)) are limited to the authorization of testimony or the production of documents pursuant to a request or demand as referred to in paragraphs (d)(1) (i) and (ii) of 26 CFR 301.9000–1 and does not extend to or affect other disclosure authority previously delegated in paragraphs (6) and (9) of this order. Furthermore, in instances where it is anticipated that the testimony or production of Service records by a Chief Counsel attorney will involve matters which may fall within the attorney-client privilege, the determination of whether to waive the privilege, as well as the authority to authorize the testimony or production shall lie with the Assistant Commissioner (Support and Services) and Deputy Assistant Commissioner (Support and Services) who will act in these matters only after coordination with the Disclosure Litigation Division. In instances involving Regional or District Counsel attorneys and the attorney-client privilege, authority shall lie with the Regional Commissioner who will act in these matters only after coordination with the Regional Counsel.

(14) The Deputy Commissioner; Associate Commissioner (Data Processing); Assistant Commissioner (Computer Services); Deputy Assistant Commissioner (Computer Services); Regional Commissioners; Director, Software Division; Director, National Computer Center; and Service Center Directors are authorized to disclose or, in specific instances, authorize the disclosure of individual master file information to the head of a Federal, State or local child support enforcement agency or an authorized supervisory official under a contractual agreement entered into pursuant to Delegation Order 100, as revised, Revenue Procedure 78–10, and subject to the conditions prescribed in IRC 6103(1)(6)(A)(i). Such contractual agreement should be entered into only after coordination with the Director or Assistant Director, Disclosure and Security Division. The authority delegated in this paragraph may be redelegated to any supervisory level deemed appropriate.

(15) The Deputy Commissioner; Associate Commissioner (Policy and Management); Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (Support and Services); Regional Commissioners; and Service Center Directors are authorized to disclose or, in specific instances, authorize the disclosure of return information to the head of a Federal, State or local child support enforcement agency or an authorized supervisory official under a contractual agreement entered into pursuant to Delegation Order 100, as revised, Revenue Procedure 78–10, and subject to the conditions prescribed in IRC 6103(1)(6)(A)(ii). Such contractual agreement should be entered into only after coordination with the Director, Disclosure and Security Division. The authority delegated in this paragraph may be redelegated to any supervisory level deemed appropriate.

(16) The Deputy Commissioner; Associate Commissioner (Policy and Management); Assistant Commissioner (Support and Services); Deputy Assistant Commissioner (support and Services); Regional Commissioners; Service Center Directors; Director, National Computer Center; and Director, Data Center are authorized to disclose or, in specific instances, authorize the disclosure of information returns filed pursuant to part III of subchapter A of IRC chapter 61 to designated personnel of the Social Security Administration for the purpose of carrying out an effective return processing program in accordance with section 232 of the Social Security Act and pursuant to IRC 6103(l)(5). The authority delegated in this paragraph may not be redelegated.

(17) The Deputy Commissioner, Deputy Chief Counsel and Associate Chief Counsel (Litigation) are authorized to disclose or, in specific instances, authorize the disclosure of returns and return information to the designated officers and employees of the Department of Justice pursuant to a written request from the Attorney General, the Deputy Attorney General, or an Assistant Attorney General in a matter involving tax administration,

subject to the conditions prescribed in IRC 6103(h)(3)(B). The authority delegated in this paragraph may not be redelegated.

(18) The Deputy Commissioner; Associate Commissioner (Data Processing); Assistant Commissioner (Computer Services); Assistant Commissioner (Returns and Information Processing); Director, Disclosure and Security Division; Assistant Director, Disclosure and Security Division; Service Center Directors and Director, National Computer Center are authorized upon written request to disclose, or in specific instances, authorize the disclosure of return information pursuant to IRC 6103(h)(6) with respect to the address and status of an individual as a nonresident alien, citizen or resident of the United States to the Social Security Administration or the Railroad Retirement Board for purposes of carrying out responsibilities for withholding tax from social security benefits under IRC 1441.

(19) To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.

(20) Delegation Order No. 156 (Rev. 2) and Chief Counsel Order 1031.3A, effective March 21, 1982 and Delegation Order 156 (Rev. 2), Amend. 1, effective March 21, 1982, are superseded.

Joel Gerber,

Acting Chief Counsel.

James I. Owens

Acting Commissioner.

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BILLING CODE 4830-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Application Nos. D-3396 and D-3410]

Proposed Exemption for Certain Transactions Involving the Beneficial Corporation and Beneficial National Bank; Wilmington, Delaware

AGENCIES: Internal Revenue Service, Treasury; and Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: The Department of the Treasury, Internal Revenue Service (the Service), and the Department of Labor (the Department) are considering granting an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) and section 4975(c)(2) of the Internal Revenue Code of 1954 (the Code) and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code shall not apply to the investment of the assets of certain Keogh plans and individual retirement accounts (IRAs) which are maintained by employees and directors of the Beneficial Corporation (the Employer) in a thrift club (the Thrift Club) sponsored by the Employer and whose assets constitute loans to the Employer. The proposed exemption, if granted, would affect the Thrift Club, the Employer, the participants of the Thrift Club, the Keogh Plans, the IRAs, and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Service and the Department on or before August 29, 1983.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: OP:E:EP:T; and to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application Nos. D-3396 and D-3410. The application for exemption and the comments received will be available for public inspection in the Freedom of Information Reading Room, Room 1569, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 and in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart Copeland of the Internal Revenue Service, telephone (202) 566-6761, or Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-8881. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Service and the Department of an application for exemption from the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in Rev. Proc. 75-26 and ERISA Procedure 75-1.

The Act granted discretionary authority to the Secretaries of Labor and Treasury to issue administrative exemptions from the prohibited transactions provisions contained in Title I and Title II of the Act. In explaining these procedures, the Conference Report (H.R. Report No. 93-1280, 93rd Cong., 2d Sess. (1974) at p. 311) provides that the Secretary of Labor may refuse to grant an exemption if the transaction would constitute an abuse of the labor laws. Similarly, the Secretary of the Treasury may refuse to grant an exemption if the transaction would involve a tax abuse. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor subject to certain narrow exceptions. Because the scope of the proposed exemption is limited to transactions involving IRAs and Keogh plans, the particular concern of the Service and the Department is to assure that the transactions do not conflict with the basic purpose for which such plans are established and afforded special tax benefits, that is, to provide retirement savings for participants and their beneficiaries. Accordingly, the Service and the Department have decided to jointly propose an exemption more fully described below from the prohibited transactions restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and section 4975(c)(1) of the Code.

Summary of Facts and Representations

1. The Employer is a Delaware corporation engaged, through its subsidiaries, principally in the consumer loan, sales finance and related credit insurance businesses.

2. An exemption is requested for the following IRAs and Keogh plans:

(a) IRAs established by employees of the Employer pursuant to sections 219 and 408 of the Code. The Employer is unable to determine how many employees have established or will establish IRAs.[1] The IRSs are

[1] The applicant represents that the subject IRAs are "plans" subject to Title I of the Act.

maintained at Beneficial National Bank (Beneficial National), a wholly owned subsidiary of the Employer.

(b) Defined contribution Keogh plans maintained for the sole benefit of certain directors of the Employer, some of whom are employees of the Employer, and some of whom are not. None of the subject Keogh plans have any common law employees as participants.[2] The Thrift Club rules and regulations permit investment of Keogh plan assets only if the individual for whose benefit the plan was established is the sole participant in the Keogh plan. The individual director instructs the trustee or custodian of the Keogh plan as to the manner in which all his or her Plan assets are to be invested.

(c) Rollover IRAs maintained by former and current employees of the Employer. Certain rollover IRAs currently invested in the Thrift Club are maintained on behalf of former employees who received lump sum distributions from the Employer's retirement plan. There are approximately 200 Keogh plans and rollover IRAs that are currently invested in the Thrift Club, but only 5 to 10 of these are maintained for current employees of the Employer. The balance are rollover IRAs maintained by former employees of the Employer.

3. Beneficial National is the trustee or custodian of each Keogh plan or IRA that is the subject of this proposed exemption.

4. The Thrift Club is an express trust which was created in 1926 by the Employer.[3] The principal purpose of the Thrift Club is to encourage employee thrift through systematic savings. Currently, the Thrift Club is open to all salaried employees of the Employer and its finance division subsidiaries who have been employed for three months. The applicant represents that out of a total of almost 9,000 employees, all but approximately 100 employees are salaried. Contributions are made to the Thrift Club by employees out of pocket, in after-tax dollars. As of June 30, 1982, 8,178 employees were eligible to participate in the Thrift Club. Of those eligible, 4,240 employees actually participated, with account balances inthe aggregate equal to $93,491,639. Of the 4,240 employees participating, 2,950 employees did so by means of payroll deduction. The others made deposits to the Thrift Club directly.

5. The Thrift Club is governed by an Indenture of Trust (the Indenture) between the Employer and Bankers Trust Company, 16 Wall Street, New York, New York (the Trustee). The Trustee is unrelated to the Employer. The Indenture provides that employees of the Employer (and its participating subsidiaries) who are members of the Thrift Club, maintain accounts with the Thrift Club, and the amounts credited to such accounts are to be used by the Employer for its own corporate purposes and will constitute direct obligations of the Employer. The Indenture sets out the requirements for the trustees of the Thrift Club, requires that certain records and accounts be maintained, requires that membership lists be maintained, and requires that certain information be furnished to the Thrift Club members on a regular basis, and describes all events of default. The Indenture provides that upon the occurrence of various events of default or insolvency of the Employer, payment of all Thrift Club accounts may be accelerated.

6. The Trustee's primary responsibility is to receive, maintain and report certain information with respect to the Thrift Club. The Employer reports to the Trustee with respect to the amount of assets held in the Thrift Club and notifies the Trustee if there has been an event of default. The Employer must provide the Trustee with current lists of the names and addresses of persons participating in the Thrift Club. The Employer provides notice to the Trustee when it sets aside money to repay Thrift Club accounts. The Employer's books are open for inspection by the Trustee at all times and it may require the Employer to furnish it with further assurances or instruments that it deems necessary to carry out its fiduciary responsibilities under the Thrift Club. The Trustee makes annual (or in certain cases, more frequent) reports, or causes the Employer to make annual reports with respect to the status of the Thrift Club to each participant in the Thrift Club. In addition, the annual report is filed with the Securities and Exchange Commission (the SEC). In an event of default, the Trustee (or Thrift Club participants who in the aggregate are entitled to 25 percent or more of the assets held under the Thrift Club) may declare all Thrift Club accounts immediately due and payable. The Employer would then be required to pay the amount due to the Trustee, and if it did not, the Trustee could sue or take such other action as may be necessary to obtain payment. Events of default include the Employer's failure to pay any Thrift Club account when due, the breach by the Employer of any covenant or agreement set forth in the Indenture, and various events which would tend to indicate that the Employer is financially insecure.

7. The Thrift Club is administered by individual trustees all of whom are employees of the Employer. At present, there are five individual trustees, each of whom is identified in the Prospectus of the Thrift Club. The individual trustees are appointed to the Thrift Club by the Board of Directors of the Employer and serve for one year terms. The Employer is insured by a fidelity bond for any loss resulting from a dishonest or fraudulent act of any of the individual trustees. The individual trustees may appoint agents and committees for administering the Thrift Club as they deem advisable. The individual trustees maintain all records for the Thrift Club.

8. As a legal matter, the individual trustees are responsible for recordkeeping for the Thrift Club. As a practical matter, two or three employees of the Employer perform the recordkeeping duties. These employees are not selected by the individual trustees, but their services are made available to the individual trustees by the Employer.

9. The Thrift Club is subject to various requirements imposed by the SEC. Pursuant to the Securities Act of 1933, as amended, a Registration Statement relating to open account indebtedness to participants in the Thrift Club under the Indenture is on file with the SEC and each employee is issued a Prospectus annually. The Prospectus describes the principal features of the Thrift Club and the Indenture refers the employees to additional information, contains a statement that the legality of the securities offered in the Prospectus has been approved by the Employer's legal counsel and incorporates by reference the reports of independent certified accountants. Each employee also is given a copy of the Employer's Annual and Interim Reports. Each employee is given a separate copy of the written Rules and Regulations of the Thrift Club when he or she first becomes eligible to participate therein and at any time that the Rules and Regulations are amended.

10. Employees have two options for transferring amounts to the Thrift Club. The first option is to send a check, made payable to the Employer at its offices in Wilmington, Delaware. The employee receives evidence of the transfer in the form of a deposit slip as well as on the quarterly statement issued to him or her. The second option is to deposit amounts by payroll withholding. This involves a

[2] Such Keogh plans are not subject to Title I of the Act pursuant to 29 CFR 2510.3-3(c). However, they are subject to Title II of the Act pursuant to section 4975 of the Code.

[3] The applicant represents that the Thrift Club is not an "employee benefit plan" within the meaning of section 3(3) of the Act.

computer tape transfer whereby the amount deposited is shown as deduction from the employee's pay on the payroll computer tape and as an addition to the Thrift Club on the Thrift Club computer tape. A transfer on behalf of a participant in the Keogh plans or IRAs would be effectuated by Beneficial National sending a check, made payable to the Employer, for deposit to the Thrift Club.

11. All funds remitted to the Employer are credited to the accounts opened by or for the benefit of members of the Thrift Club and constitute direct loans to the Employer by such members. The funds are immediately available to the Employer for use in its business and that of its subsidiaries and are not otherwise invested by the Trustee for the account of such members. Account balances are general obligations of the Employer. Transaction statements are issued for each remittance (other than payroll deductions) or repayment. A summary statement verifying the amount in each member's account, including payroll deductions and interest credits, is mailed quarterly to each member. The individual trustees and the Employer reserve the right to make changes from time to time in the rate of interest paid on the funds credited to members of the Thrift Club, to limit at any time the amounts that may be placed in the members' accounts, to amend the Thrift club in any manner, and to take any other action that may be deemed advisable with respect to the operation of the Thrift Club, including complete termination of the financial arrangements existing between the Employer and the member. Changes in the interest rate payable by the Thrift Club are communicated to Thrift Club participants by: (1) A statement in the Employer's publication which is distributed to all employees, and (2) inclusion in each participant's quarterly statement received from the Thrift Club. Interest on Thrift Club accounts is payable at one-half percent above the prime rate of Beneficial National. In the event of any change in the interest formula from one-half percent above prime, each Thrift club participant would be notified of the change in a separate letter.

12. If three or more persons participating in the Thrift Club desire to communicate with other paticipants with respect to their rights under the Thrift Club, they may request that the Trustee furnish them with a list of all of the current participants. The Trustee may either furnish such list or, alternatively, may notify the participants who have made the request of the approximate number of participants and the cost of mailing a communication to such participants and then proceed to mail the communication on behalf of the requesting participants. The Trustee may decline to furnish the list or mail the communication if, in its opinion, such communication would not be in the best interests of the participants in the Thrift Club or would violate a provision of the law but, if so, it must describe the basis for such opinion in a written notice mailed to the requesting participants and the SEC.

13.On April 1st of each year, the Employer must deliver to the Trustee an Officer's Certificate (1) stating as of the last calendar quarter of the year next preceding such April 1st, the aggregate amount than credited to all Thrift Club accounts and the number of Thrift Club accounts then maintained by the Employer, and (2) stating whether or not any knowledge of a default has been obtained and if so, specifying any event of default. Within 45 days after the end of each of the first three calendar quarters, the Employer must deliver to the Trustee a statement signed by the Employer as to the aggregate amount credited to all Thrift Club accounts at the end of the calendar quarter next preceding the delivery of such statement.

14. A member who wants to withdraw his or her account balance or a portion thereof from the Thrift Club may do so at any time. Funds credited to the account of a member are repaid by the Employer at its office in Wilmington, Delaware, upon presentation of a properly signed request, subject to the following notice provision:

5 days on sums up to $250
15 days on sums up to $1,000
30 days on sums up to $5,000
50 days on sums in excess of $5,000

With the exception of any taxes which must be withheld pursuant to laws of the United States or any state or other political subdivision, no deductins are made upon the repayment by the Employer of all or any part of the funds credited to the account of a member. The Employer also reserves the right to limit total repayments in any one month to $100,000 to a single individual. The notice provisions and limitations may be waived by the individual trustees and the Employer. In the past it has never been found necessary to invoke these provisions, except under circumstances where the Employer had reason to believe the member was indebted to it or a subsidiary. Amounts owed to the Employer or its subsidiaries will not be deducted from amounts required to be repaid from the Thrift Club to Keogh plans or an IRA. A member who withdraws all or part of the funds credited to his or her account remains eligible to participate in accordance with terms of the Thrift Club.

15. As of December 31, 1982, a total of $94,796,004 was owed to the Thrift Club by the Employer. The amount of money owed to the Thrift Club by the Employer is considered as part of the Employer's short-term debt and represents approximately 8 percent of the Employer's total short-term debt. The Employer's short-term indebtedness has consistently received high ratings from credit rating services. At presnt, such indebtednessis rated A–1 (highest grade) by Standard & Poors, F–1 (highest grade) by Fitch, and P–2 (second highest grade) by Moody's. The Employer will advise employees who have Keogh plans and IRAs invested in the Thrift club if a rating ever falls below its current rating. There has never been a default or failure to pay a member of the Thrift Club by the Employer, nor has there ever been a lawsuit involving the Thrift Club.

16. The applicant represents that the Thrift Club is an extremely attractive savings vehicle for employees because the interest credited on the funds contributed thereto is higher than that normally obtainable by such employees in the market-place. Separate accounts are maintained for each employee who participates in the Thrift Club, and, as previously stated, interest thereon is payable at the rate of one-half percent above the prime rate in effect from time to time at Beneficial National. As of March 31, 1983, the Thrift Club paid interest at the rate of 11 percent. Such interest is compounded daily and credited to the empolyees' accounts quarterly as of the last day of March, June, September and December. An employee or director of the Employer may invest all or a portion of his or her IRA or Keogh plan assets in the Thrift Club. There is no minimum dollar amount that must be invested in the Thrift Club in order for an individual or plan to participate and no minimum percentage of a plan's assets that must be invested in the Thrift Club in order for a plan to participate.

17. The applicant requests retroactive and prospective relief. Retroactive relief is requested for the period commencing January 1, 1979, since as of that date the Rules and Regulations of the Thrift Club were amended to permit investment by Keogh plans and IRAs. As indicated above, Keogh plans and rollover IRAs already participate in the Thrift Club. Prospective relief has been requested to permit the continued participation of the aforementioned Keogh plans and IRAs

and to permit new IRAs and Keogh plans to commence participation.

18. In summary, the applicant represents that the proposed transactions meet the statutory criteria or setion 408(a) of the Act because:

(a) the employer's short-term indebtedness has consistently received high ratings;

(b) all employees are given an opportunity to participate in the Thrift Club after three months of employment, therefore, the Thrift Club is familiar to them and they are able to form independent judgments as to the advantages and disadvantages of having their IRAs participate therein because of their daily employment with the Employer;

(c) the directors of the Employer are familiar with the operations of the Employer and are able to form independent judgments as to the advantages or disadvantages of having their Keogh plans participate in the Thrift Club;

(d) the Thrift Club is governed by the Indenture with Bankers Trust Company as Trustee;

(e) employees who are dissatisfied with the Thrift Club can direct Beneficial National to withdraw their assets at any time; and

(f) since the inception of the Thrift Club in 1926, there have been no defaults or failures on the part of the Employer to pay a member of the Thrift Club.

Notice to Interested Persons

Notice of the pendency of the exemption will be given to all active employees of the Employer. Notice will be given by posting on bulletin boards throughout the Employer's offices. Notice will include a copy of this notice as published in the **Federal Register** and a statement informing interested persons of their right to comment and request a public hearing. Notice to interested persons will be given within 30 days of publication of the proposed exemption in the **Federal Register.** Notice will also be given by first class mail to former employees maintaining IRAs which are invested in the Thrift Club.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply; nor does the exemption affect the requirement of section 408(a) of the Code that an IRA must operate for the exclusive benefit of the individual for whose benefit the IRA is maintained and his or her beneficiaries or the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, it must be determined that the exemption is administratively feasible, in the interests of the individual for whose benefit the IRA or Keogh plan is maintained and protective of the rights of that individual and his or her beneficiaries; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearings Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Service and the Department and considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26 and ERISA Procedure 75–1.

I. If the exemption is granted, effective January 1, 1979, the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the investment of the assets of IRAs in the Thrift Club as described above, so long as the terms of the transactions are no less favorable to the IRAs than those obtainable in an arm's length transaction with an unrelated third party.

II. If the exemption is granted, effective January 1, 1979, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the investment of the assets of Keogh plans as described above, so long as the terms of the transactions are no less favorable to the Keogh plans than those obtainable in an arm's length transaction with an unrelated third party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of June, 1983.

Billy M. Hargett,

Director, Employee Plans Division, Internal Revenue Service, Department of the Treasury.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-17342 Filed 6-27-83; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1983 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA [47 FR 57600, December 27, 1982], I hereby determine that the objects in the exhibit, "Giovanni Battista Piazetta: A Tercentary Exhibition" (included in the list [1] filed as a part of

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

this determination) imported from abroad for the temporary exhibition without profit within the united States are of cultural significance. These objects are imported pursuant to a loan agreement between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, beginning on or about November 20, 1983, to on or about February 26, 1984, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: June 22, 1983.

Jonathan W. Sloat,

General Counsel and Congressional Liaison, United States Information Agency.

[FR Doc. 83-18353 Filed 6-27-83; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA [47 FR 57600, December 27, 1982], I hereby determine that the objects in the exhibit, "The Art of Aztec Mexico: Treasures of Tenochtitian" Exhibition (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the National Gallery of Art and foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, beginning on or about September 25, 1983, to on or about January 8, 1984, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: June 22, 1983.

Jonathan W. Sloat

General Counsel and Congressional Liaison, United States Information Agency.

[FR Doc. 83-17354 Filed 6-27-83; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 48, No. 125
Tuesday, June 28, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

Contents

	Items
Civil Aeronautics Board	1, 2
Consumer Product Safety Commission	3, 4
Federal Communications Commission	5–7
National Council on the Handicapped	8
Postal Rate Commission	9

1

CIVIL AERONAUTICS BOARD

[M–383 Amdt. 1]

Deletion From the June 23, 1983 Meeting

TIME AND DATE: 9:30 a.m., June 23, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

12. Dockets 40340 and 41225, Notices of Continental Airlines, Inc. and Arrow Airways, Inc. to terminate service at Pago Pago, American Samoa. (BDA, OCCCA)

STATUS: Open.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretarty (202) 673–5068.

[S–924–83 Filed 6–23–83; 4:06 pm]

BILLING CODE 6320–01–M

2

CIVIL AERONAUTICS BOARD

[M–383 Andt. 2]

Addition to the June 23, 1983 Meeting

TIME AND DATE: 9:30 a.m., June 23, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

15a. Docket 40813, *Regent Air Corp. Fitness Investigation.* Opinion and Order on Review. (OGC)

STATUS: Open.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor , the Secretary (202) 673–5068.

[S–925–83 Filed 6–23–83; 4:06 pm]

BILLING CODE 6320–01–M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE 2 p.m., Tuesday, June 28, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street N.W., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Operating plan FY '84

The Commission will consider issues related to the Operating Plan for Fiscal Year 1984. This is a continuation of the meeting of Wednesday, June 22, 1983. (In scheduling this meeting, the Commission voted that agency business required holding this meeting without the usual advance notice.)

For a recorded message containing the latest agenda information: call 301–492–5709.

PERSON TO CONTACT FOR MORE INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301–492–6800.

[S–932–83 Filed 6–24–83; 2:36 pm]

BILLING CODE 6355–01–M

4

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Tuesday, July 5, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Kerosene Heaters

The staff will brief the Commission on its assessment of the fire, contact burn and emission charateristics of kerosene heaters. The staff has identified several specific areas in which it believes improvement to these appliances can be made and recommends additions or changes to the current voluntary standards, selected redesign considerations, and an enhanced information and education effort. Following the formal Commission meeting, members of the Commission will meet with representatives of the National Kerosene Heater Association and Kero-Sun.

For a recorded message containing the latest agenda information: call 301–492–5709.

PERSON TO CONTACT FOR MORE INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard AVE., Bethesda, Md. 20207; 301–492–6800.

[S–931–83 Filed 6–24–83; 2:36 pm]

BILLING CODE 6355–01–M

5

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Wednesday, June 29, 1983

June 22, 1983.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, June 29, 1983, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Private Radio—1—*Title:* Amendment of the Amateur Radio Service Rules to eliminate the mail-back procedure in administering the Novice Class amateur radio operator examination. *Summary:* The Commission will consider whether or not to adopt final rules to allow examiners to administer and grade Novice Class amateur radio operator examinations.

Private Radio—2—*Title:* Amendment of the Amateur Radio Service Rules to state more clearly the prohibition against the transmission of business communications. *Summary:* The Commission will consider whether or not to adopt final rules to state more clearly the prohibition against the transmission of business communications in the amateur radio service.

Private Radio—3—*Title:* Amendment of Parts 2, 81, and 83 of the Commission's rules to change the use of marine VHF Channel 88 in the Puget Sound area, and to make several other minor rule changes. *Summary:* The FCC will consider whether to limit the use of marine VHF Channel 88 in the Puget Sound area in order to eliminate interference presently being caused to Canadian public correspondence stations. It will also consider two minor rule changes involving eligibility requirements for Limited Coast and Marine Utility stations, and A3A emission specifications.

Private Radio—4—*Title: MEMORANDUM OPINION AND ORDER* in the matter of applications of Advanced Radio Communications Services of Florida and Professional Medical Communications Corp. for 800 MHz trunked SMR radio systems in Miami, Florida. *Summary:* The Commission will consider an *Application for Review* filed by Advanced Radio Communications Services of Florida which requests that the grant for a ten channel trunked SMR system to Professional Medical Communications Corp. be

rescinded, and any subsequent grant be made on the basis of the five channel limitation imposed in the *Second Report and Order* in PR Docket 79-191.

Private Radio—5—*Title:* Amendment of Parts 2 and 90 of the Commission's rules to provide high frequency spectrum for use by eligibles in the Special Industrial, Petroleum, Telephone Maintenance and Power Radio Services. *Summary:* The Commission has before it for consideration adoption of a Report and Order to implement rules permitting these Industrial Radio Services eligibles to use high frequency (2-25 MHz) radio spectrum in emergency and/or disaster situations where safety of life and property are concerned or to support operations which are highly important to the national interest and where other means of telecommunications are unavailable.

Private Radio—6—*Title: Order* in the Matter of the amendment of Part 90 of the Commission's Rules concerning the identification requirement for stations operating below 3400 KHz in the Radiolocation Service. *Summary:* The FCC will consider the issues raised in a petition from Offshore Navigation, Inc. concerning station identification requirements in the Radiolocation Service.

Private Radio—7—*Title:* In the Matter of Amendment of Part 90 of the Commission's Rules and Regulations to provide for the sharing by the Forest Products Radio Service of certain 25-50 MHz band Private Land Mobile frequencies assigned to the Petroleum and Power Radio Services. *Summary:* The FCC has before it for consideration disposition of its proceeding in PR Docket No. 81-65 to amend Part 90 to permit the Forest Products Radio Service access to certain Power and Petroleum Radio Service frequencies in the 25-50 MHz band.

Private Radio—8—*Title:* Maritime search and rescue operations by governmental entities. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rules Making which proposes to amend its rules to enable governmental entities, with a maritime search and rescue mission to utilize maritime mobile frequencies in such a manner that their unique search and rescue communications requirements can be met. This item responds to a petition for rulemaking filed on behalf of the Commonwealth of Virginia.

Private Radio—9—*Title:* Amendment of Part 83 of the rules concerning spare parts, tools, test equipment, instruction books and circuit diagrams for compulsory ships. *Summary:* The Commission will consider whether to amend Part 83 of the rules to simplify requirements concerning spare parts, tools, test equipment, instruction books, and circuit diagrams required to be maintained by large oceangoing ships which must be equipped with radio.

Common Carrier—1—*Title:* Proposed elimination of Part 51 and Part 52 of the Commission's Rules and Regulations and the proposed amendment of Annual Report Forms R and O. *Summary:* The Commission will consider adoption of a Notice of Proposed Rulemaking to eliminate the recordkeeping and reporting requirements on the classification and compensation of telephone and telegraph company employees. In addition, this proposal recommends the elimination of Schedule 408A of Annual Report Form R and Schedule 408B of Annual Report Form O.

Common Carrier—2—*Title:* In the Matter of Communications Satellite Corporation Request for declaratory ruling on its billing of overseas telex calls from ship customers of INMARSAT services; TRT Telecommunications Corporation Proposed Revisions to Tariff F.C.C. No. 64; and FTC Communications, Inc. Proposed Revisions to Tariff F.C.C. No. 16. *Summary:* The Commission will consider an application for review by TRT Telecommunications Corporation of the Bureau's declaratory ruling prohibiting international record carriers from imposing their domestic component charges upon shipboard customers of Communications Satellite Corporation's INMARSAT service.

Common Carrier—3—*Title:* In the Matter of West Texas Microwave Company Tariff F.C.C. No. 2 Transmittal No. 73. *Summary:* The Commission will consider a joint application for review by several cable systems of a Bureau order denying petitions to reject or suspend and investigate tariff revisions filed by West Texas Microwave Company.

Video—1—*Title:* "Petition for Declaratory Ruling" (CSR-2209) filed September 13, 1982, by Octagon Broadcasting Company, licensee of Television Broadcast Station WMBB (ABC, Channel 13), Panama City, Florida. *Summary:* Octagon Broadcasting Company, licensee of Television Broadcast Station WMBB (ABC, Channel 13), Panama City, Florida, seeks to be declared significantly viewed in seven counties in Alabama, Florida, and Georgia.

Audio—1—*Title:* Competing applications of Seven Locks Broadcasting Company for renewal of its license for Station WCTN, Potomac-Cabin John, Maryland, and of Celebrity Broadcasters, Inc. for a construction permit on WCTN's frequency; and Celebrity's petition to deny Seven Locks' application. *Summary:* The Commission considers designating these applications for comparative hearing.

Audio—2—*Title:* Application for the involuntary assignment of license of station KPRO(AM), Murray, Utah, from Murray Broadcasting Company, Inc. to Kirk Merkley, Receiver; (2) a contingent application to assign the license from the Receiver to Tri-Alpha Broadcasting Corporation; (3) license renewal application filed by Murray Broadcasting Company, Inc.; and (4) objections to the applications. *Summary:* The Commission will consider the significance of the appointment of a receiver of broadcast assets by a state court where the court's decision is based on the enforcement of a reversionary interest in the station's license.

Policy—1—*Title:* In the Matter of Deregulation of Radio. *Subject:* Further Notice of Proposed Rule Making with regard to the issue of program log keeping requirements for commercial radio broadcasters.

Policy—2—*Title:* Amendment of Note 5 to Section 73.37 of the Commission's Rules. *Summary:* Amendment of Note 5 to Section 73.37 which now restricts certain AM applicants, to the same daytime power as they propose to use at night.

Policy—3—*Title:* In the Matter of Elimination of Unnecessary Broadcast Regulation. *Subject:* The Commission will consider whether to eliminate its policies concerning the misuse of audience ratings data and the use of inaccurate or exaggerated coverage maps by broadcast licensees.

Policy—4—*Title:* Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations. *Summary:* The Commission will consider the adoption of a Notice of Proposed Rule Making seeking comments on amending the rules with respect to programming and commercialization policies, ascertainment requirements, and program logs for commercial television stations.

Enforcement—1—*Title:* Application for Review of a Bureau ruling denying a Fairness Doctrine complaint, filed by The Conservative Caucus. *Summary:* The Bureau found that the Complaint had not sufficiently identified a controversial issue of public importance and had failed to address CBS overall programming prior to the subject series. The Commission will consider whether this finding is correct.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: June 22, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-926-83 Filed 6-24-83; 11:15 am]

BILLING CODE 6712-01-M

6

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From June 23rd Closed Meeting

June 22, 1983.

The following item has been deleted from the list of agenda items scheduled for consideration at the June 23, 1983, Closed Meeting and previously listed in the Commission's Notice of June 16, 1983.

Agenda, Item No., and Subject

Hearing—1—Application for Review of a Hearing Designation Order in the Athens, Tennessee, comparative DPLMRS proceeding (Docket Nos. 83-8 and 83-9).

Issued: June 22, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-927-83 Filed 6-24-83; 11:16 am]

BILLING CODE 6712-01-M

7

FEDERAL COMMUNICATIONS COMMISSION

Closed Commission Meeting, Wednesday, June 29, 1983

June 22, 1983.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Wednesday, June 29, 1983, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Hearing—1— Petitions for Review and Rehearing filed by Beehive Telephone Co., Inc., and a request for approval of an agreement between Beehive Telephone Co., Inc. and the Common Carrier Bureau in the Western Utah, Common Carrier proceeding (Docket No. 78-240).

Hearing—2—Application for Review of a Hearing Designation Order in the Carson City, Nevada, comparative FM proceeding (MM Docket No. 82-851-58).

Hearing—3—Application for Review of a Hearing Designation Order in the St. Joseph, Missouri, TV proceeding (Docket No. 82-763).

Hearing—4—Motion to Consolidate and Petition for Reconsideration of the Designation Order in the Little Rock, Arkansas DPLMRS proceeding (CC Docket Nos. 82-12 through 82-17).

Hearing—5—Petition for Reconsideration in the St. Marys, Georgia FM radio comparative proceeding (BC Docket Nos. 80-381 and 80-383).

Hearing—6—Application for Review in the Owensboro, Kentucky aeronautical advisory station proceeding (FR Docket Nos. 82-545 to 82-547).

Hearing—7—Application for Review in the Fargo, North Dakota FM radio comparative proceeding (BC Docket Nos. 80-772 and 80-773).

Hearing—8—Petition for Special Relief, Application for Review of a final Review Board Decision, and Motions to Reopen the Record in the Newark, New Jersey proceeding for Interim Authority to Operate the facilities of Station WHBI(FM) (Docket Nos. 82-529 through 82-535).

These items are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission June 21, 1983: Commissoners Fowler, Chairman; Quello, Fogarty, Dawson, Rivera and Sharp voting to consider these items in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202)254-7674.

Issued: June 22, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-928-83 Filed 6-24-83; 11:15 am]

BILLING CODE 6712-01-M

8

NATIONAL COUNCIL ON THE HANDICAPPED

TIME AND DATE: 9 a.m.–5 p.m., Wednesday, July 13, 1983.

PLACE: Room 3000, U.S. Department of Education, 400 Maryland Ave., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

Agenda for August meeting of full Council
Committee Progress Reports
Staff Update

Note.—Any person requiring special services, please contact NCH staff no later than July 6, 1983.

PERSON TO CONTACT FOR MORE INFORMATION: Hilda Gay Legg, National Council on the Handicapped, 245-3498.

[S-929-83 Filed 6-24-83; 11:34 am]

BILLING CODE 4001-01-M

9

POSTAL RATE COMMISSION

Meeting

TIME AND DATE: 2 p.m., Tuesday, June 28, 1983.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

USPS Motion of Waiver of Certain Commission Rules in E-Com filing (Docket No. R83-1).

(Closed pursuant to 5 U.S.C. 552b(c)(10).)

CONTACT PERSON FOR MORE INFORMATION: Cyril J. Pittack, Acting Secretary, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268; telephone (202) 254-5614.

[FR Doc. S-930-83Filed 6-24-83; 12:59 pm]

BILLING CODE 7715-01-M

federal register

Tuesday
June 28, 1983

Part II

Department of Health and Human Services

Food and Drug Administration

Ophthalmic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 349

[Docket No. 80N-0145]

Ophthalmic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice or proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) ophthalmic drug products (drug products applied to or instilled in the eye) are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Ophthalmic Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by August 29, 1983. New data by June 28, 1984. Comments on the new data by August 28, 1983. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Comments on the agency's economic impact determination by October 27, 1983.

ADDRESS: Written comments, objections, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. New data and comments on new data should also be addressed to the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 6, 1980 (45 FR 30002) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC ophthalmic drug products, togeather with the recommendations of the Advisory Review Panel on OTC Ophthalmic Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by August 4, 1980. Reply comments in response to comments filed in the initial comment period could be submitted by September 3, 1980.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. In response to the advance notice of proposed rulemaking, one drug manufacturers' association, five drug manufacturers, and many individual consumers submitted comments. Copies of the comments received are also on public display in the Dockets Management Branch.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on May 6, 1980 (45 FR 30002), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) to establish Part 349 (21 CFR Part 349), FDA states for the first time its position on the establishment of a monograph for OTC ophthalmic drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC ophthalmic drug products.

This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC ophthalmic drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

The OTC procedural regulations (21 CFR 330.10) have been revised to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). (See the **Federal Register** of September 29, 1981; 46 FR 47730.) The Court in *Cutler* held that the OTC drug review regulations were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision has been deleted from the regulations, which now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Category I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register.** On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC ophthalmic drug products (published in the **Federal Register** of May 6, 1980 (45 FR 30002)),

the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and have their products in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of April 26, 1973 (38 FR 10306) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

The Agency's Tentative Conclusions on the Comments

A. General Comments on Ophthalmic Drug Products

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the **Federal Register** of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tenative final monograph for antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F. 2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F. 2d 887 (2d Cir. 1981).

2. One comment suggested that eyewash products be regulated as ophthalmic devices and not as OTC drug products. The comment noted that § 349.3(g) of the Panel's recommended monograph states that eyewashes, eye lotions, and irrigating solutions contain no active ingredients and are intended for bathing or mechanically flushing the eye. The comment stated that this definition corresponds to the definition of the term "device" contained in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)). The comment stated that, as defined in the act, the primary difference between devices and "drugs" is that devices do not achieve any of their principal intended purposes through chemical or metabolic action.

The act defines a device, in part, as an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, or accessory, which is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, and which does not achieve any of its principal intended purposes through chemical action within or on the body and which is not dependent upon being metabolized to achieve any of its principal intended purposes (21 U.S.C. 321(h)). The act defines a drug, in part, as articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, but does not include devices or their components, parts, or accessories (21 U.S.C. 321(g)).

Although the act states that a "device" may not achieve any of its principal intended purposes through chemical action or by being metabolized, it does not state that a "drug" must function through chemical or metabolic action. In fact, many classes of drugs achieve their intended purposes without exerting a chemical action or by being metabolized. Examples, include some sunscreens, some dandruff preparations, and various laxative preparations such as mineral oil and psyllium. Some ophthalmic drug products achieve their intended purpose as a result of their physical composition rather than any chemical action, for example, demulcents and emollients. The Panel described a rational physical composition for an OTC eyewash preparation as consisting of water, sodium chloride and other tonicity agents to establish isotonicity with tears, agents for establishing pH and buffering to achieve the same pH as tears, and a suitable preservative agent (45 FR 30046). The Panel concluded that a solution of this general composition can be safely and effectively used as a drug product for flushing the eye to remove irritating substances or foreign material. An eyewash is intended for in vivo use—instillation in the eye. It is not an instrument, apparatus, implement, machine, contrivance, implant, or in vitro reagent, nor is it similar or related to those products that are listed in the "device" definition. The agency accepts the Panel's consideration of eyewashes, eye lotions, and irrigating solutions as ophthalmic drug products even though they contain no pharmacologically active ingredients and believes that they are properly regulated as drugs under the act. This position is consistent with recent action by the agency in reclassifying a hydroxpropyl cellulose ophthalmic insert from a medical device approved for marketing to an approved new drug. (See the **Federal Register** of October 15, 1982; 47 FR 46139.)

B. Comments on Specific Ophthalmic Active Ingredients

3. One comment questioned the exclusion of demulcents from eyewash products in § 349.22 of the Panel's monograph. The comment stated that

demulcents are described in the Panel's report as safe and effective additives without restriction and, therefore, should not be excluded from the list of ingredients approved for use in eyewash and tear-substitute products.

The agency notes that the Panel excluded the use of demulcents in eyewashes but not in tear-substitute products. The Panel described ophthalmic demulcents as ingredients for use "as tear substitutes and viscosity agents" to be applied topically to the eye to protect and lubricate mucous membrane surfaces and relieve dryness and irritation. The primary function of a demulcent is to act as an ophthalmic lubricant to coat the surface of tissues and protect the underlying cells from external stimuli. On the other hand, the primary function of an eyewash is to wash, bathe, irrigate, or mechanically flush foreign bodies, pollen, and noxious chemicals from the eye. An eyewash is used to dilute or remove irritants, not to lubricate or coat irritated surfaces.

The Panel determined that an eyewash should be neutral and comfortable to the eye, and should not contain active ingredients, such as vasoconstrictors, anti-infectives, astringents, etc. (45 FR 30046). An eyewash should have a physiological composition similar to tears, which are the first line of defense for the conjunctiva and cornea. Whenever foreign material is present, the output of tears greatly increases as a means of flushing out or diluting the irritant. Because the intended action of eyewash products is similar to that of tears, the Panel recommended that eyewash products be similar to tears, i.e., isotonic, neutral aqueous solutions which contain no active ingredients. The Panel felt there is no apparent practical benefit in combining an eyewash with an active ingredient such as a demulcent. If needed, a separated ophthalmic demulcent drug product might be effectively used following the use of an eyewash. The agency concurs with the Panel and is not including any active ingredient for use in eyewash products.

4. One comment opposed the removal of currently available mild anesthetics and anti-infectives from OTC eye medications. The comment claimed that this action will increase the cost of eye medication and inconvenience the patient because the availability of OTC ophthalmic medication to nonmedical eye practitioners (optometrists) would be further restricted. As an example of increased cost, the comment stated that without an ophthalmic anesthetic, rural optometrists would no longer be able to use Goldmann tonometry for measuring intra-ocular pressure and would have to purchase expensive equipment for air tonometry. The increased costs would then be passed on to the consumer.

The Panel concluded that ophthalmic anesthetics should only be used under the direction and supervision of a physician because these ingredients can mask the symptoms of serious eye disorders that require professional attention. Also, the misuse or abuse of ophthalmic anesthetics by consumers could lead to serious eye damage, e.g., corneal ulcerations with scarring and permanent visual loss. The Panel documented cases of severe corneal damage as a result of the use of ophthalmic anesthetics, as well as allergic reactions to these drugs (45 FR 30026). The Panel, however, did not intend to limit the use of these drugs by other professionals, such as optometrists. The Panel recognized that ophthalmic anesthetics are very important and necessary when used by ophthalmologists and optometrists for certain ophthalmic procedures. Such procedures as tonometry and gonioscopy require the proper use of an ophthalmic anesthetic by a well-trained professional. Dispensing authority regarding the availability of ophthalmic anesthetics to optometrists is a State-level issue and will not be addressed by the agency in this rulemaking. The agency accepts the Panel's recommendations and is not proposing to classify any ophthalmic anesthetic ingredient in Category I in this tentative final monograph.

In reviewing ophthalmic anti-infectives, the Panel recognized that there are many ophthalmic infections such as blepharitis, conjunctivitis, and hordeolum (stye) that may not require immediate attention by a doctor because these conditions are normally self-limiting and adverse effects are rare. The Panel determined that at the present time there are no anti-infective ingredients that can be generally recognized as safe and effective for OTC ophthalmic use. The Panel reviewed boric acid, mild silver protein, yellow mercuric oxide, and sulfacetamide sodium as anti-infective ingredients. Boric acid and mild silver protein were placed in Category III because there are insufficient data available to determine their effectiveness as ophthalmic anti-infective ingredients. Yellow mercuric oxide was placed in Category III because data are lacking to show that it is safe and effective. Sulfacetamide sodium, currently marketed as a prescription drug, was placed in Category II for OTC use because it produces a high incidence of sensitization and severe irritation to the eye. In the preamble to the Panel's report the agency stated that it is concerned that, because the symptoms of minor and serious infections are often similar, there may be potential for serious harm to the eye if professional treatment is delayed. The agency made an initial determination that the benefits to be derived from the use of these drugs OTC do not outweigh the risks and proposed to classify ophthalmic anti-infectives in Category II (45 FR 30002). The agency invited specific comment on this proposal and received only the comment described above, which provided no data to support the continued availability of currently available OTC ophthalmic anti-infective drug products The agency reaffirms its position and proposes to classify all ophthalmic anti-infectives in Category II in this tentative final monograph.

5. One comment objected to the Panel's listing of camphor as a "nonessential" ingredient and its decision to exclude it from eyewash drug products (45 FR 30021). The comment claimed that camphor in sufficiently dilute concentration (less than 0.05 percent weight/weight) is both safe and effective in achieving and maintaining product sterility. The comment further stated that camphor has been used in its eyewash/tear substitute products for many years and these products have shown excellent antibacterial properties, i.e., microbial growth is prevented even in the absence of heat sterilization during the manufacturing process. The comment claimed that an independent testing laboratory observed that products containing camphor have excellent antibacterial properties; however, no data were submitted to support this claim.

The Panel did not include camphor in its discussion of preservative agents. It recommended empirical preservative effectiveness tests, such as the official United States Pharmacopeia (U.S.P.) antimicrobial preservative effectiveness test, and stressed the importance of demonstrating that the preservative selected for a formulation will be effective until its expiration date (45 FR 30016). The comment did not submit any data on the antimicrobial testing performed on its products nor state if camphor or the drug products were tested using the protocol established by the U.S.P. or similar protocols.

The OTC drug review is an active, not an inactive, ingredient review. The OTC panels occasionally made recommendations with respect to

inactive ingredients; however, these recommendations were made for public awareness and were not intended to be included in the OTC drug monographs. Inactive ingredients, although not included in OTC drug monographs, must meet the requirements of § 330.1(e) (21 CFR 330.1(e)) that they be suitable ingredients that are safe and do not interfere with the effectiveness of the product or with tests to be performed on the product. Thus, camphor may be included as an inactive ingredient in OTC ophthalmic drug products provided that it meets the above critertia.

6. One comment submitted data on polyethylene glycol 6000 and requested that it be classified as a Category I ophthalmic demulcent. The data consisted of animal safety studies with polyethylene glycol 6000 as a single active ingredient in a saline vehicle and in an artificial tear formulation, and two human effectiveness studies with finished combination products containing polyethylene glycol 6000 as one of the active ingredients (Ref. 1).

The agency has reviewed the data and concludes that they do not justify placing polythylene glycol 6000 in Category I. The data from the animal safety studies adequately established the ocular safety of polyethylene glycol 6000. However, no data were submitted to demonstrate the effectiveness of polyethylene glycol 6000 when used alone as an ophthalmic demulcent. Only human effectiveness studies involving finished combination products which contained polyethylene glycol 6000 as one of the active ingredients were reported. These studies were not designed to show the effectiveness of polyethylene glycol 6000 as a single active ingredient or to demonstrate its contribution to the effectiveness of the finished combination products. Additional data are needed to demonstrate that polyethylene glycol 6000 alone is an effective OTC ophthalmic demulcent.

Based on the data reviewed, the agency is proposing to classify polyethylene glycol 6000 in Category III as an ophthalmic demulcent in this tentative final monograph. The agency's detailed comments and evaluation on the data are on file in the Dockets Management Branch (Ref. 2).

References

(1) Comment No. C00378, Docket No. 80N-0145, Dockets Management Branch.

(2) Letter from W. E. Gilbertson, FDA, to J. D. Mutch, Cooper Laboratories, Inc., coded LET002, Docket No. 80N-0145, Dockets Management Branch.

C. Comments on Labeling of Ophthalmic Drug Products

7. Two comments contended that FDA does not have the authority to legislate the exact wording of OTC labeling claims. The comments stated that limiting the indications to the exact terminology of the monograph is overly restrictive because the Panel itself had used alternate terminology throughout the report in discussing the indications for these products.

During the course of the OTC drug review, the agency has maintained that a monograph describing the conditions under which an OTC drug will be generally recognized as safe and effective and not misbranded must include both specific active ingredients and specific labeling. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review literally exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under § 330.10(a)(12). For example, the labeling proposed in this tentative final monograph has been expanded and revised in response to comments received.

During the course of the review, FDA's position on the "exclusivity rule" has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by the Proprietary Association to reconsider its position. To assist the agency in resolving this issue, FDA conducted an open public forum on September 29, 1982 at which interested parties presented their views. The forum was a legislative type administrative hearing under 21 CFR Part 15 that was held in response to a request for a hearing on the tentative final monograph for nighttime sleep aids (published in the **Federal Register** of June 13, 1978; 43 FR 25544). The agency's decision on this issue will be announced in the **Federal Register** following conclusion of its review of the material presented at the hearing.

8. One comment cited excerpts from the Panel's definitions for the various pharmacologic classes of ophthalmic active ingredients and stated that those statements were as truthful as the indications recommended by the Panel and should be allowed in the claims for these products. For example, the comment stated that the following claims based on the Panel's definitions are as truthful as the Panel's proposed labeling:

a. For anti-infectives—"destroys or limits the multiplication of microorganisms."

b. For astringents—"helps to clear mucus from the outer surface of the eye."

c. For demulcents—"protects and lubricates mucous membrane surfaces and relieves dryness and irritation."

d. For emollients—"protects or softens tissues, prevents dryness and cracking."

e. For eyewashes—"bathes or mechanically flushes the eye."

f. For hypertonicity agents—"draws water from the body tissues and fluids" or "draws water out of the cornea."

g. For vasoconstrictors—"causes transient constriction of conjunctival blood vessels."

The Panel's recommended indications address symptoms that consumers can recognize and advise consumers under what conditions they should use an ophthalmic drug product. The Panel's definitions, however, were not intended to address symptons or state when the product should be used. For example, the comment's "truthful claim" for a vasconstrictor, "causes transient constriction of conjunctival blood vessels," does not indicate to consumers under what conditions the product should be used, nor does it indicate the symptoms that need to be recognized and relieved. On the other hand, the Panel's recommended indication informs consumers that the product will "relieve redness of the eye due to minor eye irritations. " The Panel's definitions generally state the action of the ingredient and cannot be equated with indication statements that should inform consumers what symptoms the product relieves.

The agency believes that conversion of the comments's "truthful claims" into indication statements that are simple and clearly stated would in general result in indication that are very similar to those already recommended by the Panel. For example, the claim quoted by the comment for a demulcent, "protects and lubricates mucous membrane surfaces and relieves dryness and irritation," could easily be revised into one of the Panel's three recommended

indications which inform consumers that a demulcent product will "relieve dryness of the eye." The example offered by the comment for eyewash products, "bathes or mechanically flushes the eye," is similar to the following indication recommended by the Panel, "for flushing or irrigating the eye to remove loose foreign material, or chlorinated water."

It is the agency's intention that the labeling of OTC drug products be as simple, truthful, and informative as possible. Simply because words or phrases are found in the definition of a pharmacological class of an OTC drug product does not necessarily mean that those words or phrases are appropriate for inclusion under indications for use on the labeling for that product. The information needs to be in language that provides consumers adequate guidance for the effective and safe use of the product.

9. There comments contended that some of the descriptive terms used in the statements of identity recommended by the Panel are too specific and not easily understood by consumers. The comments stated that alternate terms that are more meaningful to the consumer should be permitted. The terms "decongestant eye drops" and "redness remover" were suggested as preferable to "ophthalmic vasoconstrictor." The term "eye lubricant" was recommended in place of the term "demulcent" in § 349.60(a) to communicate better to the consumer that the primary function of the product is the lubrication of the eye and relief of dryness. Other terms suggested were "soothing" for "demulcent," and "softening" or "relaxing" for emollient.

The agency agrees with the comments and believes that some of the statements of identify recommended by the Panel, although scientifically correct, may not be easily understood by the average consumer needing an OTC ophthalmic drug product. Therefore, the agency is proposing alternate descriptive terms that might be more meaningful to the consumer for the statements of identity required in the labeling of drug products containing ophthalmic vasoconstrictors, demulcents, and emollients. The agency believes that the term "eye lubricant" would convey to a consumer the purpose of the drug product more clearly than "demulcent" or "emollient", and "eye redness reliever" is more meaningful than "ophthalmic vasoconstrictor." The agency feels that "eye redness reliever" more accurately describes the action of an ophthalmic vasoconstrictor than "redness remover," the term suggested by the comment. In addition, "relief of redness" is currently used in labeling of ophthalmic drug products containing vasoconstrictors and, therefore, should be easily understood by the consumer. These optional terms are being proposed in the tentative final monograph. However, terms such as "soothing," "softening," and "relaxing" are not appropriate language for use in statements of identity for ophthalmic drug products because they are ambiguous and not very informative. Also, the term "decongestant eye drop" will not be included because the term "decongestant" is not readily understood by consumers with respect to the eye.

10. Two comments requested that the claim "tired eyes" be deleted from the category II labeling section of the Panel's report (45 FR 30023, 30024, and 30035). Both comments claimed that the term as used by consumers describes the ordinary appearance of minor irritation and redness in the eyes. One comment added that such use of this term has been shown by contact with consumers through market research and other communications. The other comment stated that, after the use of an ophthalmic vasoconstrictor, consumers believe that their eyes feel and look refreshed.

The agency believes that the comments' arguments supporting the use of the term "tired eyes" may have merit. However, neither comment submitted any data to demonstrate that consumers define "tired eyes" as minor irritation and redness in the eyes, conditions for which an OTC ophthalmic drug can be used. The Panel felt that the term "tired eyes" implies fatigue as a result of normal visual activities such as reading, watching television, or doing close work (45 FR 30023 and 30024) and stated that product claims "for improvement of tired eyes" are scientifically unfounded and misleading to the consumer (45 FR 30035). The agency will consider reclassification of the term "tired eyes" to Category I if adequate data are presented to show that consumers equate "tired eyes" with symptoms of minor irritation and redness in the eyes. The agency is reclassifying this term from Category II to Category III in this tentative final monograph.

11. One comment suggested expanding the indication for ophthalmic demulcents in § 349.60(b)(2), which reads "for the temporary relief of discomfort due to minor irritations of the eye or to exposure to wind or sun," to include other similar and common environmental factors that adversely affect the eye, e.g., "smog or poor air quality."

The recommended indication for ophthalmic demulcents in § 349.60(b) are based on their lubricating properties which provide relief from minor irritations and dryness of the eye. Smog and haze contain very fine, widely dispersed particles which can be very irritating to the eye, but do not have a drying effect on the eyes similar to that resulting from prolonged exposure to the wind or sun. Thus, a demulcent may not be the OTC ophthalmic product of choice when dealing with exposure to smog. An eyewash, which is intended for removing irritants such as foreign bodies, pollen, and noxious chemicals from the eye, would be more effective. In its general discussion of eye washes, the Panel describes exposure of the eye to adverse environmental conditions, such as smog, and the symptoms of irritation which can develop (45 FR 30046 and 30047). Foreign material in the eyes can result in a foreign body sensation, inflammation, swelling, tearing, uncontrolled blinking of the eyelids, or symptoms of irritation, discomfort, burning, stinging, smarting, and itching. When such symptoms occur, foreign material may be present in an undissolved form, such as dust or an eyelash; as suspended particulate material in tears, such as pollen or smog; or as noxious materials, such as airborne pollutant gases and chemicals, dissolved in tears. Provided the eye is not damaged by such debris, the relief of symptoms occurs with removal of the irritating substance. This removal can be more easily accomplished with an eyewash than with a demulcent, and the Panel's recommended indication for eyewashes in § 349.60(b) includes air pollutants as an example of substances eyewashes may be used to remove. Therefore, the agency is not proposing to include "smog or air quality" in the indications for ophthalmic demulcents. The agency invites further comment on this issue.

12. Two comments opposed the warning recommended by the Panel in § 349.75(c)(1)(iv) for ophthalmic vasoconstrictors. The warning states: "Overuse of this product may produce increased redness of the eye." Both comments stated that there is no evidence in the record to prove that overuse of an ophthalmic vasoconstrictor will produce increased redness of the eye, know as rebound hyperemia. One comment cited several controlled studies in which rebound vasodilation (rebound hyperemia) did not occur in subjects using an ophthalmic product containing

tetrahydrozoline hydrochloride (Refs. 1 through 4). The comment urged that the warning be applicable only to vasoconstrictors for which there is evidence that rebound hyperemia occurs and that it not be required for tetrahydrozoline hydorchloride.

The Panel strongly recommended against too-frequent or prolonged use of ophthalmic vasoconstrictors, pointing out that excessive use might produce hyperemia, among other adverse side effects (45 FR 30033). Rebound hyperemia in the eye results from a prolonged constriction of the conjunctival blood vessels followed by dilation of those blood vessels. The Panel stated that on encountering the symptoms of rebound hyperemia, a consumer could be led to believe that more of the product is needed, when actually discontinuing use of the vasoconstrictor is necessary to relieve the condition.

The Panel noted that rebound hyperemia has not been reported from the use of ophthalmic products containing naphazoline hydrochloride or tetrahydrozoline hydrochloride. however, rebound congestion from excesive use of nasal products containing naphazoline hydrochloride has been documented (Refs 5, 6, and 7). In addition, an agency review of adverse reaction reports submitted to FDA since 1969 for OTC ophthalmic drug products containing tetrahydrozoline hydrochloride shows 43 cases in which the products failed to clear the redness and soothe the eyes (listed as "lack of drug effect" by the agency) (Ref. 8). Some of these may well be cases of rebound hyperemia. In all, 157 cases of adverse reactions, including 46 cases of conjunctivitis and 17 cases of eye pain, were reported for ophthalmic drug products containing tetrahydrozoline hydrochloride. These adverse reactions were all reported after completion of the four controlled studies cited by the comment in which rebound hyperemia was not reported (Refs. 1 through 4).

The Panel proposed that the labeling of all ophthalmic vasoconstrictor drug products contain a warning against excessive use. The agency concurs with the Panel's recommendation and is proposing in the tentative final monograph the Panel's suggested warning "Overuse of this product may produce increased redness of the eye" for all ophthalmic drug products containing a vasoconstrictior.

References

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(2) Menger, H. C., "New Ophthalmic Decongestant, Tetrahydrozoline Hydrochloride: Clinical Use in 1,156 Patients with Conjunctival Irritation," *Journal of the American Medical Association*, 170:178–179, 1959.

(3) "Ophthalmic Use of Tetrahydrozoline Hydrochloride (Visine)," *Journal of the American Medical Association*, 173:677, 1960.

(4) Stokes, J. J., "Clinical Evaluation of Tetrahydrozoline Ophthalmic Solution," *Journal of the Medical Association of Georgia*, 47:540–541, 1958.

(5) Schiller, J. W., "Deleterious Effects of Privine Hydrochloride," Letter to the Editor, *New England Journal of Medicine*, 232:333, 1945.

(6) Thomas, J. W., and U. Fabiano, "Privine sensitivity: A Report of Eight Cases," *Southern Medical Journal*, 39:658–664, 1946.

(7) Feinberg, S.M., and S. Friedlaender, "Nasal Congestion from Frequent Use of Privine Hydrochloride," *Journal of the American Medical Association*, 128:1095–1096, 1945.

(8) Department of Health and Human Services, Food and Drug Administration, Adverse Reaction Summary Listings, pertinent pages for 1969–82, OTC Volume 100TFM.

13. One comment requested that the Panel's recommended warning against the use of mercury-containing OTC ophthalmic drug products by persons sensitive to mercury (45 FR 30024) include the name of the particular mercury-containing compound used in an OTC ophthalmic drug product, lieu of a reference to the element involved, mercury. The comment claimed that persons sensitve to chemicals are more likely to be aware of the name of a particular chemical substance, e.g., thimerosal, rather than the name of the element it contains, e.g., mercury.

At present there are no Category I ophthalmic active ingredients that contain mercury. However, the agency is aware that mercury compounds, such as thimerosal, are used as preservatives in OTC ophthalmic drug products. The Panel recognized that allergic reactions may result from mercurial preservatives being present in OTC ophthalmic drug products and recommended this mercury warning for each therapeutic class of ophthalmic drugs reviewed. The agency concurs with the Panel that this warning is appropriate. A similar situation is the agency's regulation concerning sensitivity to the color additive FD&C yellow No. 5. In § 201.20 (21 CFR 201.20), the agency requires that all OTC and prescription drug products containing this agent declare its presence in labeling, using the names FD&C yellow No. 5 and tartrazine.

The agency believes that the warning recommended by the Panel, "Do not use this product if you are sensitive to mercury," is clear and more likely to be understood by consumers than a warning listing only the name of a mercury-containing compound. The agency does not expect people with this sensitivity to know the name of every chemical formulation which contains mercury, some of which are not obvious, e.g., thimerosal. However, the agency has no objection to a manufacturer including the name of the mercury-containing compound in the warning statement. The agency also believes that it should be clear that mercury is present in the product as a preservative, not a an active ingredient. Therefore, in this tentative final monograph the agency is proposing the following warning: "This product contains (name of mercury-containing ingredient) as a preservative. Do not use this product if you are are sensitive to" (select one of the following): "mercury" or "(name of mercury-containing ingredient) or any other ingredient containing mercury."

14. One comment recommended elimination of the warning "Not for use in open wounds" for eyewash products in § 349.80(c) (1) (ii) of the recommended monograph. The comment stated that many eyewash products are excellent for flushing foreign substances from open wounds in or near the eyes and may be used effectively for this purpose.

In reviewing the Panel's report, the agency finds that the Panel actually recommended that the above warning read "Not for use in eyes with open wounds," (45 FR 30047) rather than "not for use in open wounds" as stated in the monograph. Open wounds in or near the eyes can be serious. The agency believes that such wounds should not be self-treated with an eyewash, but that a doctor should be consulted. Therefore, the agency is proposing to expand the warning in the tentative final monograph to read "Not for use in open wounds in or near the eyes. Consult a doctor."

15. One comment contended that the warning for eyewash products in § 349.80 (c) (1) (v) of the Panel's monograph "If solution changes color or becomes cloudy, do not use," is superflous and unnecessary. The comment stated that eyewash products are subject to the requirements for stability testing and expiration dating in 21 CFR 211.137 and 211.166 and are presumed to be safe and effective at least until the expiration date. Therefore, the comment considered addtitional warnings involving product deterioration to be unnecessary.

The agency disagrees that this warning is unnecessary. The Panel discussed the formulation of OTC ophthalmic drug products with regard to

the physiology and sensitivity of the eye and recommended that all ophthalmic solutions should be isotonic and buffered; clear and free from foreign particles, fibers, and filaments; and formulated with preservatives to prevent microbial contaminations (45 FR 30014). A solution that has changed color or has become cloudy, for whatever reason, has likely undergone a physical or chemical change and could be unsafe to use in an already irritated eye. The recommended warning would alert the consumer against using a defective product that could possible be harmful and is therefore being proposed is this tentative final monograph.

16. One comment recommended rewording the warning statement for eyewashes in § 349.80(c)(1)(iv) of the Panel's recommended monograph: "If you experience severe pain, headache, rapid change in vision (side or straight ahead), sudden appearance of floating spots, acute redness of the eyes, pain on exposure to light, or double vision, consult a physician at once." The comment stated that the warning bears little relevance to the use or misuse of eyewash products and offered as a substitute, "If changes to vision or unusual pain in or near the eyes occur, consult a physician."

The Panel discussed ophthalmic disorders and symptoms that may be treated with ophthalmic drug products. The Panel stated that there are very few disorders of the eye that are amenable to treatment with OTC ophthalmic preparations and that OTC ophthalmic ingredients generally relieve symptoms of eye disorders, but do not have any truly curative effect (45 FR 30008–30012). The Panel cautioned that one of the major problems with the OTC use of ophthalmic medications is that their use is generally based on trail and error. Use of an inappropriate drug can lead to exacerbation of symptoms or worsening of the disorder itself through improper treatment. To prevent mistreatment of a serious eye disorder requiring professional treatment, the Panel recommended that the labeling of all OTC ophthalmic products include the warning statement in § 349.80(c)(1)(iv).

The agency believes that the warning could be modified, without changing the Panel's intent, to make it more understandable to consumers. First, the warning should describe symptoms in terms that mention the eye. Symptoms such as severe pain and headache are very general, and consumers may experience them in various conditions not necessarily related to the use of ophthalmic drug products. Also, the term "sudden appearance of floating spots" is vague, and most consumers would not understand this part of the recommended warning. The term "eye pain," implying all types of eye pain, would be more helpful to consumers than the phrase recommended by the Panel, "pain on exposure to light." The agency has added the symptom of persistent eye irritation to the warning because the Panel stated that persistent irritation often occurs with conditions of the eye such as conjunctivitis, keratitis, and blepharitis that require professional attention. Determination of "acute redness of the eyes" requires a subjective judgement on the part of the consumer concerning the degree of redness. It would be confusing to consumers to include "acute redness of the eyes" as a warning for these or other ophthalmic drug products. It would be more appropriate for the consumer to determine whether redness persists and is unrelieved after treatment with an OTC ophthalmic drug product.

The agency is proposing to modify the Panel's recommended warning for eyewash products in § 349.80(c)(1)(iv) and combine it with the recommended warning for eyewash products in § 349.80(c)(1)(i). The resulting warning as proposed in the tentative final monograph reads as follows: "If you experience eye pain, changes in vision, continued redness or irritation of the eye, or if the condition worsens or persists, consult a doctor." Further, the agency is proposing that this warning statement be used for all OTC ophthalmic drug products. Therefore, for hypertonicity agents, the agency is proposing to modify and combine § 349.70(c)(1)(i) and § 349.70(c)(1(ii) to read as follows: "Do not use this product except under the advice and supervison of a doctor. If you experience eye pain, changes in vision, continued redness or irritation of the eye, or if the condition worsens or persists, consult a doctor." For all other OTC ophthalmic drug products the agency is proposing that the first and second sentences under "Warnings" should be combined to read as follows: "If you experience eye pain, changes in vision, continued redness or irritation of the eye, or if the condition worsens or persists for more than 72 hours, discontinue use and consult a doctor." (See comment 17 below.)

17. Three comments objected to the Panel's warning, "Do not use this product for more than 72 hours except under the advice and supervision of a physician * * *." Two of the comments were opposed because the warning creates a new, "across-the-board," maximum time limit which prohibits the use of OTC ophthalmic drug products except eyewashes and hypertonicity agents beyond that time limit except under the advice and supervision of a doctor. The comments acknowledged that a warning should tell the consumer to discontinue use of the product if relief has not been obtained after a reasonable period of time, contended that the recommended warning does not convey the Panel's intended meaning, and suggested the following warning: "If relief is not obtained within 72 hours or if symptoms persist or worsen, discontinue use of this product and consult a physician." The third comment stated that limiting the use of a product to 72 hours provides little assurance that a serious undiagnosed ophthalmic disorder will be treated promptly, and suggested that the warning "If symptoms worsen or persist, the medication should be discontinued and a physician should be consulted at once" would be adequate.

The comments cited examples in which the environment or work situation may cause chronic minor irritations from foreign materials and allergens that would require use of an OTC ophthalmic drug product for longer than 72 hours but would not require a visit to a doctor. Examples included minor eye irritations due to airborne dust, smoke, smog, or pollen on consecutive days, or swimming daily in a highly chlorinated pool.

At several places in its discussion of "Disorders of the Eye That May Be Treated With Ophthalmic Drug Products" (45 FR 30008, 30009, 30010, and 30012), the Panel stated that use of a product should be discontinued and professional advice sought if symptoms worsen or persist for more than 72 hours. In the section on "Labeling of OTC Ophthalmic Drug Products; Warnings" (45 FR 30024), the Panel stated that "The labeling of these preparations should warn the consumer of serious symptoms which indicate disorders requiring immediate professional attention and alert him or her to seek professional advice if less serious symptoms do not respond within a reasonable period of time or worsen in reaction to an OTC medication." These statements indicate that the Panel believed it is acceptable for the consumer to continue the use of an OTC ophthalmic drug product for more than 72 hours without professional consultation if symptoms are relieved and do not persist or worsen.

The agency concurs with the comments and believes that the Panel intended that an OTC ophthalmic drug product should be discontinued and professional advice sought if symptoms

worsen or persist for more than 72 hours. This intent can be addressed by expanding the warning discussed in comment 16 above to read: "If you experience eye pain, changes in vision, continued redness or irritation of the eye, or if the condition worsens or persists for more than 72 hours, discontinue use and consult a doctor." Therefore, the agency is proposing to include this warning in the tentative final monograph as a labeling requirement for all OTC ophthalmic drug products except hypertonicity agents and eyewashes.

18. One comment was concerned about the length of the Panel's recommended label statements, especially the indications and warnings for demulcents and vasoconstrictors in §§ 349.60 and 349.75. The comment stated that the recommended labeling is too long to best inform the consumer, would exceed available bottle space, or would require the reduction of print size to an illegible size typeface. The comment added that printing some of this information on a carton or a package insert would not help because usually these are not kept by consumers and, therefore, the information is not available when needed. The comment recommended that warnings and indication statements be assigned priorities, with only the most essential required on small containers.

The indications section for ophthalmic demulcents at § 349.60(b) offers four short statements, any one of which will satisfy the indications requirement. The statements are similar in content and vary slightly in length. A company may select which of these statements it wishes to use on its product. The indication for ophthalmic vasoconstrictors is a single short statement describing the condition for which these ingredients should be used. This statement is not unduly long and is absolutely necessary for the consumer's understanding of the product's function.

The required warning statements for drug products containing ophthalmic demulcents and vasoconstrictors are more numerous and longer, but just as essential. These statements alert the consumer to any serious problems that may arise while using the product. If there is no improvement after using the product or the condition worsens, the consumer needs the information provided. It is at this time that the warnings may be the most important statements on the label. In recommending general warnings for OTC ophthalmic drug products, the Panel considered the consequences of self-medication of serious eye disorders and wanted to warn the consumer of serious symptoms which indicate disorders requiring immediate professional attention (45 FR 30024). In addition, the Panel recommended specific warnings for certain ingredients, e.g., mercury, found in some ophthalmic drug products.

In reviewing the Panel's recommended indications and warnings for OTC ophthalmic drug products, the agency has shortened and consolidated some of these statements. (See comments 16 and 17 above.) Because only one indication statement is necessary, there is no need to set priorities as suggested by the comment. All of the warnings proposed in this tentative final monograph are essential to assure proper and safe use of OTC ophthalmic drug products by the public and, therefore, all need to appear on ophthalmic drug products regardless of the size of the container. In those instances where an OTC ophthalmic drug product is packaged in a container that is too small to include all the required labeling, the product can be enclosed in a carton or be accompanied by a package insert that contains the information complying with the monograph. Manufacturers are also encouraged to print a statement on the product container label, carton, or package insert suggesting that the consumer retain the carton or package insert for complete information about the use of the product when all the required labeling does not appear on the product container label.

D. Comments on Testing Guidelines for Ophthalmic Drug Products

19. Many comments opposed the Panel's recommendation that the Draize rabbit eye irritation test be used to evaluate the safety of OTC ophthalmic drug products. Most of the comments argued that it is cruel and inhumane to subject rabbits to this procedure. In addition, many comments questioned the reliability of the test and recommended that more research should be conducted to find a suitable alternative to the Draize test. Many comments recommended that techniques involving cell or tissue cultures be developed.

The agency shares the concern expressed by the comments regarding the welfare of laboratory animals used for toxicological testing. In accordance with the requirements of the Laboratory Animal Welfare Act of 1967, as amended, the agency is giving constant attention to the use of animals to ensure that they are being treated in conformity with this act.

The agency also agrees that, within the limits of scientific and economic capability, research should be directed toward finding better and more humane methods for testing the safety, or harmfulness, of products. Tissue and cell culture techniques are very useful for studying the action of chemicals when scientists wish to answer questions specifically directed to certain cells of an organ. However, the results of a tissue or cell culture test alone cannot be the basis for deciding on the safety of a substance, at least not at this time. The eye is a complex biological system, and the effect of a chemical on a specific cell or tissue in culture may differ significantly from the effect experienced in the entire system. Animal testing, therefore, remains unavoidable at present. Some testing may be performed in humans. The agency does not believe, however, that anyone would accept the testing of potentially harmful substances in humans prior to some initial animal testing that could reasonably assure absence of injury.

It is somewhat difficult to extrapolate from rabbit test data to human experience and predict precisely the severity of an adverse reaction that may occur in a consumer, if an improperly tested, corrosive product were instilled into the eye. Nevertheless, the rabbit eye irritation test is currently the most reliable method to determine the harmfulness, or safety, of a substance introduced into the eye. For determining adverse reactions in the eye, cell or tissue culture techniques may be viewed more as scientific concepts than safety tests. At this time FDA believes that many years of further research will be required before these techniques will be useful as predictive tests.

As noted in part II, paragraph A.2. below, the Panel's testing guidelines are considered recommendations to the agency, and manufacturers are not restricted to these guidelines in testing Category II or Category III conditions.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and has made the following changes in the categorization of ophthalmic active ingredients proposed by the Panel. The agency is proposing to place all currently marketed OTC ocular anti-infectives in Category II instead of

Category III as recommended by the Panel. In addition, the agency proposes to place polyethylene glycol 6000, which was not reviewed by the Panel, in Category III as an ocular demulcent. As a convenience to the reader, the following list is included as a summary of the categorization of ophthalmic active ingredients proposed by the Panel and the agency.

Ophthalmic active ingredients	Panel	Agency
1. Ophthalmic anesthetics:		
Antipyrine	II	II.
Piperocaine hydrochloride	II	II.
2. Ophthalmic anti-infectives:		
Boric acid	III	II.
Mild silver protein	III	II.
Sulfacetamide sodium	II	II.
Yellow mercuric oxide	III	II.
3. Ophthalmic astringents:		
Infusion of rose petals	III	III.
Zinc sulfate	I	I.
4. Ophthalmic demulcents:		
Carboxymethylcellulose sodium.	I	I.
Dextran 70	I	I.
Gelatin	I	I.
Glycerin	I	I.
Hydroxyethylcellulose	I	I.
Hydroxypropyl methylcellulose.	I	I.
Methylcelluiose	I	I.
Polyethylene glycol 300	I	I.
Polyethylene glycol 400	I	I.
Polyethylene glycol 6000	Not reviewed	III.
Polysorbate 80	I	I.
Polyvinyl alcohol	I	I.
Povidone	I	I.
Propylene glycol	I	I.
5. Ophthalmic emollients:		
Anhydrous lanolin	I	I.
Lanolin	I	I.
Light mineral oil	I	I.
Mineral oil	I	I.
Nonionic lanolin derivatives.	I	I.
Paraffin	I	I.
Petrolatum	Not reviewed	I.
White ointment	I	I.
White petrolatum	I	I.
White wax	I	I.
Yellow wax	Not reviewed	I.
6. Ophthalmic hypertonicity agent:		
Sodium chloride (2-5%)	I	I.
7. Ophthalmic vasoconstrictors:		
Ephedrine hydrochloride	I	I.
Naphazoline hydrochloride.	I	I.
Phenylephrine hydrochloride:		
(a) (0.08–0.27%)	I	I.
(b) (less than 0.08%)	III	III.
Tetrahydrozoline hydrochloride.	I	I.
8. Eyewashes:		
No pharmacologically active ingredients.	I	I.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for ophthalmic drug products (45 FR 30032, 30035, and 30038). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. The agency's position concerning the Draize Test, described by the Panel at 45 FR 30022, is discussed in comment 19 above. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any ophthalmic ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made by the agency follows.

1. The agency is proposing that all OTC ophthalmic anti-infective drug products be classified in Category II. (See comment 4 above.)

2. The agency reviewed data on polyethylene glycol 6000, which was not evaluated by the Panel, and is classifying this ingredient as a Category III ophthalmic demulcent drug product in this tentative final monograph. (See comment 6 above.)

3. The agency is redesignating proposed Subpart D of the monograph as Subpart C and is placing the labeling sections under Subpart C.

4. Although the use of white petrolatum or white wax, in lieu of petrolatum or yellow wax, results in a more aesthetically pleasing ophthalmic ointment, the use of either white petrolatum or white wax is not medically mandated. However, on its own initiative, the agency is proposing to expand the list of ophthalmic emollient active ingredients in § 349.14(b) to include petrolatum and yellow wax as well as white petrolatum, white wax, and other ingredients.

5. The Panel recommended the use of the phrase "eye lotion" as one of the acceptable statements of identity in § 349.80 for eyewash drug products. The phrase "eye lotion" is also an acceptable term for cosmetic eye makeup preparations (21 CFR 720.4(c)(3)(iv)). The agency does not believe that consumer confusion will occur from the use of this phrase on both eyewash drug products and eye makeup preparations and has proposed this phrase as a statement of identity for eyewash drug products in this tentative final monograph. (See § 349.78(a)). The agency invites further comment on this issue.

6. In this tentative final monograph, the agency is proposing to revise the statement of identity for OTC eyewash products (§ 349.78(a)) to require a listing of any ingredients identified in § 349.20. Although these drug products contain no pharmacologically active ingredients, the identity statement of the drug product must conform to the requirements of section 502(e) of the act (21 U.S.C. 352(e)).

7. The agency is revising the wording of the statement of identity for three ophthalmic drug classes. The phrase "eye lubricant or ophthalmic demulcent (eye lubricant)" will replace "ophthalmic demulcent" in § 349.60(a). The phrase "eye lubricant or ophthalmic emollient (eye lubricant)" will replace "ophthalmic emollient" in § 349.65(a). The agency is also proposing to substitute "eye redness reliever or ophthalmic vasoconstrictor (eye redness reliever)" for "ophthalmic vasoconstrictor" in § 349.75(a). (See comment 9 above.)

8. The agency is proposing to expand the warning for eyewash products in § 349.80(c)(1)(ii) of the advance notice of proposed rulemaking (redesignated § 349.78(c)(1)(ii) in the proposed rule), "Not for use in open wounds," to read as follows: "Not for use in open wounds in or near the eyes. Consult a doctor." (See comment 14 above.)

9. The agency is incorporating the Panel's recommended warning in § 349.80(c)(3) ("Rinse cup with clean water immediately before and after each use, and avoid contamination of rim and inside surfaces of cup.") into the directions in § 349.78(d)(1) of this tentative final monograph. The agency is also revising all the "Directions" paragraphs in this tentative final monograph to conform with the format of other recently published tentative final monographs.

10. The agency is proposing a warning for ophthalmic drug products containing mercury used as a preservative, to read "This product contains (name of mercury-containing ingredient) as a preservative. Do not use this product if you are sensitive to" (select one of the following): "mercury" or "(name of mercury-containing ingredient) or any other ingredient containing mercury." (See comment 13 above.) The agency is also proposing a new section (§ 349.50) entitled "Labeling of ophthalmic drug products," in which labeling, such as the mercury warning, that is required for all OTC ophthalmic drug products will be placed.

11. The agency is proposing to combine and revise some of the warnings recommended by the Panel for ophthalmic drug products. (See comments 16 and 17 above.)

12. The agency is reclassifying the term "tired eyes" from Category II to Category III in this tenative final monograph. The agency will consider reclassification of this term to Category I in the final monograph if adequate data are presented to show that consumers equate "tired eyes" with symptoms of minor irritation and redness in the eyes. (See comment 10 above.)

13. As implied in the Panel's discussion of ophthalmic demulcents and emollients at 45 FR 30014, the indications for these ingredients are the same. The agency believes that the same indication statements should be allowed for both and, therefore, is proposing to include the following indication in § 349.65(b) for drug products containing ophthalmic emollients: "For the temporary relief of burning and irritation due to dryness of the eye."

14. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and other applicable OTC drug regulations will give manufacturers the option of using either the word "physician" or the word "doctor". This tentative final monograph proposes that option.

15. To eliminate inconsistencies and duplication, the agency is proposing to revoke the existing warning and caution statements for OTC ophthalmic drug products included in 21 CFR 369.20 when the final monograph becomes effective.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC ophthalmic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC ophthalmic drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC ophthalmic drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC ophthalmic drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on ophthalmic drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has carefully considered the potential environmental effects of the proposal and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (under 21 CFR 25.31, proposed in the **Federal Register** of December 11, 1979; 44 FR 71742), may be seen in the Dockets Management Branch, Food and Drug Administration.

List of Subjects in 21 CFR Part 349

OTC drugs, Ophthalmic drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 349, to read as follows:

PART 349—OPHTHALMIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—General Provisions

Sec.
349.1 Scope.
349.3 Definitions.

Subpart B—Active Ingredients

349.10 Ophthalmic astringents.
349.12 Ophthalmic demulcents.
349.14 Ophthalmic emollients.
349.16 Ophthalmic hypertonicity agent.
349.18 Ophthalmic vasoconstrictors.
349.20 Eyewashes.
349.30 Permitted combinations of active ingredients.

Subpart C—Labeling

349.50 Labeling of ophthalmic drug products.
349.55 Labeling of ophthalmic astringent drug products.
349.60 Labeling of ophthalmic demulcent drug products.
349.65 Labeling of ophthalmic emollient drug products.
349.70 Labeling of ophthalmic hypertonicity drug products.
349.75 Labeling of ophthalmic vasoconstrictor drug products.
349.78 Labeling of eyewash drug products.
349.80 Professional labeling.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

Subpart A—General Provisions

§ 349.1 Scope.

(a) An over-the-counter ophthalmic drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this part and each of the general conditions established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 349.3 Definitions.

As used in this part:

(a) *Ophthalmic drug product.* A drug product, which should be sterile in

accordance with § 200.50, to be applied to or instilled in the eye.

(b) *Astringent.* A locally acting pharmacologic agent which, by preciptating protein, helps to clear mucus from the outer surface of the eye.

(c) *Buffering agent.* A substance which stabilizes the pH of solutions against changes produced by introduction of acids or bases from such sources as drugs, body fluids, tears, etc.

(d) *Demulcent.* An agent, usually a water-soluble polymer, which is applied topically to the eye to protect and lubricate mucous membrane surfaces and relieve dryness and irritation.

(e) *Emollient.* An agent, usually a fat or oil, which is applied locally to eyelids to protect or soften tissues and to prevent drying and cracking.

(f) *Eyewash, eye lotion, irrigating solution.* A sterile aqueous solution containing no pharmacologicaly active ingredients, intended for bathing or mechanically flushing the eye.

(g) *Hypertonicity agent.* An agent which exerts an osmotic gradient greater than that present in body tissues and fluids, so that water is drawn from the body tissues and fluids across semipermeable membranes. Applied topically to the eye, a hypertonicity agent creates an osmotic gradient which draws water out of the cornea.

(h) *Isotonicity.* A state or quality in which the osmotic pressure in two fluids is equal.

(i) *Vasoconstrictor.* A pharmacologic agent which, when applied topically to the mucous membranes of the eye, causes transient construction of conjunctival blood vessels.

Subpart B—Active Ingredients

§ 349.10 Ophthalmic astringent.

The activce ingredient and its concentration in the product is as follows: Zinc sulfate 0.25 percent.

§ 349.12 Ophthalmic demulcents.

The active ingredients of the product consist of any of the following, within the established concentrations for each ingredient:

(a) Cellulose derivatives:

(1) Hydroxyethylcellulose, 0.2 to 2.5 percent.

(2) Hydroxypropyl methylcellulose, 0.2 to 2.5 percent.

(3) Methylcellulose, 0.2 to 2.5 percent.

(4) Sodium carboxymethylcellulose, 0.2 to 2.5 percent.

(b) Dextran 70, 0.1 percent when used with another approved polymeric demulcent agent.

(c) Gelatin, 0.01 percent.

(d) Polyols, liquid:

(1) Glycerin, 0.2 to 1 percent.

(2) Polyethylene glycol 300, 0.2 to 1 percent.

(3) Polyethylene glycol 400, 0.2 to 1 percent.

(4) Polysorbate 80, 0.2 to 1 percent.

(5) Propylene glycol, 0.2 to 1 percent.

(e) Polyvinyl alcohol, 0.1 to 4 percent.

(f) Povidone, 0.1 to 2 percent.

§ 349.14 Ophthalmic emollients.

The active ingredients of the product consist of any of the following:

(a) Lanolin preparations:

(1) Anhydrous lanolin.

(2) Lanolin.

(3) Nonionic lanolin derivatives.

(b) oleaginous ingredients:

(1) Light mineral oil.

(2) Mineral oil.

(3) Paraffin.

(4) Petrolatum.

(5) White ointment.

(6) White petrolatum.

(7) White wax.

(8) Yellow wax.

§ 349.16 Ophthalmic Hypertonicity agent.

The active ingredient and its concentration in the product is as follows: Sodium Chloride 2 to 5 percent.

§ 349.18 Ophthalmic vasoconstrictors.

The active ingredients of the product consist of any of the following, within the established concentrations for each ingredient:

(a) Ephedrine hydrochloride, 0.123 percent.

(b) Naphazoline hydrochloride, 0.01 to 0.03 percent.

(c) Phenylephrine hydrochloride, 0.08 to 0.2 percent.

(d) Tetrahydrozoline hydrochloride, 0.01 to 0.05 percent.

§ 349.20 Eyewashes.

These products contain no pharmacologically active ingredients, but contain water, tonicity agents to establish isotonicity with tears, agents for establishing pH and buffering to achieve the same pH as tears, and a suitable preservative agent.

§ 349.30 Permitted combinations of active ingredients.

(a) Any single ophthalmic astringent active ingredient identified in § 349.10 may be combined with any single ophthalmic vasoconstrictor active ingredient identified in § 349.18.

(b) Any two or three ophthalmic demulcent active ingredients identified in § 349.12 may be combined.

(c) Any single ophthalmic demulcent active ingredient identified in § 349.12 or any ophthalmic demulcent combination identified in paragraph (b) of this section may be conbined with any single ophthalmic vasoconstrictor identified in § 349.18.

(d) Any single ophthalmic astringent active ingredient identified in § 349.10 may be combined with any single ophthalmic vasoconstrictor active ingredient identified in § 349.18 and any single ophthalmic demulcent identified in § 349.12 or ophthalmic demulcent combination identified in paragraph (b) of the section.

(e) Any two or more emollient active ingredients identified in § 349.14 may be combined as necessary to give the product proper consistency for application to the eye.

Subpart C—Labeling

§ 349.50 Labeling of ophthalmic drug products.

(a) The word "physician" may be substituted for the word "doctor" in any of the labeling statements in §§ 349.55, 349.60, 349.65, 349.70, 349.75, and 349.78.

(b) the labeling of the product contains the follow warnings, under the heading "Warnings":

(1) "To avoid contamination of this product, do not touch tip of container to any other surface. Replace cap after using."

(2) For ophthalmic drug products containing mercury compounds used as a preservative: "This product contains (name of mercury-containing ingredient) as a preservative. Do not use this product if you are sensitive to" (Select one of the following): "mercury" or "(name of mercury-containing ingredient) or any other ingredient containing mercury."

§ 349.55 Labeling of ophthalmic astringent drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug(s), if any, and identifies the product as an "ophthalmic astringent."

(b) *Indications.* The labeling of the product contains a statement of the indication under the heading "Indications" that is limited to the following phrase: "For the temporary relief of discomfort from minor eye irritations."

(c) *Warnings.* In addition to the warnings in § 349.50, the labeling of the product contains the following warnings under the heading "Warnings" for products containing any ingredient identified in § 349.10:

(1) "If you experience eye pain, changes in vision, continued redness or irritation of the eye, or if the condition worsens or persists for more than 72 hours, discontinue use and consult a doctor."

(2) "If solution changes color or becomes cloudy, do not use."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions": Instill 1 to 2 drops in the affected eye(s) up to four times daily.

§ 349.60 Labeling of ophthalmic demulcent drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug(s), if any, and identifies the product as an "eye lubricant" or an "ophthalmic demulcent (eye lubricant)."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases:

(1) "For the temporary relief of burning and irritation due to dryness of the eye."

(2) "For the temporary relief of discomfort due to minor irritations of the eye or to exposure to wind or sun."

(3) "For use as a protectant against further irritation or to relieve dryness of the eye."

(4) "For use as a lubricant to prevent further irritation or to relieve dryness of the eye."

(c) *Warnings.* In addition to the warnings in § 349.50, the labeling of the product contains the following warnings under the heading "Warnings" for products containing any ingredient identified in § 349.12:

(1) "If you experience eye pain, changes in vision, continued redness or irritation of the eye, or if the condition worsens or persists for more than 72 hours, discontinue use and consult a doctor."

(2) "If solution changes color or becomes cloudy, do not use."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions": Instill 1 or 2 drops in the affected eye(s) as needed.

§ 349.65 Labeling of ophthalmic emollient drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug(s), if any, and identifies the product as an "eye lubricant" or an "ophthalmic emollient (eye lubricant)."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to one or more of the following phrases:

(1) "For the temporary relief of burning and irritation due to dryness of the eye."

(2) "For the temporary relief of discomfort due to minor irritations of the eye or to exposure to wind or sun."

(3) "For use as a protectant against further irritation or to relieve dryness of the eye."

(4) "For use as a lubricant to prevent further irritation or to relieve dryness of the eye."

(c) *Warnings.* In addition to the warnings in § 349.50, the labeling of the product contains the following warning under the heading "Warnings" for products containing any ingredient identified in § 349.14: "If you experience eye pain, changes in vision, continued redness or irritation of the eye, or if the condition worsens or persists for more than 72 hours, discontinue use and consult a doctor."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions": Pull down the lower lid of the affected eye and apply a small amount (one-fourth inch) of ointment to the inside of the eyelid.

§ 349.70 Labeling of ophthalmic hypertonicity drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as an "ophthalmic hypertonicity agent."

(b) *Indications.* The labeling of the product contains a statement of the indication under the heading "Indications" that is limited to the following phrase: "For the temporary relief of corneal edema."

(c) *Warnings.* In addition to the warning in § 349.50, the labeling of the product contains the following warnings under the heading "Warning" for products containing any ingredient identified in § 349.16:

(1) "Do not use this product except under the advice and supervision of a doctor. If you experience eye pain, changes in vision, contained redness or irritation of the eye, or if the condition worsens or persists, consult a doctor."

(2) "This product may cause temporary burning and irritation on being instilled into the eye."

(3) "If solution changes color or becomes cloudy, do not use."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions": Instill 1 or 2 drops in the affected eye(s) every 3 or 4 hours, or as directed by a doctor.

§ 349.75 Labeling of ophthalmic vasoconstrictor drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug(s), if any, and identifies the product as an "eye redness reliever" or an "ophthalmic vasoconstrictor (eye redness reliever)".

(b) *Indications.* The labeling of the product contains a statement of the indication under the heading "Indications" that is limited to the following phrase: "For the relief of redness of the eye due to minor eye irritations."

(c) *Warnings.* In addition to the warnings in § 349.50, the labeling of the product contains the following warnings under the heading "Warnings" for products containing any ingredient identified in § 349.18:

(1) "If you experience eye pain, changes in vision, continued redness or irritation of the eye, or if the condition worsens or persists for more than 72 hours, discontinue use and consult a doctor."

(2) "If you have glaucoma, do not use this product except under the advice and supervision of a doctor."

(3) "Overuse of this product may produce increased redness of the eye."

(4) "If solution changes color or becomes cloudy, do not use."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions": Instill 1 to 2 drops in the affected eye(s) up to four times daily.

§ 349.78 Labeling of eyewash drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of all components identified in § 349.20 and identifies the product with one or more of the following terms: "eyewash," "eye lotion," or "eye irrigating solution."

(b) *Indications.* The labeling of the product contains a statement of the indication under the heading "Indications" that is limited to the following phrase: "For flushing or irrigating the eye to remove loose foreign material, air pollutants, or chlorinated water."

(c) *Warnings.* In addition to the warnings in § 349.50, the labeling of the product contains the following warnings under the heading "Warnings" for all eyewash products:

(1) "If you experience eye pain, changes in vision, continued redness or irritation of the eye, or if the condition worsens or persists, a consult a doctor."

(2) "Not for use in open wounds in or near the eyes. Consult a doctor."

(3) "If solution changes color or becomes cloudy, do not use."

(d) *Directions.* The labeling of the product contains the following

information under the heading "Directions":

(1) *For eyewash products intended for use with an eyecup.* "Rinse cup with clean water immediately before each use. Avoid contamination of rim and inside surfaces of cup. Fill cup half full and apply the cup to the affected eye, pressing tightly to prevent the escape of the liquid, and tilt the head backward. Open eyelids wide and rotate eyeball to ensure thorough bathing with the wash or lotion. Rinse cup with clean water after each use."

(2) *For eyewash products intended for use with a nozzle applicator.* "Flush the affected eye as needed, controlling the rate of flow of solution by pressure on the bottle."

§ 349.80 Professional labeling.

The labeling of any OTC ophthalmic demulcent drug product provided to health professionals (but not to the general public) may contain instructions for the use of these products in professional eye examinations (i.e. gonioscopy, electroretinography).

Interested persons may, on or before August 29, 1983 submit to the Docket Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before October 27, 1983. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this documents and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

Interested persons, on or before June 28, 1983, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before August 28, 1983. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on August 28, 1983. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register,** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: June 6, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

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Tuesday
June 28, 1983

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Permanent Regulatory Program; Alluvial Valley Floors; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 785, and 822

Permanent Regulatory Program; Alluvial Valley Floors

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is issuing rules governing surface coal mining operations on or near alluvial valley floors (AVF's). The rules amend several definitions, permit requirements and performance standards associated with AVF's, and provide regulatory authorities with flexibility as to the amount of information that has to accompany permit applications for mining on or near AVF's. They allow pemit applicants to request expedited determinations of whether statutory exclusions apply. In addition, they conform the rules to a district court decision which caused OSM to suspend a number of provisions dealing with AVF's.

EFFECTIVE DATE: July 28, 1983.

FOR FURTHER INFORMATION CONTACT: Mark Boster, Branch of Environmental Analysis, Office of Surface Mining, Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–2156.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of comments and rules adopted.
III. Procedural matters.

I. Background

On June 11, 1982 (47 FR 25486), OSM published a notice of proposed rulemaking to amend 30 CFR Parts 701, 785 and 822 relating to permit requirements and performance standards governing surface coal mining operations on or near alluvial valley floors. No public hearings or public meetings were requested. During the comment period, which extended to September 10, 1982, OSM received numerous comments from State agencies, industry and environmental groups.

The Act

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), provides specific protection for AVF's in addition to the general environmental protection performance standards applicable to AVF's. Section 701(1) of the Act defines alluvial valley floors as "unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or floor irrigation agricultural activities * * *," excluding upland areas.

Section 510(b)(5) of the Act requires surface coal mining operation permit applications to demonstrate affirmatively and the regulatory authority to find in writing that a number of requirements unique to AVF's will be satisfied. That section applies only to proposed surface coal mining operations located west of the 100th meridian west longitude. Section 510(b)(5)(A) requires a permit application to demonstrate that the surface coal mining operation would "not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated * * *." Two exceptions from this requirement are provided in Section 510(b)(5)(A). The first is for undeveloped rangeland which is not significant to farming. The second allows mining when the regulatory authority finds that mining activities will interrupt "such small acreage as to be of negligible impact on the farm's agricultural production."

In addition, Section 510(b)(5)(B) of the Act requires a demonstration that the mining would not materially damage the quantity or quality of water in surface of underground water systems that supply the AVF's referred to in Section 510(b)(5)(A) of the Act on which farming cannot be interrupted, discontinued, or precluded.

A proviso in Section 510(b)(5) of the Act exempts from the requirements of Section 510(b)(5) those surface coal mining operations which in the year preceding the enactment of the Act (August 3, 1977) produced coal in commercial quantities and were located within or adjacent to AVF's or had specific permit approval from the State regulatory authority to conduct surface coal mining operations on AVF's.

A further proviso, in Section 506(d)(2) of the Act, excludes from the requirements of Section 510(b)(5) of the Act any land that is the subject of an application for renewal or revision of a permit issued under the Act which is an extension of the original permit, insofar as: (1) The land was previously identified in a reclamation plan submitted under Section 508 of the Act, and (2) the original permit area was excluded from the requirements of Section 510(b)(5) of the Act under the proviso of Section 510(b)(5) for operations which produced coal in the year preceding enactment of the Act.

Regardless of whether the standards of Section 510(b)(5) of the Act for protection of AVF's apply, the hydrologic protections of Section 510(b)(3) and 515(b)(10)(F) on the Act apply. Section 515(b)(10)(F) requires mining operations to minimize disturbances to the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by preserving throughout the mining and reclamation process the essential hydrologic functions of AVF's is the arid and semiarid areas of the country.

Regulatory Implementation of AVF Requirements

The Act's AVF requirements have been implemented in three principal places in 30 CFR Chapter VII. The major terms pertaining to AVF's are defined in 30 CFR 701.5. Specific permit application requirements for AVF's are set forth in 30 CFR 785.19. Finally, additional specific performance standards for AVF's are set forth in 30 CFR Part 822.

A discussion of particular features of the amended rules are included below in "II. Discussion of Comments and Rules Adopted."

II. Discussion of Comments and Rules Adopted

A. General Comments

Some commenters were concerned about the deletion of much of the informational requirements and explanations contained in the previous rules. The commenters felt that this information was valuable in providing guidance to both operators and regulatory authorities and that it should not be deleted for the purpose of reducing the overall size of the regulations. One of the commenters felt this information was necessary to assure consistency among States.

OSM carefully evaluated the detailed informational requirements contained in the previous alluvial valley floor regulation. The changes to the alluvial valley floor rules will eliminate much of the confusion about protection requirements of the Act and will provide regulatory authorities with flexibility to reflect site-specific conditions. Much of the technical information being eliminated, while not wrong, adds unnecessary length and confusion to the regulatory structure. Most of the eliminated material will continue to be available in guidelines and is the type of information likely to be valuable in

assisting the regulatory authority in making its determinations. Elimination of the detailed informational requirements from every permit application will not result in the regulatory authorities making unsupported or technically inadequate determinations with respect to alluvial valley floors. Every decision must be based on and supported by adequate technical data and analyses regardless of whether each detail or study is enumerated in the rules.

Comments were received by OSM with regard to the usage of various "areas" used in the alluvial valley floor rules. For example, in § 785.19(a)(1) of the proposed rules, one commenter pointed out that the term "potentially impacted area" was used, but the term was not defined and did not offer the same degree of protection as the term "mine plan and adjacent area" which was used in the previous regulations. Similarly, one commenter noted the proposed substitution of the term "outside the mine site" for "not within the affected area" in § 822.11 was not clear since this new term was not defined.

OSM has evaluated the commenters' concerns noted above and has reviewd proposed § 785.19 and Part 822 with respect to the use of terms relating to "areas." Based on this review, OSM has made changes to §§ 785.19(a)(1), 785.19(b)(1), 785.19(d)(1), 822.11(a), 822.11(b) and § 822.13 to provide clarification. OSM intends that a broad area should be referenced in § 785.19 (a) and (b) with respect to alluvial valley floor determinations and applicability of statutory exclusions. Thus, determinations as to the presence or absence of alluvial valley floors or the applicability of statutory exclusions by the regulatory authority will relate to the "permit area and adjacent area." The adjacent area, in this context, will be the area outside the permit area where an alluvial valley floor is or reasonably could be expected to be adversely impacted by proposed surface coal mining operations, including probable impacts from underground workings. Thus, OSM has maintained the introduction of § 785.19(a)(1) which refers to permit and adjacent area, but has not included the term "potentially impacted" as a modifier for "area" in this section since this phrase is not defined.

With regard to § 785.19(d)(1), OSM has used the phrase "permit area or adjacent area" for the phrase "potentially impacted area" which was used in the proposed rules. Use of the new terms will clarify that permit applications for proposed operations potentially affecting alluvial valley floors must cover both the permit area and the adjacent area.

Similarly, in proposed § 822.11(a), relating to the essential hydrologic functions of alluvial valley floors, OSM has deleted the proposed language "in associated offsite areas" and "outside the mine site" because these terms are not defined and may be confusing in the context used. OSM has replaced these phrases with the phrase "not within the permit area." Similar changes have been made to §§ 822.11(b) and 822.13. These changes will provide improved clarity to the rule.

A commenter asked OSM to clarify whether all hydrologic, geologic, and biologic permitting requirements under other parts of the permanent regulatory program are applicable in addition to specific requirements for alluvial valley floors. The specific requirements for AVF's complement the other requirements of the permanent regulatory program which continue to be applicable by their own terms.

B. Section 701.5—Definitions

Alluvial Valley Floors: One commenter recommended deletion of the current definition for the term "alluvial valley floors" since it merely mirrors the statute. The commenter also suggested a definition which requires that subirrigation or flood irrigation agricultural activities exist. In addition, the commenter noted that the concept of "potential" alluvial valley floors (from the standpoint of potential flood irrigation or subirrigation agricultural activities) should be deleted from the rules since it is inconsistent with Section 510(b)(5)(A) of the Act. The commenter provided a more concise definition which deleted reference to areas excluded under the definition of alluvial valley floors. The commenter asserted that such exclusions should be addressed under the definitions of particular terms related to the alluvial valley floors provisions.

OSM considered the commenter's recommendations and concerns and has elected to maintain the existing definition for the term "alluvial valley floor." Because this definition is workable, and is derived directly from Section 701(1) of the Act, it has been retained. OSM disagrees with the commenter's concern about "potential" alluvial valley floors. An area either is an alluvial valley floor or it is not. The key to the definition is the relationship between the hydrology of the area and agricultural activities. The definition in Section 701(1) of the Act requires that "* * * water availability is sufficient for subirrigation or flood irrigation agricultural activities * * *." Thus, the definition included in the statute requires that there be sufficient water available for flood irrigation or subirrigation agricultural activities. This requirement implies that an area may be designated as an alluvial valley floor (assuming other applicable criteria are met) based on the availability of sufficient water to support potential flood irrigation or subirrigation agricultural activities, even if there were no such activities currently in existence within the area.

Agricultural Activities: Various comments were made with respect to the proposed definition of the term "agricultural activities." One commenter suggested that agricultural activities, with respect to alluvial valley floors, be a "controlled and managed" use (*i.e.*, not to include undeveloped rangeland with natural vegetative growth). Another commenter recommended substituting "agricultural products" for "animal and vegetable life" to clarify that wildlife usage is not an agricultural activity. One commenter suggested that the definition be modified to: (1) Include only areas where a reasonable attempt has been made to incorporate modern agricultural practices; (2) eliminate the phrase "but are not limited to" since all types of agriculture which could benefit from the increased availability of water are in fact listed; and (3) state that areas with flood irrigation or subirrigated vegetation which are not commonly grazed, hayed, or cropped due to inaccessibility and/or "poor palatability" do not constitute agricultural activities. It was also suggested by one commenter that the examples of agricultural activities be eliminated due to redundance.

OSM has reviewed and evaluated the general comments submitted on the proposed definition of the term "agricultural activities" and related comments pertaining to "farming." Although the Act and OSM's rules use both terms, the meaning of both terms, as regards AVF's is the same. Therefore the final definition of "agricultural activities" will also serve as the definition of "farming." The usage of one of these terms rather than the other in Part 822 and § 785.19 is discussed later in this preamble.

OSM agrees with the commenter that agricultural activities must be "controlled and managed." However, no change is necessary in the final rule since agricultural activities are related to "production" which includes deliberate management of the property to produce commercial animal or

vegetable life. The definition does include pasturing and grazing lands. The legislative history supports the concept that these valley floors provide for subirrigation or flood irrigation of crops and grazing lands (*e.g.* see H.R. Rept. No. 95–218, 95th Cong. 1st Sess. at 116 (1977)).

No change in the rule is necessary to exclude wildlife usage as an agricultural activity. The definition excludes wildlife usage as an agricultural activity through the phrase "for the production of animal or vegetable life." In addition, OSM considers the list of examples of agricultural activities to be informative and not redundant.

There is no statutory basis for requiring that agricultural activities, with respect to alluvial valley floors, must include only areas where attempts have been made to incorporate modern agricultural practices. Thus OSM has rejected that suggestion. The phase "but not limited to" is appropriate terminology to assure that all agricultural activities either enhanced or facilitated by subirrigation or flood irrigation are included in the definition. In response to the commenter who felt that the definition should clearly state that areas not commonly grazed, hayed, or cropped do not constitute agricultural activities, this concern is adequately addressed under the definition of "alluvial valley floor" which requires that sufficient water be available for subirrigated or flood irrigated agricultural activities. If the valley area in question is not suitable for flood irrigated or subirrigated agricultural activities, the area should not qualify for alluvial valley floor designation.

Two commenters expressed concern with respect to the addition of the phrase "based on regional practices" to the definition of the term "agricultural activities." One commenter asserted that there is no statutory justification for addition of this phase. This commenter went on to note that, contrary to the proposed preamble, adding this phase to the definition causes the definition to be confusing. It was pointed out that the addition of a reference to regional practices would result in: (1) Considerable differences of opinion as to what constitutes "accepted" regional agricultural practices; (2) discrimination against innovation; and (3) the tendency to foreclose the potential for technological advances or market changes that would significantly alter regional agricultural practices (particularly as it applies in § 785.19 (a) and (b)(2)). The other commenter stated that addition of regional agricultural practices to the definition would expand alluvial valley floor designations in some places and diminish such designations in others (*e.g.*, what areas can be farmed and what areas cannot be farmed). The commenter stressed that the use of regional agricultural practices in the definition or agricultural activities results in ambiguity.

OSM disagrees with the comments received with respect to the addition of the phrase "based on regional practices" and has included the phrase in the final definition of agricultural activities. The determination of whether an alluvial floor exists should be based on agricultural practices within the region encompassing the AVF and not upon speculation on what changes in agriculture may take place at some indeterminate time in the future or on agricultural activities that may be accepted in other parts of the country or the world. For example, it would be inappropriate to judge the existence of an alluvial valley floor in Wyoming by whether it fits the category for agricultural activities in Illinois or Indiana and vice versa.

Moreover, the addition of this phrase is not inconsistent with the Act. In fact, the Act itself recognizes the regionalized importance and character of AVF's and has applied the special requirements only to arid and semi-arid regions of the country. As included in §§ 785.19(a)(2)(ii)(B) and 785.19(b)(2)(ii), regional agricultural practices will play an important part in assessments of flood areas to farming.

Two commenters expressed concern with the portion of the proposed definition of agricultural activities which referred to "watering of livestock." Both commenters stated that watering of livestock is not an agricultural activity related to the availability of water of subirrigation or flood irrigation agricultural activities. More specifically, one commenter stated that the definition, as proposed, implies that watering of livestock is enhanced by subirrigation or flood irrigation.

OSM agrees that watering of livestock in and of itself is not related to subirrigation or flood irrigation and has revised the definition accordingly. However, although it is not necessary to list this activity in the definition, the watering of livestock, when considered in context with "grazing" of livestock, could be an activity included within the meaning of grazing and can be considered to be an integral component of livestock grazing operations.

One commenter noted that with respect to alluvial valley floors, the Act references arid and semiarid areas of the country west of the 100th meridian west longitude. The commenter went on to note that in the area of the Pacific Northwest, west of the Cascade Mountains, average annual precipitation is greater than 40 inches, and therefore, the area should not be classified as arid and semiarid. The commenter encouraged OSM to recognize such areas for exclusion from the alluvial valley floor requirements.

OSM considered these comments with respect to the applicability of the alluvial valley floor requirements to areas of relatively high precipitation west of the 100th meridian and agrees that the alluvial valley floors protection provisions are applicable to only arid and semiarid areas (*i.e.*, areas experiencing water deficits, where water use by native vegetation equals or exceeds that supplied by precipitation) in the western United States. A specific exclusion for the kinds of areas mentioned by the commenters is unnecessary within the context of this rule and is already accounted for in the definition of "arid and semiarid area" in 30 CFR 701.5. State and regional specific differences can be accommodated through the individual State program development and approval process, under Subchapter C of 30 CFR Chapter VII.

Essential Hydrologic Functions: The proposed rule identified two alternative definitions for the term "essential hydrologic functions." The first proposed alternative (Alternative 1) retained the operative portion of the previous definition but eliminated the explanation of various terms used in the definition. Alternative 2 would have separately defined essential hydrologic functions of an alluvial valley floor for the periods during and after mining.

Numerous comments were received with respect to these alternative definitions for the term. The vast majority of commenters favored Alternative 1 over Alternative 2. The principle reason stated for this preference was that Alternative 2 appeared to many commenters to be more of a performance standard than a definition. In addition, one commenter noted that the split in the definition as function of the phase of mining was confusing when considered in light of the performance standards of § 822.11 (a) and (b). One commenter pointed out that the essential hydrologic functions of an alluvial valley floor do not change because the phase of the mining operation has changed. One commenter stated that he believed Alternative 2 represented a duplication of performance standards in Part 822 and that the proposed reference to not

destroying natural vegetation would have been unduly restrictive since this activity is allowed if the area can be reclaimed in accordance with the Act. One commenter asserted that the definition of the term should be based on the physical and hydrologic characteristics of the alluvial valley floor, irrespective of the mining activity. Another concern voiced with respect to Alternative 2 was that this definition would have implied that mining an alluvial valley floor would be allowed even where the alluvial valley floor has been designated significant to farming by the regulatory authority. Another commenter maintained that Alternative 2 would limit the essential hydrologic functions to maintenance of the water balance upstream and downstream to preserve natural vegetative cover and erosional balance. This commenter also asserted that Alternative 2 would allow greater disruption of mines adjacent to alluvial valley floors. In addition, with respect to Alternative 2, one commenter stated that there was no basis in the Act or the legislative history to define essential hydrologic functions as a function of the mining process. This same commenter also noted that Alternative 2 would have included no protection for agricultural activities during mining and that making water usefully available following mining does not provide the same degree of protection as the previous rule and is inconsistent with previous § 785.19(d)(2).

Finally, two commenters endorsed Alternative 1 but recommended that the definition be modified to state clearly that essential hydrologic functions for an alluvial valley floor protect and support flood irrigation or subirrigation agricultural activities. One commenter also stated that if Alternative 1 were selected that the word "extended" be eliminated because this term implies a long period of time and thus would rule out any functions that support the use of spreader irrigation. Several other commenters stated their preference for Alternative 2.

OSM has reviewed the comments with respect to Alternative 1 and 2 for the definition of the term "essential hydrologic functions" and has selected Alternative 1 in this final rule. This definition, which is a continuation of the key portion of the previous rule, meets the intent of the Act and provides consistency with Parts 785 and 822 of the rules with respect to alluvial valley floor protection. The final definition is based on physical and hydrologic characteristics which support flood irrigation or subirrigation agricultural activities on alluvial valley floors (irrespective of the particular phase of the mining activity). Use of the phrase "provides a water supply during extended periods of low precipitation" is consistent with the basic water supply situation in alluvial valley floor areas and does not rule out consideration of spreader irrigation.

One commenter asserted his support for general shortening of the definition of "essential hydrologic functions." However, two commenters expressed concern that elimination of Paragraphs (a)–(d) represented a significant deletion since information contained in these paragraphs was substantive and valuable with respect to the definition. One of these commenters stated that OSM is wrong in saying in the preamble to the proposed rules that this information was excessive. The commenter argued that this information helped distinguish the functions of collecting, storing, regulating, and making water available to agricultural activities on the alluvial valley floor. Another commenter expressed concern that deletion of an explanation of the specific roles of alluvial valley floors in the water supply for agricultural activities makes the role of the regulator in preventing damage more difficult. This commenter went on to note that guidelines which contain such information will not have the same force as regulations and will be subject to interpretation and different implementation. The commenter also asserted that the shortened version of the definition would work against consistency (particularly on Federal lands).

OSM has reviewed and evaluated the concerns expressed by the commenters with respect to the shortening and simplification of the definition of the term "essential hydrologic functions." As discussed elsewhere in this preamble, the technical information contained in the deleted paragraphs will continue to be available and is more appropriately addressed in guidelines related to alluvial valley floor protection (see OSM's Alluvial Valley Floor Identification and Study Guidelines). The fact that these explanations are in guidelines and not in regulations does not dilute the protection of AVF's because the operative portion of the definition is retained as is the performance standard using the phrase in § 822.11.

A few commenters recommended completely new definitions for the term "essential hydrologic functions." One commenter suggested adding the two alternatives together to define the term in general and also to describe how the definition would be applied during and after mining. The commenter also suggested some wording changes (*i.e.*, substitution of the word "capability" for the word "role;" adding "to plants" after the words water supply; and deleting "maintenance of water balance") since the Act requires minimizing disturbance to the hydrologic balance. Two commenters recommended a definition of the term "essential hydrologic functions" which consolidates Alternatives 1 and 2. This recommended definition attempted to combine the concept to maintain the overall erosional balance of the area while supporting agricultural activities with adequate water.

OSM has evaluated the definitions for the term "essential hydrologic functions" recommended by the commenters. For reasons previously cited in this preamble in support of Alternative 1, OSM finds that definitions for the term which incorporate elements of Alternative 2 are inappropriate. With regard to specific recommendations for wording changes in the definition, the language provided in Alternative 1 is similar to that proposed by the commenters and provides equal protection under the Act. With respect to the recommendation to add language noting that water is to be supplied "to plants," this addition is not needed since the previous sentence refers to supplying water which is usefully available to agricultural activities.

Materially Damage the Quantity or Quality of Water: With respect to the proposed definition of the phrase "materially damage the quantity or quality of water," one commenter recommended that deletion of the phrase "agricultural activities" from the definition and substitution of the term "farming." The commenter asserted this term was more appropriate for the definition because Section 510(b)(5) of the Act is specifically concerned with farming rather than agricultural activities. Another commenter requested that the language "any portion of an alluvial valley floor" be reinstated in the definition. A commenter also pointed out that the supporting preamble to this definition infers that material damage would be allowed if no "systemwide" impacts would result. This commenter went on to state that the preamble is in error and that under the previous rules, specific factors such as flow rate and storage volumes had to be considered. Finally, one commenter requested that the following phrase be retained from the previous definition: "changes that significantly and adversely affect the composition, diversity, or productivity of

vegetation dependent on subirrigation, or which result in changes that would limit the adequacy of the water for flood irrigation of the irrigable land and acreage existing prior to mining."

OSM has evaluated the comments noted above with respect to this definition, and has elected to adopt the definition, as proposed, with two minor revisions. The first includes changing the word "and" to "or" in the defined phrase. Use of the word "and" in the proposed rules was inadvertent. It is clear from the wording of Section 510(b)(5)(B) of the Act that the correct terminology should be "materially damage the quantity *or* quality of water." (Emphasis added.) This correction has also been made where the phrase is used in § 785.19(e)(2)(ii) and in § 822.13(a)(3). The second change is the insertion of the word "coal" in the phrase "surface coal mining and reclamation operations" because that is a defined phrase. Thus, the new definition provides that "materially damage the quantity or quality of water" means to degrade or reduce by surface coal mining and reclamation operations the water quantity or quality supplied to the AVF to the extent that resulting changes would significantly decrease the AVF's capability to support agricultural activities.

In response to the specific comments noted above, OSM has amended the definition of the term "materially damage the quantity or quality of water" to simplify and clarify its application and to reflect a district court decision in *In re: Permanent Surface Mining Regulation Litigation*, Civ. No. 79–1144 (February 26, 1980). That case held that the material damage requirements of Section 510(b)(5)(B) of the Act only apply to alluvial valley floors to which the exclusions of Section 510(b)(5)(A) of the Act do not apply.

Although Section 510(b)(5)(A) of the Act uses the term "farming," it is appropriate to use the term "agricultural activities" in the definition of "materially damage the quantity or quality of water." First, as defined in § 785.19(b)(3), a farm is one or more land units on which agricultural activities are conducted. Therefore, assessing the impacts of the surface coal mining and reclamation operation on the quantity or quality of water that is supplied for the agricultural activities which comprise the farming operation is equivalent to assessing the impacts on the farming operation. Therefore, the use of the term "agricultural activities" in the definition is consistent with the Act.

In response to the commenter's concern about the deletion of the phrase "any portion of an alluvial floor" and also to the commenter's concern that material damage is now allowed under the definition if "systemwide" impacts do not occur, the definition does not change the level of protection of water systems that supply alluvial valley floors which are significant to farming. Although some impacts to the water systems of such alluvial valley floors may occur as a result of surface mining, this is allowed under the Act. These impacts, whether systemwide or occurring on a portion of the alluvial valley floor, must not be of such magnitude as to significantly decrease the capability of the alluvial valley floor to support agricultural activities.

The language of the previous definition which related to adversely affecting vegetation or limiting flood irrigation is not necessary in the definition. Such impacts on the alluvial valley floor will be identified under the new definition in the determination whether the quantity or quality of water that supplies the alluvial valley floor will be degraded or reduced. By focusing the definition on the capability of the alluvial valley floor to support agricultural activities, the emphasis is properly placed on providing the protection that Congress intended.

One commenter pointed out that proposed § 785.19 allowed material damage to waters supplied to an alluvial valley floor that may be mined under exclusions of Sections 510(b)(5)(A) and 506(d)(2) of the Act. The commenter went on to note that this appears to be in direct conflict with Sections 510(b)(3) of the Act and 515(b)(10)(F) of the Act.

OSM has evaluated the commenter's concerns and has concluded that §§ 785.19 and 822.12 are in conformance with the Act, comply with the district court's decision as to the applicability of Section 510(b)(5)(B) of the Act, and do not conflict with Sections 510(b)(3) or 515(b)(10)(F) of the Act. More specifically, if the exclusions of Sections 510(b)(5)(A) and 506(d)(2) of the Act do not apply, then the material damage requirements of Section 510(b)(5)(B) apply. In all cases, the essential hydrologic functions of alluvial valley floors must be preserved (or restored) under Section 515(b)(10)(F) of the Act and the requirements of Section 510(b)(3) of the Act, relating to prevention of material damage to the hydrologic balance outside the permit area, must also be met. Regulations implementing Section 515(b)(10)(F) of the requirements are properly included in § 822.11 and 30 CFR 786.19(c), respectively. (The requirements of Section 510(b)(3) of the Act will continue to be implemented in the final revisions to the hydrology and permitting rules that are now pending.) Previous § 785.19 attempted to combine the requirements of Sections 510(b)(3) and 510(b)(5)(B) of the Act. These final rules do not combine these statutory requirements.

A commenter stated that the shorter and more general definition of the term "materially damage the quantity or quality of water" would weaken alluvial valley floor protection required by the Act. In addition, the commenter asserted that the proposed definition would lead to problems in consistency in measuring material damage (*i.e.*, the regulatory authorities implementing the Act would use inconsistent criteria). This comment was also related to the proposed removal of criteria in previous § 785.19(e)(3) for assessing material damage. In addition, one commenter stated his belief that elimination of the criteria of previous § 785.19(e)(3) for determining whether an operation will cause material damage does not eliminate counterproductive or burdensome rules. The commenter asserted that removal of the criteria in and of itself is actually counterproductive to the intent of the Act in setting national standards. The commenter went on to remark that it is burdensome to applicants and affected citizens to attempt to discern the meaning of the term with the criteria given in the proposed rules. The commenter also asserted that criteria themselves should be left in the rules (rather than in guidelines) to assure appropriate public notice, the opportunity for public comment, and a more accountable program if changes are proposed.

OSM has carefully evaluated the comments received on shortening of the definition of the phrase "materially damage the quantity or quality of water" and also with respect to deleting from the rules the specific criteria for determining material damage. As noted earlier, the deletions from the definition refocus but do not narrow the definition. The principal elements of the previous definition are maintained in the definition, albeit in a more general manner. Deletion of the specific material damage criteria from § 785.19(e) is also justified. The performance standard regarding material damage is retained. Detailed technical information is more appropriately addressed in guidelines. More specifically, OSM's Alluvial Valley Floor Identification and Study Guidelines address various criteria and approaches for assessing material damage of the quantity or quality of water that supplies alluvial valley floors. The national standard adopted allows regional considerations to be

dealt with. Inclusion of the detailed criteria in guidelines will allow regulatory authorities to determine which criteria are relevant in particular situations.

One commenter recommended amending the definition of "materially damage the quantity of water" to specify that the use of adjudicated water rights by an operator shall *not* constitute material damage to water supplying an alluvial valley floor. The commenter went on to assert that it was not the intent of Congress to preempt provisions of State law with regard to adjudicated water rights.

The requirements related to material damage are not related to provisions of State law with regard to adjudicated water rights. No change in the regulation is necessary.

One commenter argued that the proposed definition of "materially damage the quantity or quality of water" significantly alters the interpretation of material damage and the applicability to water supplying alluvial valley floors. The commenter noted that OSM's basis for this change is the February 26, 1980, district court decision which, at the time of the comment, was under appeal. The commenter noted the basis for the appeal (including the requirements of Section 510(b)(3) of the Act) and also asserted that promulgation of this rule prior to resolution of the issue by the U.S. Court of Appeals is premature on the part of OSM. This same commenter, in commenting on proposed § 785.19, expressed concern that this section reflected an "abandonment" by OSM of its appeal.

In response to the February 1, 1983, remand order of the U.S. Court of Appeals, No. 80–1810 (D.C. Cir.), OSM has reconsidered the issues contained in the briefs of the parties. OSM has determined that Judge Flannery's interpretation of the scope of Section 510(b)(5)(B) of the Act is consistent with the Act's intent. Thus, the definition of the term "materially damage the quantity or quality of water" has been amended to reflect that material damage requirements of Section 510(b)(5)(B) of the Act apply only to alluvial valley floors where the exclusions of Section 510(b)(5)(A) of the Act do not apply.

Subirrigation: Two commenters expressed concern with the proposed definition of the term "subirrigation" since technical information present in the previous definition was deleted in the proposed definition. One of these commenters specifically stated that information in the previous rule as to how to identify subirrigation is valuable and should be maintained. However, another commenter expressed general support for shortening of the definition. One commenter, in addition to noting concern with deletion of technical factors describing subirrigation, also expressed a concern that no reference was included in the rule or the preamble to guidelines which could assist in determination as to the presence or absence of subirrigation. This commenter went on to contend that as a result of this deletion of technical information, consistency would suffer, mining on Federal lands would not be uniformly administered, and that States will seek to gain advantages over each other by varying definitions of the term. This commenter went on to assert that the overall effect of this change would be the undermining of the program.

OSM rejects the commenters' concerns and concludes that the deletion of technical factors from the definition of the phrase, considering the extensive treatment of the concept of subirrigation in OSM's guidelines, will *not* lead to inconsistency, undermining of the program, nonuniform administration of mining on Federal lands, or the use of a modified definition by States to gain advantage over each other. Under the final definition, "subirrigation" means the supplying of water to plants from underneath or from a semisaturated or saturated subsurface zone where water is available for use by vegetation. The complex (and often site-specific) technical factors relating to subirrigation are addressed in detail in OSM's Alluvial Valley Floor Identification and Study Guidelines.

A number of commenters expressed concern that the proposed deletion of technical factors from the definition of the term "subirrigation" would result in expansion of areas which would be classified as being subirrigated. More specifically, one commenter asserted that the proposed definition expanded the scope of potential subirrigation acreage considerably (to include almost every valley in the West). This commenter went on to recommend the deletion of the phrase "from underneath or from a semi-saturated or saturated subsurface zone where water is available for use by vegetation." Another commenter echoed the same concerns and also suggested including the concept of capillary action from underlying aquifers and related root penetration. The latter comment was supported by another commenter who noted that root penetration and capillary rise is important to include in the definition since they represent the major biologic and hydrologic mechanisms by which water is made available to agricultural plants from underlying water sources. Another commenter suggested adding the phrase "underlying alluvial aquifers" to distinguish from colluvial water bearing material which is not protected by the alluvial valley floor provisions. Similarly, one commenter recommended the deletion of the language "or the existence of a semi-saturated or saturated subsurface zone" since semi-saturated conditions may occur in upland areas and be associated with the soils' moisture-holding capacities and not subirrigation related to a shallow alluvial water table. Finally, one commenter recommended insertion into the definition of the phrase "in sufficient quantity to support farming during moisture deficient months," thereby, reinforcing the focus of subirrigation in alluvial valley floors to provide water during the dry months.

OSM has carefully reviewed the specific comments noted above with respect to the definition of "subirrigation." There was no intent in the proposed rules to expand the definition of the term, the previous definition of which included the criticized language. The proposed definition appropriately defined the term when considered in the context of the other terms associated with alluvial valley floor protection (*e.g.*, alluvial valley floors, agricultural activities and essential hydrologic functions). The comments expressed above, regarding colluvial water, upland areas, and supplying sufficient water, are addressed in the definitions of these other terms.

One commenter recommended adding the word "agricultural" to modify "plants" to focus the definition on agriculturally useful species based on the objectives of alluvial valley floor protection.

The commenter's recommended addition to the definition is unnecessary because the term is used in the context of alluvial valley floors for which water is available for flood irrigation and subirrigation agricultural activities. Therefore, when the definition of subirrigation is considered in association with other terms related to alluvial valley floor protection (*e.g.*, alluvial valley floors and agricultural activities), the term relates primarily to vegetative species which are useful from an agricultural standpoint.

One commenter recommended a total revision to the definition because virtually all water is supplied to plants from "underneath" and subirrigation waters are not defined separately from water normally available to plant roots through precipitation, infiltration, and percolation. The commenter's proposed new definition included the following:

(1) Water delivered to the soil profile rooting zone is in quantities greater than normally available from precipitation, infiltration, and percolation; (2) subirrigation is normally derived from capillary rise from saturated shallow subsurface zones to provide water in moisture deficient months; and (3) subirrigation is identified by a significant portion of the root mass within the capillary fringe area.

OSM agrees that the points the commenter has raised are important aspects of subirrigation. However, the more general definition of this term, as adopted, is more appropriate given variations in site-specific conditions associated with subirrigation agricultural activities on alluvial valley floors. Further, the technical aspects proposed by the commenter for inclusion in the definition are more appropriately addressed in guidelines associated with the alluvial valley floor protection provisions of the Act and the rules. The commenter is referred to OSM's Alluvial Valley Floor Identification and Study Guidelines which provide extensive guidance as to the technical aspects of subirrigation. Therefore, OSM rejects the proposed definition of the commenter.

Unconsolidated Streamlaid Deposits Holding Streams: A number of comments were submitted on the definition of the phrase "unconsolidates streamlaid deposits holding streams." Three commenters stated that the definition, as proposed, was inappropriate because the scope of the definition would have been broadened by the inclusion of perennial, intermittent and ephemeral streams. In particular, the commenters asserted that the inclusion of ephemeral streams in the definition was inappropriate. The commenters recommended changes to the definition that stated that only streams of significant size and with seasonally consistent flow to enhance agriculture should be considered under definition of unconsolidated streamlaid deposits holding streams for the purpose of alluvial valley floor protection. One commenter recommended deletion of all references to stream type due to redundancy. Two other commenters recommended that the definition be modified to acknowledge the importance of the hydrologic aspects of streamlaid deposits in sustaining agricultural productivity.

One commenter suggested that the term "geologic deposits comprising" floodplains be added to the definition of "unconsolidated streamlaid deposits holding streams" for technical correctness. Two commenters suggested that the definition be revised to state clearly that upland areas are *not* unconsolidated streamlaid deposits.

One commenter suggested that floodplains and terraces with slopes greater than 2 percent should not be considered floodplains for the purpose of alluvial valley floor designation because under these slope conditions, alluvial deposits begin to feather out and a mixture of alluvial deposits begin to feather out and a mixture of alluvium and colluvium occurs. Another commenter pointed out that the width of the valley often restricts farming, and this should have a bearing on alluvial valley floor designation. This commenter went on to assert that an alluvial valley floor less than 100 feet in width represents a practical farming limit.

One commenter expressed concern that the deletion of the quantitative size-related criteria for channels (*i.e.*, bankfull width and depth) would lead to inconsistency in implementation of the alluvial valley floor protection provisions. This commenter also noted that no technical justification had been provided to support this deletion. However, one commenter expressed support for elimination of the numerical channel size criteria.

One commenter requested that the definition for this term be deleted in its entirety since the proposed definition: (1) Defined only where these deposits may be found and not what they are; and (2) improperly included all streams and did not consider whether the stream (and its related aquifer) supply water in sufficient quantities for flood irrigation and/or subirrigation agricultural activities. One commenter proposed a definition which: (1) Is restricted to sediments in lower portions of valleys laid down by streams; (2) excludes colluvial deposits; and (3) contains streams with sufficient water for subirrigation or flood irrigation agricultural activities.

OSM has evaluated the concerns of all of these commenters and has decided to accept the suggestion to delete the definition of "unconsolidated streamlaid deposits holding streams." OSM has concluded that the statutory language "unconsolidated streamlaid deposits holding streams," is the clearest statement of congressional intent regarding the applicability of the alluvial valley floor requirements. *E.g.*, see 123 Cong. Rec. S8083 *et seq.* (Daily ed., May 20, 1977), or H.R. Rep. 95-218, 95th Cong., 1st Sess. (1977) at 119. The legislative history of the Act demonstrates that Congress was vitally concerned with the definition of the term "alluvial valley floor" and carefully chose the geologically derived phrase "unconsolidated streamlaid deposits holding streams." A regulatory gloss in this instance would be overly restrictive.

The proposed definition was not intended to broaden the types of streams covered by the rule. The type or size of the stream is relevant only in determining the availability of water for flood irrigation or subirrigation agricultural activities. The proposed rule was intended to remove an unnecessary technical stream size threshold from the rules which would not be correct in all instances. The removal of the definition accomplishes this.

As a general approach, regulatory authorities must consider the nature of the deposits, their geomorphic characteristics, and stream and valley characteristics (*e.g.*, type stream, channel size, valley width, and area) during the evaluation of alluvial valley floors and related unconsolidated streamlaid deposits holding streams. OSM's Alluvial Valley Floor Identification and Study Guidelines address the issue of unconsolidated streamlaid deposits in relation to flood irrigation and subirrigation agricultural activities and include specific reference to the channel dimension criteria which have been deleted in the final rules.

C. Section 785.19—Permit application requirements

The rules on permit application requirements for surface coal mining and reclamation operations involving alluvial valley floors which are contained in previous § 785.19 have been amended in this final rulemaking to delete duplicative information contained in other parts of the rules; delete detailed technical information and requirements that are not necessary for the protection of alluvial valley floors; respond to the February 26, 1980, district court decision; and establish a procedure by which the regulatory authority, as early in the permit process as possible, can identify alluvial valley floors and determine whether the statutory exclusions are applicable.

The final rule eliminates previous § 785.19 (a) and (b) in order to avoid repeating regulatory language adequately covered by other provisions of the rules. The "Scope" paragraph is unnecessary because the succeeding paragraphs describe the persons to whom the rule will apply. Similarly, the prohibition in previous § 785.19(b) against mining without a permit is also covered elsewhere in the rules.

Section 785.19(a) Alluvial valley floor determination: Final § 785.19(a)(1)

allows applicants to request the regulatory authority to make a determination whether, in an arid and semiarid area, valley floors in the proposed permit area or adjacent area are alluvial valley floors. It also requires sufficient data be submitted by the applicant to make this determination and allows the regulatory authority to request additional information from the applicant. Final § 785.19(a)(2) requires the regulatory authority to make a written determination and requires it to determine an alluvial valley floor exists if unconsolidated soil deposit holding streams are present and sufficient water is available to support agricultural activities as evidenced by certain activities. Final § 785.19(a)(3) allows that further consideration of § 785.19 is not required if an alluvial valley floor is found not to exist in the proposed mining area or adjacent area pursuant to Paragraph (a)(2).

Final § 785.19(a) has only a few changes from the proposed rules and they are discussed with the following comments. One of the changes was made in final § 785.19(a)(1). As an initial step in the permit process, permit applicants "may" (as opposed to "shall" in the proposed rules) request the regulatory authority to make an alluvial valley floor determination. This request should be discretionary on the part of permit applicants. The regulatory authority has the responsibility in each case to determine whether an AVF is present. The discretion is provided to allow an operator to seek such a determination at the outset of the permit application process.

Previous § 785.19(c) enabled the operator to obtain a determination of the existence of an alluvial valley floor prior to submittal of the permit application. Unfortunately, in every situation it required an extensive amount of information to be submitted for the regulatory authority to base its determination of the existence of an AVF. This included results of a field investigation of the proposed permit area and adjacent area. The investigation had to include detailed geologic, hydrologic, land use, and soils and vegetation studies. The studies had to include maps of unconsolidated streamlaid deposits holding streams, maps of streams, surface watershed, flood plains, terraces, maps of land subject to agricultural activity, etc. In addition, documentation based on environmental monitoring, measurements, and representatives sampling was required, together with infrared aerial photographs.

Previous § 785.19(c) is renumbered as § 785.19(a). OSM is amending this section by deleting the unnecessary detailed technical information and study requirements. The changes do not alter the requirement that adequate data and analysis are required to support an alluvial valley floor determination by the regulatory authority. The primary difference is that these rules allow the regulatory authority to adjust the type of information and level of analysis to better reflect site-specific conditions. The enumeration of the specific types of maps, monitoring, documentation, and photographs that has to be included in all studies is eliminated. This change should result in substantial time and cost savings in those situations where the presence or absence of an alluvial valley floor is obvious and not controversial. A new § 785.19(a)(3) is included to clarify that, if alluvial valley floor areas are not identified, the applicant could complete the permit application process without further consideration of § 785.19.

One commenter requested deletion of the term "alluvial valley floor" in § 785.19(a) and insertion of the term "significant agricultural activities in the valley floor."

OSM has evaluated the commenter's request and finds that this section properly uses the term "alluvial valley floor." More specifically, Sections 510(b)(5) and 515(b)(10)(F) of the Act use the term "alluvial valley floor" and not "significant agricultural activities on the valley floor." The term "alluvial valley floor" is defined in § 701.5 of the rules which parallels the definition in Section 701(1) of the Act. The Act is not limited in its application to "significant agricultural activities on the valley floor." Therefore, OSM finds that the use of the term alluvial valley floor in § 785.19(a) is appropriate.

A few commenters expressed concern with respect to the use in proposed § 785.19(a)(2)(ii)(B) of the phrase "capability of an area to be flood irrigated." One commenter suggested deletion of this phrase because there is no statutory basis for the concept. For example, the commenter noted that Section 510(b)(5)(A) of the Act refers only to alluvial valley floors that *are* irrigated or naturally subirrigated and that there is thus no inference to "capability" for irrigation.

The commenter went on to assert that congressional intent was to protect farming on alluvial valley floors which benefit from *existing* irrigation or subirrigation. Further, the commenter asserted that this portion of the rule imposes an intolerable burden on operators because virtually every acre of the West has "potential for irrigation" if economic, environmental, and technological constraints are ignored. Two commenters also recommended that the regulatory authority should consider "historically proven" capability rather than potential alone for determining flood irrigation capability.

The definition of the term "alluvial valley floor" in Section 701(1) of the Act speaks to water "availability" for subirrigation or flood irrigation. There is no requirement that the area be currently irrigated or have a "historically proven" capability for irrigation to be classified as an alluvial valley floor. In this instance, final § 785.19(a)(2)(ii)(B) has continued the requirements of previous § 785.19(c)(2). OSM does not concur with the commenter's assertion that "virtually every acre of the West" has the potential for irrigation. Past alluvial valley floor evaluations by OSM and State regulatory authorities have led to negative determinations of the potential for flood irrigation. OSM's Alluvial Valley Floor Identification and Study Guidelines provide guidance with regard to factors upon which to evaluate the potential for flood irrigation. More specifically, the guidelines refer to evaluations of regional flood irrigation practices and of water quantity and quality, soils, and topography to assess the potential for flood irrigation in valley areas. Economic, environmental, and technological factors are integral to the assessment of the potential for flood irrigation. Therefore, OSM rejects the recommendations and rationale of the commenters with respect to this issue.

Two commenters expressed support for early identification of alluvial valley floors without the submission of a complete permit application. However, one commenter expressed a number of concerns with regard to this idea. The commenter contended that the alluvial valley floor determination, as proposed, would require the regulatory authority to make a determination as to the existence of an alluvial valley floor on the basis of information available at an early stage of permitting. This commenter also pointed out that seldom, if ever, was there sufficient information available at the initial, pre-permitting stage of the approval process to make a final determination of the existence of an alluvial valley floor. The commenter went on to also point out that information needed for an alluvial valley floor determination is required in a normal permit application (*e.g.*, hydrology data base) and therefore, it is

illogical to require its presentation prior to permit application submission.

OSM has evaluated the commenter's concerns noted above and offers the following response. First, as was allowed by the previous rules, it is entirely appropriate for the alluvial valley floor permitting rules to provide for an operator to submit information prior to submission of a complete permit application relating to the presence or absence of alluvial valley floors in areas which will or may be affected by surface coal mining and reclamation operations. A resolution of this issue, or of the related issue pertaining to the applicability of a statutory exclusion, could be determinative as to whether mining will be allowed. An early determination that mining will be prohibited could spare an operator the expense associated with the filing of a complete permit application.

With regard to a commenter's inference that such preapplication determinations will be made with incomplete data, § 785.19(a)(1) specifies that the "regulatory authority may require additional data collection and analysis or other supporting documents, maps, and illustrations in order to make the determination." OSM wants to emphasize that in order for the regulatory authority to make a pre-application alluvial valley floor determination, sufficient data must be available . OSM agrees with the commenter that the data base for an alluvial valley floor determination and the hydrology data base are closely related, but this should not preclude early submission of such data to support an alluvial valley floor determination. However, in many cases, a complete permit application may be needed to assess the significance of an alluvial valley floor to farming, whether the quantity or quality of water supplying the alluvial valley floor will be materially damaged, and whether the alluvial valley floor's essential hydrologic functions will be preserved (or reestablished). Such information will be required for the regulatory authority to make the finding or § 785.19 (b) and (c).

One commenter suggested that OSM should incorporate into the alluvial valley floor rules a procedure for an early determination of alluvial valley floors without expensive preapplication studies.

Such a procedure is possible under the new rules. The extent of the information necessary to make the determination will depend upon the individual site. The commenter is referred to OSM's Alluvial Valley Floor Identification and Study Guidelines which provide various levels of analysis with respect to possible alluvial valley floors. More specifically, the commenter is referred to Part I of the guidelines which provides for basic geomorphic, water availability, and land use investigations which may indicate conclusively at an early stage of the proceeding, the presence or the absence of alluvial valley floors.

One commenter expressed concern with the application of the phrase "adjacent area" in the section and maintained that it is not defined in the rules nor used in the Act. This commenter went on to state that submittal of a complete alluvial valley floor permit application should not be required if the mine area is a small contributor to the total water flow in the valley. The commenter also suggested that Part 785 be changed to reduce the application requirements for these areas that contribute insignificant quantities of water to the alluvial valley floor.

Alluvial valley floor determinations and appropriate studies must be undertaken for proposed operations within a valley holding a stream or in a location where the adjacent area includes any stream in the arid and semiarid regions of the United States. With regard to alluvial valley floor protection, the concept of "adjacent area" is consistent with Sections 510(b)(5) and 515(b)(10)(F) of the Act because these sections intend protection of all alluvial valley floors that may be affected.

The term "adjacent area" is defined in the rules and refers to the area where a resource outside the permit area is or could reasonably be expected to be adversely impacted by mining (48 FR 14814, April 5, 1983). It is important to evaluate the presence of alluvial valley floors in these areas associated with surface mining and reclamation operations. If alluvial valley floors are present in the adjacent area, it is important to identify the importance of these alluvial valley floors to farming, to evaluate the potential of the proposed operation to materially damage the quantity or quality of water supplying them, and to assess their essential hydrologic functions. If it is determined that the area upon which the surface coal mining operations will be conducted contributes insignificant amounts of water to an alluvial valley floor in an adjacent area, the necessary studies should be designed accordingly. Again the commenter is referred to OSM's Alluvial Valley Floor Identification and Study Guidelines which provide guidance as to recommended studies for operations which may encounter alluvial valley floors in adjacent areas.

One commenter recommended deletion in § 785.19(a)(1) of the phrase "or in a location where the adjacent area includes any stream" because there is no justification to require an alluvial valley floor determination for areas that hold streams which are adjacent to alluvial valley floors.

OSM has reviewed the proposed language of § 785.19(a)(1), and concludes that the scope of this paragraph is correct in requiring an alluvial valley floor determination for areas adjacent to surface coal mining and reclamation operations which themselves are not immediately adjacent to alluvial valley floors. Therefore, OSM rejects the point of concern raised by the commenter.

One Commenter recommended replacement language regarding the studies necessary to demonstrate the existence of an alluvial valley floor as given in proposed § 785.19(a)(1). The commenter recommended the same studies be required but stated the studies should specifically be required to address the criteria of § 785.19(a)(2) and that the section should list sufficient information so that the regulatory authority can make an alluvial valley floor determination.

The commenter's suggestion with regard to the sufficiency of information is already included in § 785.19(a)(1) by the requirement for the regulatory authority to determine, based on either available data or field studies submitted by the applicant (or a combination of available data and field studies) the presence or absence of an alluvial valley floor. Information sufficiency is also emphasized by the last sentence of § 785.19(a)(1) which states that the "regulatory authority may require additional data collection and analysis or other supporting documents, maps, and illustrations in order to make the (alluvial valley floor) determination." OSM's Alluvial Valley Floor Identification and Study Guidelines also provide guidance as to geologic, hydrologic, land use, soils, and vegetation data and analyses which are oriented to the criteria of § 785.19(a)(2).

Two commenters expressed concern that use of the phrase "or historical" flood irrigation in § 785.19(a)(2)(ii)(A) presupposes that flood irrigation was successful and indicates that sufficient water is available to support flood irrigation agricultural activities. One commenter noted that abandoned facilities could be a strong indicator of non-alluvial valley floor status if abandonment was related to adverse hydrologic or soil conditions, The other

commenter recommended that language be added to modify "historical flood irrigation" to specify that the mere existence of historical flood irrigation may or may not provide evidence of sufficient water availability to support agricultural activities. This commenter recommended the addition of the phrase "demonstrated success" to modify historical flood irrigation.

OSM concurs with the concerns expressed by the two commenters and agrees that proposed § 785.19(a)(2)(ii)(A) was not clear with respect to this matter. Therefore, OSM has modified § 785.19(a)(2)(ii)(A) to refer simply to the "existence of current flood irrigation in the area in question," and has modified § 785.19(a)(2)(ii)(B) to refer to the "capability of an area to be flood irrigated, based on evaluations of typical regional agricultural practices, *historical flood irrigation*, streamflow, water quality, soils, and topography." (Emphasis added.) This modification clarifies the role of historical flood irrigation as an indicator of sufficient water availability for flood irrigation. The term "water yield" has been deleted from the revised § 785.19(a)(2)(ii)(B) since it was considered superfluous to the term "streamflow" which has been maintained in the paragraph. OSM's Alluvial Valley Floor Identification and Study Guidelines also address the studies necessary to evaluate historical flood irrigation as an indicator of sufficient water availability to support agricultural activities.

One commenter suggested a modification of the subirrigation criterion of § 785.19(a)(2)(ii)(C) to add "as evidenced by the presence of significant agricultural activities." The commenter went on to assert that this would cut down on field studies because if manageable agricultural activities are present and no obvious flood irrigation is present, one can infer that subirrigation is present.

OSM has evaluated the commenter's suggestion relative to the proposed language of § 785.19(a)(2)(ii)(C) and finds no basis in the Act of include the term "significant agricultural activities" with respect to an evaluation of the presence of subirrigation. The language of proposed § 785.19(a)(2)(ii)(C) appropriately addresses the criterion of subirrigation as provided for in the Act. ASM's Alluvial Valley Floor Identification and Study Guidelines address subirrigation field investigations in considerable detail.

One commenter stated his belief that the absence of currently developed agricultural activity should settle whether an area is a significant alluvial valley floor. This commenter also contended that such an absence of agricultural activity represents a threshold decision that no alluvial floor exists unless the interruption is due to artificial interruption such as mining.

The commenter's proposal conflicts with the term of the statute. Specifically, the definition of "alluvial valley floors" in Section 701(1) of the Act refers to water availability for flood irrigation or subirrigation activities with no reference to currently developed agricultural activities in the determination of alluvial valley floors.

One commenter expressed the opinion that the presence or abandoned spreader dikes or other abandoned agricultural improvements should be accepted as conclusive proof of the insignificance of the area to agriculture, provided that it can be documented that abandonment was due to long-term inability of the land to support agricultural use.

OSM intends that in the evaluation of flood irrigated agricultural activities, an assessment of abandoned flood irrigation should be undertaken. Abandoned spreader dikes may be an indication that flood irrigation agricultural activities in a particular valley are not feasible. However, OSM does not concur with the position advanced by the commenter that abandoned spreader dikes (or other abandoned agricultural improvements) should be accepted as conclusive proof of the insignificance of the area to agriculture. Flood irrigation systems may be abandoned for a variety of other reasons (*e.g.*, water rights) and these should be evaluated in the course of the alluvial valley floor assessment. Based on this reasoning, OSM rejects this suggestion of the commenter.

One commenter recommended the addition of language to proposed § 785.19(a)(1) to require that data only with respect to "agriculturally significant" vegetation be collected. The commenter went on to emphasize that Congress was very specific about addressing only the agricultural aspects of alluvial valley floors. Therefore, the commenter contended that only data relative to agricultural production is important.

Final § 785.19(a)(1) specifies that studies shall include sufficiently detailed vegetation data and analysis to demonstrate the probable existence of an alluvial valley floor. OSM agrees with the commenter that the focus of the vegetative studies and analysis should be with respect to agriculturally important vegetative species. Final § 785.19(a)(1) contains general references to geologic, hydrologic, land use, soils, and vegetation data and analyses needed to demonstrate the probable existence of an alluvial valley floor. (The commenter is referred to OSM's Alluvial Valley Floor Identification and Study Guidelines which address the elements of an appropriate vegetation study related to alluvial valley floor assessments.)

Section 785.19(b) Applicability of statutory exclusions: The previous rules required that a complete permit application for mining operations be filed, including all hydrologic data, before the regulatory authority could make a determination of the applicability of the various statutory exclusions. In some cases, this procedure created an unnecessary amount of uncertainty and expense for the applicant and did not contribute to a higher level of environmental protection of the alluvial valley floor.

OSM is amending this procedure. If an alluvial valley floor is present, final § 785.19(b) provides that the operator may request that the regulatory authority make a determination of the applicability of the statutory exclusions of Section 510(b)(5) of the Act. The operator must submit sufficient data, information, and analyses to the regulatory authority to support the determination, and the regulatory authority may make the determination, based on this supporting material. The proposed phrase "applicant-submitted data" has not been adopted since it is subsumed within the term "available data." If the regulatory authority needs further information to determine whether the exclusions of the Act apply, it may request additional data collection and analyses, including submittal of a complete permit application.

Those circumstances excluded from the requirements of Section 510(b)(5) of the Act are set forth as statutory exclusions in § 785.19(b)(2). The first exclusion is for undeveloped rangeland that is not significant to farming and is set forth in § 785.19(b)(2)(i). The second exclusion, in final § 785.19(b)(2)(ii), is for small acreage with negligible impact on a farm's agricultural production.

The previous test for compliance with the small acreage exclusion was set forth in suspended § 785.19(e)(2) which provided: "The effect of the proposed operations on farming will be concluded to be significant if they would remove from production, over the life of the mine, a proportion of the farm's production that would decrease the expected annual income from agricultural activities normally conducted at the farm."

The February 26, 1980, district court decision, *In re: Permanent Surface*

Mining Regulation Litigation, supra, at pp. 45–53, held that this test was inconsistent with the Act because even interference with a small number of acres, a situation in which the Act does not intend mining to be precluded, may result in a decrease in a farm's income.

Under the final rule, negligible impact of the proposed surface coal mining and reclamation operation on farming will be based on the relative importance of the affected vegetation and water of the developed grazed or hayed AVF to the farm's production. This rule encompasses the salient non-suspended portion of previous § 785.19(e)(2).

The statement of what constitutes a farm is moved from previous § 785.19(e)(4) to final § 785.19(b)(3), but remains unchanged.

The third circumstance that would provide an exclusion from the requirements of Section 510(b)(5) of the Act, in final § 785.19(b)(2)(iii), accounts for the proviso in Section 510(b)(5) of the Act and its extension in the proviso in Section 506(d)(2) of the Act. Rather than having the substance of the provisos repeated a number of times in the rules, final § 785.19(b)(2)(iii) cross-references § 822.12(b) (3) and (4), which describes the provisos.

Several comments were received about the provisions of § 785.19(b). One commenter felt that the proposed change in § 785.19(b)(1) allowing the applicant to request a separate determination as to the applicability of a statutory exclusion could result in an interruption of the review process and the submission of data out of phase with other parts of the review process. Another commenter suggested that the proviso of Section 510(b)(5) of the Act should be contained in § 785.19(b)(2)(iii) and that this section be referenced in § 822.12(c) rather than as proposed (the reverse organization). One commenter indicated that the phrase "significant to agricultural activities" in proposed § 785.19(b)(2)(i) should be deleted because it expands the requirements of previous § 785.19(e)(2) that stated significance to agricultural activities is based on the relative importance of the vegetation and water of the developed grazed or hayed alluvial valley floors area to the farm's production. Finally, this same commenter felt the proposed § 785.19(b)(2)(ii) would have established an economic test for significance to farming, but in reality, there is no economic loss because the land owner is compensated by the operator.

OSM has reevaluated the requirements of § 785.19(b)(1) that provide for a separate determination of the applicability of the statutory exclusions from Section 510(b)(5) of the Act and finds no basis for the commenters' concern that these provisions could interrupt the review process. The regulatory authority may need to adjust its procedures slightly but this is certainly within the realm of reasonable administrative practice. With respect to the suggestion that OSM reverse the organization of §§785.19(b)(2)(iii) and 822.12(c), the change is unnecessary.

Finally, with respect to the comment concerning the application of the proposed phrase "not significant to agricultural activities," OSM has modified the final rule to refer to land on which "the premining land use is undeveloped rangeland which is not significant to farming." This properly describes the first circumstance excluded from the requirements of Section 510(b)(5) of the Act. The language the commenter referred to in previous §785.19(e)(2) concerning the "relative importance" of the "developed" AVF area is not pertinent in considering undeveloped rangeland.

Under these final rules, it is necessary to determine the "significance to farming" only with regard to the statutory exclusions for undeveloped rangeland. The applicability in §785.19(b)(2)(ii) of the second statutory exclusion is dependent upon the finding that small acreage affected will cause negligible impact on a farm's agricultural production. Also, the finding in final §785.19(e)(2)(i) relates to whether the proposed surface coal mining operation will interrupt, discontinue or preclude farming. Since neither of these other provisions relates specifically to a finding of "significance to farming," the language of previous §785.19(e)(2) referred to by the commenter is unnecessary.

A commenter expressed concern that the provisions of §785.19(b)(2) for identifying statutory exclusions before a complete permit application is submitted would burden the regulatory authority with a responsibility to make a determination without adequate information. This commenter also requested that the detailed technical data and informational requirements of the previous rule be retained.

The requirements of §785.19(b) do not require the regulatory authority to make a preliminary determination on the applicability of the statutory exclusions. The rules emphasize the importance of adequate information to support the determination. A regulatory authority that cannot make a supportable determination based on information submitted by the applicant must request additional data and/or analyses. This additional material could include a complete permit application.

As stated earlier, the detailed technical information of the previous rules need not be contained in the rules. Much of the material is already included in the guidelines on alluvial valley floors.

One commenter asserted that rangeland without improvements to increase productivity of vegetation should not be considered improved even if cross fencing, watering ponds, and other facilities normally associated with western rangeland are present.

OSM has reviewed the use of the term "undeveloped rangeland" in §785.19(b)(2)(i) and concludes that this subparagraph correctly implements the requirements of Section 510(b)(5)(A) of the Act with respect to undeveloped rangeland. The definition of "undeveloped rangeland" in § 701.5 of the rules simply refers to lands where the use is not specifically controlled or managed. Therefore, although not specifically stated in the rules, if fencing, watering ponds, and other facilities have been implemented to specifically support subirrigation or flood irrigation agricultural activities on the alluvial valley floor, such rangeland would be considered "improved." This is consistent with the guidelines and the approach taken by a number of western State regulatory authorities in implementation of the alluvial valley floor protection provisions of the Act.

One commenter pointed out that the Act is clear that unconsolidated streamlaid deposits alone do not constitute an alluvial valley floor. This commenter also noted that it is necessary to make a threshold determination that an alluvial valley floor does not exist where no consistent water supply is available to sufficiently sustain irrigated agricultural activities.

OSM concurs with the points made by the commenter. The necessary elements of an alluvial valley floor are addressed in §785.19(a)(2). Namely, the regulatory authority shall determine that an alluvial valley floor exists if unconsolidated streamlaid deposits holding streams are present *and* there is sufficient water available to support agricultural activities. No changes are required in the rules to reflect the points made by this commenter.

One commenter suggested that easily applied criteria on such characteristics as stream size and vegetation should be developed to exclude areas from alluvial valley floor studies.

In response to this comment, such uniform national standards are not easily developed. OSM has decided that

detailed criteria should be included in technical guidelines which support implementation of the alluvial valley floor protection provisions of the Act rather than in rules. The commenter is again referred to OSM's Alluvial Valley Floor Identification and Study Guidelines. These guidelines provide sizing criteria with respect to channel width and depth, valley width, and valley size and provide guidance with respect to criteria which may be used to exclude areas from consideration as alluvial valley floors. As with any guidelines, they may not be appropriate in every instance and a regulatory authority has the responsibility for making the final determinations based on the facts of the specific situation.

Two commenters pointed out that the proposed addition to § 785.19(b)(2)(ii) on "determining negligible impact on farming, if farming is already precluded because of physical or economic consideration," would have been an unnecessary addition. Both commenters noted that this was adequately covered under the statutory exclusion of § 785.19(b)(2)(i). Further, one of the commenters felt that the area would not be classified as an alluvial valley floor in the first place when regional agricultural practices are evaluated.

OSM has reevaluated the need for the additional regulatory language in § 785.19(b)(2)(ii) and agrees with the commenters that the proposed addition was not necessary and could have added confusion. The final rules have been modified to remove this language.

One commenter requested that the proposed sentence in § 785.19(b)(2)(ii) describing how to determine negligible impact on a farm's agricultural production be deleted from the rule and that the States be allowed to establish standards for negligible impact. This commenter pointed out that under the proposed rule, the regulatory authority would have to assess the life-of-mine effects rather than those over the permit term.

OSM has carefully evaluated the proposed changes to § 785.19(b)(2)(ii) concerning the determination of negligible impact on a farm's agricultural production. The agency disagrees with the commenter's assertion that requiring consideration of impacts of mining on alluvial valley floor production over the life of mine would be excessive and impose an unnecessary burden on both the operator and the regulatory authority. As indicated in the proposed rule, a time frame is necessary to measure the impact of mining on a farm's production. The expected life of the mine is the most reasonable and accurate time frame and was included in the previous rule. Further, consideration of impacts over such an extended period will reduce errors in measurement associated with normal expected fluctuations in a farm's annual output. Since an operator must submit information on all alluvial valley floors both in the permit area and in the adjacent area, the requirement should not significantly change the burden on the operator.

The final rule does not adopt the proposal to measure a farm's production based solely on typical farming practices in the region.

In reviewing the legislative history, it is apparent that the comparison to determine whether impacts are negligible must be made on a farm-by-farm basis rather than on a regional basis (123 Cong. Rec. S8039, May 19, 1977). While it may be appropriate to utilize typical farming practices in the region to assist in evaluating the impacts of mining on a farm, farm-specific practices may also be appropriate for consideration in a particular case. Therefore, OSM has dropped the proposed language for this rule and has maintained language similar to that contained in the previous rule. The phrase "The significance of the impact" contained in the previous § 785.19(e)(2) has been changed to "negligible impact" to be consistent with other changes to this section.

Varied opinions were expressed by commenters with respect to the definition of the term "farm" in § 785.19(b)(3). Three commenters recommended that the definition of farm be retained in the rules, as proposed, to provide clarity and avoid future controversy. However, two other commenters suggested that the definition of the term be deleted from the rules to provide flexibility. More specifically, these commenters suggested that the term "farm" be defined on a case-by-case basis to reflect variability in regional farming practices. One commenter also noted that considerable confusion existed in the proposed rules due to the unpatterned, interchangeable use of the terms "farming" and "agricultural activities."

OSM has considered the comments with respect to the definition of the term "farm" in § 785.19(b)(3), and concludes it is important to include the definition of this term in the rules to provide necessary clarification. In addition, the definition of farm in the rules provides the necessary flexibility to take into account regional agricultural practices and also provides important information with respect to the relationship of a "farm" and "agricultural activities."

To provide further clarification, a number of changes have been made in the rules to provide consistency in the use of the term "farming" and "agricultural activities." More specifically, the term "farming" has been substituted for the term "agricultural activities" in §§ 785.19(b)(2)(i), 785.19(d)(2)(ii), 822.12(a)(1), and 822.13(a)(2) to provide consistency with the Act. These substitutions have been made where the rules implement the requirements of Section 510(b)(5)(A) of the Act. This section of the Act refers to the protection of "farming" (while the definition of alluvial valley floor in Section 701(1) of the Act uses the more general term "agricultural activities"). Therefore, substitution of the term "farming" for "agricultural activities" has occurred in the sections noted above which relate to the statutory exclusions if the area is undeveloped rangeland not significant to farming or relate to whether the operation will avoid the interruption, discontinuance, or preclusion of farming. These changes will provide needed clarification and consistency in the rules and will more closely meet the intent of the statute with respect to alluvial valley floor protection.

Section 785.19(c) Summary denial of permit: If the regulatory authority were to determine under final § 785.19(b)(2) that the statutory exclusions of Section 510(b)(5) of the Act do not apply to the applicant, the applicant would have a number of choices: (1) Attempt to obtain a permit by meeting the standards of Section 510(b)(5) of the Act; (2) Withdraw its application; or (3) Under new § 785.19(c), request the regulatory authority summarily to deny the permit prior to submittal of the entire permit application based on a finding that mining would be precluded under Section 510(b)(5) of the Act. Such a denial could enable the applicant to initiate a request for an exchange of land under the coal exchange program required by Section 510(b)(5) of the Act. This is a more logical procedure than previously existed and its implementation will avoid the problem with the previous rules that possibly required the operator to collect and submit unnecessary data and analyses.

One commenter fully supported proposed § 785.19(c) to enable the regulatory authority to determine that an alluvial valley floor area is significant to farming without the operator having to submit a complete application. Another commenter noted that the proposed addition might lighten the workload of the regulatory authority

without compromising environmental protection. But the commenter pointed out the potential for abuse through collusion using such procedures. Finally, a commenter felt it was unclear how the regulatory authority can deny the application if it cannot make the findings of § 785.19(e)(1). The commenter felt the regulatory authority would have to make the finding in § 785.19(e)(1) to assure the exclusions are not applicable and that the property shall be considered for coal exchange.

Some of the commenters' confusion concerning the findings in proposed § 785.19(e) were related to the order of proposed Paragraphs (e)(1) and (e)(2). In the final rule, these paragraphs have been reversed and renumbered accordingly. If the statutory exclusions of § 785.19(b)(2) do not apply then the findings of § 785.19(e)(2) (i) and (ii) will have to be made in order for the operator to mine on the alluvial valley floor. (The finding of § 785.19(e)(2)(iii) does not relate to the exclusions in Section 510(b)(5) of the Act and is always required prior to the issuance of a permit for mining on an AVF.) By denying a permit based on the inability to make the findings in § 785.19(e), the regulatory authority will, in fact, be certifying that the impacts addressed by Section 510(b)(5) (A) or (B) of the Act would occur. This could make the area available for consideration for the coal exchange program.

Based on additional analysis of proposed § 785.19(c), OSM has determined that an additional paragraph was needed to enable the regulatory authority to prohibit surface coal mining and reclamation operations in all or parts of the area to be affected by mining. This addition will enable the regulatory authority, at the request of the applicant, to apply the summary denial provisions to all or parts of the area to be affected by mining.

Section 785.19(d) Application contents: The previous rules in § 785.19(d)(1) provided that once land within the proposed permit area or adjacent area was identified as an alluvial valley floor and the proposed mining operation could have affected an alluvial valley floor or waters that supply alluvial valley floors, the applicant had to submit a complete application for the proposed mining and reclamation operations. The complete application had to include detailed surveys and baseline data required by the regulatory authority for a determination of—

(i) The characteristics of the alluvial valley floor which are necessary to preserve the essential hydrologic functions during the after mining;

(ii) The significance of the area to be affected to agricultural activities;

(iii) Whether the operation will cause, or presents an unacceptable risk of causing, material damage to the quantity or quality of surface of ground waters that supply the alluvial valley floor;

(iv) The effectiveness of proposed reclamation with respect to requirements of the Act and the regulatory program; and

(v) Specific environmental monitoring required to measure compliance with Part 822 during and after mining and reclamation operations.

Previous § 785.19(d) (2) and (3) described in detail the information and surveys required to be submitted as part of the application in addition to the information required for the identification of the AVF's.

This final rule generally retains the above-described requirements of previous § 785.19(d)(1), with a few variations in language to parallel the Act. Previous §§ 785.19(d) (2) and (3) have been removed.

If the regulatory authority has already determined that any of the statutory exclusions in final § 785.19(b)(2) apply, then the applicant will not have to submit information in the permit application, as required by § 785.19(d)(2) (ii) and (iii), as to whether the proposed operation would interrupt, discontinue, or preclude farming on the AVF or whether it would materially damage the quantity or quality of the surface or ground water supplied to the AVF. However, regardless of whether the statutory exclusions were to apply, the applicant must provide data, as required by § 785.19(d)(2)(i), to show that the essential hydrologic functions of the AVF will be preserved throughout the mining and reclamation process.

Final § 785.19(d) will not enumerate the technical data, information, and analysis required for a complete permit application contained in previous § 785.19(d) (2) and (3), but will continue to require generally that sufficient information be submitted to enable the regulatory authority to make the necessary determinations. Because the determinations will have to be supported, the final rules should not change the level of protection afforded AVF's. The principal difference is that the regulatory authority will have the flexibility to adjust the type of data and level of analysis necessary on which to base its determinations.

Two commenters asserted that no documentation is needed with regard to the essential hydrologic functions of an alluvial valley floor (per § 785.19(d)(2)(i)) if the exclusions of Section 510(b)(5)(A) of the Act apply (*i.e.*, if the alluvial valley floor is undeveloped rangeland not significant to farming). One of the commenters went on to reference a footnote in the district court's decision of February 26, 1980 (footnote No. 28, page 53). The other commenter simply asserted that where the statutory exclusions of Section 510(b)(5)(A) of the Act apply, the operation should be exempt from the requirements of Section 515(b)(10)(F) of the Act.

OSM has evaluated the commenters' assertions regarding the footnote in the district court's decision. OSM concludes that regardless of the applicability of the statutory exclusions of Section 510(b)(5) of the Act, the performance standard of Section 510(b)(10)(F) of the Act applies with respect to alluvial valley floors. The wording of Section 510(b)(10)(F) itself requires preservation of the essential hydrologic functions of alluvial valley floors throughout the mining and reclamation process, with no mention of whether the alluvial valley floor meets the statutory exclusions of Section 510(b)(5) of the Act. This concept is supported by a statement in the district court's decision on page 50 that "If the permit area encompasses an alluvial valley floor, the hydrologic protections of Sections 510(b)(3) and 515(b)(10)(F) apply *regardless of whether farming occurs.*" (Emphasis added.) The footnote related only to the validity of OSM's previous rule implementing Section 510(b)(5)(B) of the Act. As discussed elsewhere in this preamble, OSM agrees with the district court's decision that Section 510(b)(5) clearly legislates an exemption to the hydrology protection requirements of Section 510(b)(5)(B) of the Act for operations which will have a negligible impact on the farm's production or where the alluvial valley floor is undeveloped rangeland not significant to farming. However, it is not correct that this is also an exemption from the more general hydrologic protection provisions of Sections 510(b)(3) and 515(b)(10)(F) of the Act.

One commenter requested that in order to provide clarity, the rules should make specific reference to the permit and denial provisions of the Act. More specifically, the commenter suggested that Section 510 of the Act be referenced in § 785.19(d)(2) (ii) and (iii) which implement this section of the Act in terms of supplying such information in permit applications.

OSM has evaluated the commenter's concerns and concludes that the rules appropriately implement the provisions of Section 510(b)(5) (A) and (B) of the Act with respect to alluvial valley floor

protection and that specific reference to Section 510 of the Act is unnecessary.

One commenter expressed concern with the change in terminology of § 785.19(d)(2)(i) from "during and after mining" to "throughout the mining and reclamation process." The commenter went on to assert that this change will not provide the same protection as the previous rule due to long-term ground water quality changes due to mining.

OSM made this change in terminology to more closely reflect the language of the statute. More specifically, Section 515(b)(10)(F) of the Act calls for "preserving *throughout the mining and reclamation process* the essential hydrologic functions of alluvial valley floors in the arid and semiarid areas of the country * * *" (Emphasis added.) The previous phrase "during and after mining" was ambiguous in being open-ended and not providing closure regarding an operator's responsibility. Under the new rule, the operator's responsibility and a regulatory authority's permit evaluation must proceed through the reclamation process until bond release.

Two commenters contended that in cases where the essential hydrologic functions of alluvial valley floors must be restored, the restoration plan should focus on duplicating the pre-mining agricultural productivity as opposed to duplicating the exact pre-mining hydrologic details. One of these commenters pointed out that achieving the latter may be counterproductive in achieving the former. It was suggested that restoration of a topography conducive to flood irrigation ought to be permissible where subirrigation existed previously, provided that agricultural productivity is restored. The commenter went on to assert that the rules should not contain the implication that an identical hydrologic regime must be reconstructed to preserve the essential hydrologic functions.

OSM has evaluated the comments noted above with respect to the suggestion to require restoration of "modified" essential hydrologic functions which maintain the agricultural utility of the alluvial valley floor. The principal objective of Section 515(b)(10)(F) of the Act is to preserve (or restore) the essential hydrologic functions of alluvial valley floors throughout the mining and reclamation process. This statutory provision is implemented in § 822.11 of the alluvial valley floor rules. Permit applications must demonstrate that the essential hydrologic functions of an alluvial valley floor will be preserved outside the permit area and restored within the permit area. The four major components of the essential hydrologic functions of alluvial valley floors include the collection, storage, and regulation of the flow of water and making this water available for agricultural purposes. (See H.R. Rept. No. 95–218, 95th Congress 1st Session at 111–112, 116–118 (1977).)

With respect to the reestablishment of essential hydrologic functions on alluvial valley floors, the components of the essential hydrologic functions (or characteristics which support the components) of an alluvial valley floor do not have to be restored to be identical to their premining state. For example, in a situation where flood irrigation is the essential hydrologic function, a restored ditch system does not have to be replaced in exactly the same location, or with respect to a subirrigated alluvial valley floor, a restored shallow ground water system does not have to be comprised of the same geologic materials or strata. Stated in a different way, particular characteristics of the alluvial valley floor which are necessary to preserve the essential hydrologic function may be modified in the restoration effort so long as they are functionally equivalent to the premining feature.

However, OSM finds no statutory basis for the recommendation of the commenters that the substitution of flood irrigation for subirrigation on affected alluvial valley floors should be permissible. The language of Section 515(b)(10)(F) of the Act is quite clear in that the essential hydrologic functions of alluvial valley floors must be preserved. Although flood irrigation may achieve the same agricultural productivity as subirrigation under a given hydrologic regime, it is generally understood that, in most cases, subirrigation (where it occurs) represents a more reliable water souce and is less costly (from an operational and equipment standpoint) than flood irrigation.Therefore, in addition to achieving similar agricultural productivity, there are other important considerations in the replacement of subirrigation with flood irrigation on alluvial valley floors. Thus, OSM has elected not to modify the subject rule.

One commenter noted that the first sentence of proposed § 785.19(d)(1) was redundant in that both the terms "potentially impacted area" and "mining operation may affect" would have been used in the same sentence. The commenter also pointed out that land would not be included within the potentially impacted area unless it might be affected. The commenter recommended that the following language be substituted: "If land within the potentially impacted area is identified as an alluvial valley floor, the applicant shall submit a complete permit application * * *."

OSM has considered the commenter's concerns and agrees that the proposed use of the term "potentially impacted area" and "mining operation may affect" was confusing. As noted earlier in this preamble, OSM has made several modifications to references to various "areas" throughout the alluvial valley floor protection rules. Therefore, with respect to § 785.19(d)(1), OSM has reinstituted language from the previous section which called for the submission of an application if land within the "premit area or adjacent area" is identified as an alluvial valley floor. Substitution of this language should clarify the areas of consideration for application contents for operations that may affect AVF's or waters supplied to AVF's.

One commenter expressed concern with respect to the clause in proposed § 785.19(d)(1), which states that if an exclusion of Paragraph (b) of § 785.19 applies, then the applicant need not submit the information required in Paragraph (d)(2)(iii) which relates to material damage to the quantity or quality or surface and ground water supplied to an alluvial valley floor. The commenter contended that based on this clause, the applicant will be exempt from supplying pertinent information and reclamation plans to avoid material damage.

This commenter went on to assert that the rules, as specified in § 785.19(d)(1) will allow degradation or diminishment of water supplying an alluvial valley floor.

OSM has evaluated the commenter's concerns noted above. The sentence in § 785.19(d)(1) referenced by the commenter has been inserted to reflect the district court's decision which specified that Section 510(b)(5)(B) of the Act only applies to alluvial valley floors where the statutory exclusions of Section 510(b)(5)(A) of the Act do not apply. In other words, the requirement not to materially damage water supplying an alluvial valley floor only applies where the alluvial valley floor is significant to farming. However, it should be emphasized that regardless of the applicability of Section 510(b)(5)(B) of the Act, the hydrologic protection provisions of Sections 515(b)(10)(F) and 510 (b)(3) of the Act apply, together with their implementing regulations. Therefore, OSM rejects the commenter's concerns and finds that the requirements of § 785.19(d) appropriately implement the statutory provisions relating to hydrologic protection of alluvial valley floors.

One commenter noted concern with respect to modification of § 785.19(d)(2)(ii) to substitute "absolute" test language for the "significance" test of the previous rule. The commenter went on to assert that because Section 510(b)(5) of the Act mentions significance, this modification of the rule would violate the Act.

OSM has evaluated the commenter's concerns and has concluded that the proposed § 785.19(d)(2)(ii) better implements Section 510(b)(5)(A) of the Act than did the previous provision. The final rule states that the complete application shall include detailed surveys and baseline data for a determination by the regulatory authority of whether the operation will avoid during mining and reclamation the interruption, discontinuance, or preclusion of farming on the alluvial valley floor. This provision focuses the determination on the requirements of Section 510(b)(5)(A) of the Act and is more encompassing than the previous requirement to "determine the significance of the area to be affected to agricultural activities." Therefore, OSM does not concur with the commenter's opinion that this change would violate the Act.

One commenter contended that the deletion of the requirement for a determination of whether the operation "presents an unreasonable risk of causing" damage to water systems from previous § 785.19(d)(2)(iii) will restrict the regulatory authority in making critical borderline decisions on the type and amount of protection afforded alluvial valley floors.

OSM has evaluated the commenter's expresed concern and concludes that the final rule, which is the same as the proposed rule, more closely parallels the statute than the previous rule and thus provides the required protection for alluvial valley floors. More specifically, final § 785.19(d)(2) requires the submission of data so that the regulatory authority may make a determination of whether the operation *will* cause material damage to the quantity and quality of surface or ground waters that supply the alluvial valley floor (*i.e.*, an alluvial valley floor to which the exclusions of § 785.19(b) do not apply). This language directly parallels the language of Section 510(b)(5)(B) of the Act. If the regulatory authority concludes that there is an unreasonable risk of causing material damage based on information submitted in accordance with § 785.19(d), then the regulatory authority is required to make a negative finding under § 785.19(e)(2)(ii) of the final rule.

Section 785.19(e) Findings: Previous § 785.19(e) was a confusing section that set forth the findings that have to be made by the regulatory authority to allow mining on or adjacent to an AVF, the applicability of the statutory exclusions of Section 510(b)(5) of the Act, and the criteria for determining whether the facts would support particular statutory exclusions.

Final § 785.19(e) substantially shorter than previous § 785.19(e). As described above, the applicability of the statutory exclusions is covered by final § 785.19(b) and need not be contained in final § 785.19(e).

Final § 785.19(e) will not change the basic requirements for permit approval for mining on or near an AVF and these requirements are presented in a straightforward and simplified manner that closely parallels the Act. The regulatory authority must find that the proposed operations will not interrupt, discontinue, or preclude farming on an AVF and that the quantity and quality of surface and underground waters supplying the AVF will not be materially damaged. These two findings do not have to be made if any of the statutory exclusions apply. However, regardless of whether the statutory exclusions apply, the regulatory authority must find that the proposed operation will comply with Part 822, including preservation of the AVF's essential hydrologic functions (to be discussed in the next section of this preamble) and the other requirements of the regulatory program.

Upon review of proposed § 785.19(e), OSM has reversed proposed Paragraphs (e)(1) and (e)(2). This organizational change will clarify, at the beginning of the paragraph, the findings necessary if the statutory exclusions of § 785.19(b)(2) are applicable.

One commenter was concerned with the deletion in the proposed rules of the criteria for material damage from previous § 785.19(e)(3). The commenter went on to state that the criteria of the previous rules were well documented and widely accepted. This commenter also maintained that without such criteria in the rules and with no reference to a guideline, consistency will be impossible, environmental protection will be compromised, and the efforts of the regulatory authorities will be diluted.

OSM takes exception to the commenter's statement that criteria for material damage are well documented and widely accepted. Such criteria must vary widely, given site-specific conditions relating to alluvial valley floor characteristics such as water quality, vegetation, and general water use. Such criteria are better addressed in guidelines rather than in these rules in order to allow the proper consideration of site-specific conditions. OSM's Alluvial Valley Floor Identification and Study Guidelines address the issue of material damage in considerable detail. In addition, the guidelines (when used in association with the regulatory requirements) will provide necessary guidance to operators and regulatory authorities with respect to material damage to maintain consistency and assure that the environmental protection of alluvial valley floors is not compromised.

One commenter expressed concern with respect to the proposed deletion of previous § 785.19(e)(1)(iv) which required that any change in the land use of lands covered by the proposed mine plan area from its pre-mining use in or adjacent to the alluvial valley floor will not interfere with or preclude the reestablishment of the essential hydrologic functions of the alluvial valley floor. The commenter asserted that the proposed deletion would allow changes in runoff and ground water characteristics of alluvial valley floors, and therefore, the rule change would not support the special protection afforded alluvial valley floors.

OSM has evaluated this comment and concludes that the protection provided by the previous rule is afforded by other sections of these final rules. More specifically, final § 785.19(e)(1)(iii) requires that a finding be made by the regulatory authority that the proposed operations will comply with Part 822 (which includes the requirement to preserve the essential hydrologic functions of alluvial valley floors throughout the mining and reclamation process) and also with other applicable requirements of the Act and the regulatory program. Sections 816.133 and 817.133, which establish the criteria for allowing alternative postmining land uses, do not supersede § 822.11. Therefore, the deletion of previous § 785.19(e)(1)(iv) is inconsequential in terms of the protection afforded alluvial valley floors.

D. Part 822—Performance Standards for Alluvial Valley Floors

Section 822.1 Scope: Final § 822.1 explains that Part 822 contains performance standards for surface coal mining and reclamation operations on or which affect AVF's in the arid and semiarid regions of the country. This section received no comments and is adopted as proposed. Previous § 822.2, which contained the objectives of the

part, is removed to eliminate unnecessary repetitive language.

Section 822.10 Information collection: As proposed, the final rule adds a new § 822.10 on information collection. It will be a codification of the note previously at the beginning of the part that reflects approval by the Office of Management and Budget of the information collection requirements of Part 822. No comments were received on this section.

Section 822.11 Essential hydrologic functions: Previous § 822.11 implemented the performance standard of Section 515(b)(10)(F) of the Act that the essential hydrologic functions of AVF's be preserved throughout the mining and reclamation process. It had three paragraphs. Paragraph (a) of previous § 822.11 established the statutory standard of preserving essential hydrologic functions for AVF's not in the affected area. Paragraph (b) of the previous section, recognizing that mining operations would cause disturbances, required surface coal mining and reclamation operations to reestablish the essential hydrologic functions for AVF's within the affected area. Previous § 822.11 (a) and (b) also required the maintenance or reestablishment of the geologic, hydrologic, and biologic characteristics that support the essential hydrologic functions. Previous § 822.11(c) provided an explanation of the supporting geologic, hydrologic, and biologic characteristics.

OSM has made several changes to previous § 822.11 to make it shorter and to make it more understandable. Paragraphs (a) and (b) in final § 822.11 are similar to their previous counterparts. In these paragraphs, reference to the statutory language of minimizing disturbance to the hydrologic balance will be included in order to clarify the statutory context of Section 515(b)(10) of the Act in which this requirement was developed by Congress. Reference to the particular characteristics to be maintained or reconstructed is eliminated because the essential hydrologic function of the alluvial valley floor can be protected without preserving or reestablishing the exact geologic, hydrologic, and biologic conditions. The environmental conditions of an AVF, including geologic, hydrologic and biologic characteristics, vary widely with site-specific conditions and may be modified so long as the essential hydrologic function retains or is restored to its premining functional equivalent.

Further, maintenance or reconstruction of the geologic or biologic characteristics would not necessarily ensure that the essential hydrologic functions are preserved. Previous §§ 822.11(c) and 785.19(d)(3), which identified these characteristics, are removed entirely. Such characteristics are addressed, however, in OSM's AVF guidelines.

The previous rules often confused protection of the hydrologic functions of alluvial valley floors with the physical characteristics of those valley floors. While in some cases the physical characteristics must be recreated to reestablish a certain function, such as water storage, in other situations the function of the alluvial valley floor may be preserved by an alluvial valley floor with slightly different physical characteristics. The final rules recognize this difference.

Two commenters expressed concern as to the deletion of previous § 822.11(c), which provided a cross-reference to § 785.19(d)(3). The latter section included information about the hydrologic, geologic, and biologic characteristics that support the essential hydrologic functions of alluvial valley floors. Both Commenters maintained that this cross-reference would provide valuable information to individuals in the future.

OSM finds that the deletion of Paragraph (c) of previous § 822.11 does not weaken the protection for AVF's because the requirement to identify the characteristics that support the essential hydrologic functions of alluvial valley floors is included in § 785.19(d)(2)(i). A cross-reference in Part 822 is superfluous. The definition for the term "essential hydrologic functions" in 30 CFR 701.5 will lead to an identification of the characteristics that must be considered in particular situations.

One commenter also remarked upon the proposed substitution of the phrase "outside the minesite" for the phrase "not within an affected area" in § 822.11(a). The commenter contended that this substitution moves the area of preservation inward toward the mine to some degree; however, the commenter also stated that this is a minimal change. One commenter asserted his full support for the proposed changes to this section of the rules.

OSM proposed to substitute the term "outside the minesite" for "not within the affected area" in § 822.11(a) to track the phrase used in Section 515(b)(10) of the Act. The final rule does not adopt this change. Instead it uses the phrase "not within the permit area" in § 822.11(a) and the phrase "within the permit area" in § 822.11(b). These changes have been made to reflect the recent revisions to the terms "permit area" and "affected area" (48 FR 14814, April 5, 1983) and to track the intent of the language of Section 515(b)(10) of the Act, using terms that are defined in the rules.

The phrase "in associated offsite areas" has also been deleted as discussed earlier under *General Comments.*

Previous and final § 822.11 apply to all alluvial valley floors, irrespective of the area's significance to farming. The concern of Congress for alluvial valley floors that would be mined or affected by adjacent mining was that long term permanent damage not be caused to the AVF's hydrologic system. Recognizing that total prevention of hydrologic effects from mining was impossible, Congress required minimization of the effects (including those on the hydrologic function of alluvial valley floors) to assure the impacts "are not irreparable" (H. Rept. No. 95–218, cited previously, p. 110). Thus, the purpose of § 822.11 is the longer term protection of essential hydrologic functions while the shorter term effects on agricultural activities on alluvial valley floors is protected by the "materially damage" requirements of Section 510(b)(5) of the Act implemented by § 822.12 of the rules.

Section 822.12 Protection of agricultural activities: Previous § 822.12 implemented the requirements of Section 510(b)(5) of the Act that surface coal mining operations should not interrupt, discontinue, or preclude farming and should not materially damage the quantity and quality of surface or underground waters supplying AVF's. However, in previous § 822.12 the undeveloped rangeland and small acreage statutory exclusions were applied in a manner inconsistent with the February 26, 1980, district court decision, described earlier in this preamble.

The statutory exclusions in the provisos of Sections 510(b)(5) and 506(d)(2) of the Act were also implemented imprecisely in previous § 822.12(d). Previous § 822.12(d) incorrectly limited the applicability of the Section 510(b)(5) proviso to lands which were identified in a reclamation plan approved by the State prior to August 3, 1977. This language was inserted in the March 13, 1979, rules (44 FR 15284) in an unsuccessful attempt to implement the proviso of Section 506(d)(2) of the Act.

In addition to implementing the requirements and exclusions of Section 510(b)(5) of the Act, previous § 822.12 (b) and (c) also required that when environmental monitoring shows that operations are violating the requirements of § 822.12, the operations

must cease and remedial actions that are approved by the regulatory authority must be taken.

As proposed, the title of § 822.12 has been changed to "Protection of agricultural activities" to clarify the purpose of the section. The section has been reorganized to implement the February 26, 1980, district court decision. Final § 822.12(a) sets forth the prohibitions of Section 510(b)(5) of the Act. The exclusions relating to agricultural activities are included in final § 822.12(b) (1) and (2) and final § 822.12(b) (3) and (4) correctly implement the statutory exclusions established by the provisos of Sections 506(b)(2) and 510(b)(5) of the Act.

Final § 822.12 has been reorganized from the proposed rule for clarity. To assist the reader in understanding the redesignations the following derivation table shows the relationship of final § 822.12 to the proposed § 822.12.

DERIVATION TABLE—SECTION 822.12

Final rule	Proposed rule
(a) Intro	(a) Intro and (b) Intro.
(a)(1)	(a).
(a)(2)	(b).
(b)	(b) and (c).
(b)(1)	(a)(1).
(b)(2)	(a)(2).
(b)(3)	(c)(1).
(b)(3)(i)	(c)(1)(i).
(b)(3)(ii)	(c)(1)(ii).
(b)(4)	(c)(2).
(b)(4)(i)	(c)(2)(i).
(b)(4)(ii)	(c)(2)(ii).

The requirement to cease mining and to take remedial action contained in previous § 822.12 (b) and (c) is deleted. Contrary to the statement in the March 13, 1979, **Federal Register** preamble adopting the previous requirements (44 FR 15283), such requirements are not necessary to make clear the duty of the regulatory authority and the permittee.

These responsibilities are adequately stated in existing 30 CFR 786.29 which requires a permittee to take all possible steps to minimize any adverse impact on the environment resulting from any term or condition of the permit. Such steps include the immediate implementation of measures necessary to comply. If the only means for the permittee to comply with the terms or conditions of the permit is to cease mining, the permittee must cease mining under § 786.29. The requirements of § 786.29 have been proposed for retention in 30 CFR 773.17(e) as set forth in OSM's "Final Environmental Impact Statement OSM EIS–1: Supplement," Volume III, p. 53.

One commenter stated that the preamble assurances that Sections 510(b)(5) and 515(b)(10)(F) of the Act require protection of agricultural uses is ludicrous because OSM consciously decided not to implement that protection by explicit rulemaking.

OSM has considered this comment and concludes that § 822.12 of the proposed rules correctly implements the agricultural protection provisions included in the Act with respect to alluvial valley floors. Therefore, OSM rejects this comment.

Section 822.12(a)(2) has been modified from the proposal to delete "agricultural activities" and substitute the term "farming." This change in the rules provides greater consistency with Section 510(b)(5)(A) of the Act. (Further discussion of this change is provided in the preamble to § 785.19(b)(3) which discusses the definition of the term "farm" and the relationship of the terms "farming" and "agricultural activities.")

Two commenters expressed concern about the deletion of previous § 822.12 (b) and (c) which called for the cessation of mining operations until remedial measures are taken if environmental monitoring shows that a surface coal mining operation is interrupting, discontinuing, or precluding farming on alluvial valley floors or is materially damaging the quantity or quality of water that supplies alluvial valley floors, respectively. One of the commenters asserted that these paragraphs should be retained so that the option remains to cease mining. This commenter also maintained that without these paragraphs, OSM's ability to regulate would be limited. The other commenter noted that the proposed changes would allow mining to proceed, leaving mitigation of the conditions to the regulatory authority, which violates the Act. One other commenter stated that § 786.29, which was referenced in the preamble to the proposed rules, does not adequately protect alluvial valley floors from damage. He asserted that this section deals with public health and safety and does not explicitly require a cessation order until approved remedial measures are taken by the operator. This commenter also asserted that the proposed rule substantially weakens enforcement.

OSM disagrees with the commenters. Section 786.29(a) provides a degree of protection and enforcement capability comparable to the deletion section. More specifically, §786.29 requires that "The permittee shall take all possible steps to minimize any adverse impact to the *environment* or public health and safety resulting from noncompliance with any term or condition of the permit * * *." (Emphasis added.) Section 786.29 is applicable to environmental impacts in addition to health and safety concerns. Possible steps to minimize adverse impacts may include cessation of mining operations with respect to alluvial valley floors. Therefore, the deletion of these paragraphs of previous § 822.12, considering the protection afforded by § 786.29, does not represent a weaking of enforcement or a violation of the Act. Therefore, OSM rejects the comments noted above with respect to this matter.

OSM has characterized the "small acreage statutory exclusion" in final § 822.12(b)(2) to include situations "where farming on the alluvial valley floor that would be affected by the surface coal mining operation is of such small acreage as to be of negligible impact on the farm's agricultural production." These changes from proposed § 822.12(a)(2) will provide consistency with the Act and will minimize any confusion with respect to the exclusions of Section 510(b)(5).

One commenter expresses concern that proposed § 822.12(c)(1)(ii), which implemented the "grandfather" proviso of Section 510(b)(5) of the Act, says only "regulatory authority" while the statute in Section 510(b)(5) of the Act uses the term "State regulatory authority." The commenter asserted that this improperly lumps Federal regulatory authorities with the States. The commenter urges that the original intent of honoring only State approvals should be continued.

In response to this comment, OSM has modified the language of final § 822.12(b)(3)(ii) to refer to approval of the "State regulatory authority" in order to provide consistency with the proviso of Section 510(b)(5) of the Act and to minimize any confusion with regard to the source of the approval necessary to take advantage of the proviso. It should be noted that in the year preceding the passage of the Act, there was no "State regulatory authority" or "regulatory authority" as those terms are defined in the Act, and therefore the term is used in this context to refer to the State agency with responsibilities for surface coal mining operations prior to passage of the Act.

Final § 822.12(b)(4), which was proposed as § 822.12(c)(2), implements Section 506(d)(2) of the Act which states that if surface coal mining operations authorized by a permit issued pursuant to the Act were not subject to the standards contained in Sections 510(b)(5) (A) and (B) of the Act by reason of complying with the proviso of Section 510(b)(5), then the portion of the application for renewal of the permit which addresses any new areas previously identified in the reclamation plan submitted pursuant to Section 508 of the Act shall not be subject to the standards of Sections 510(b)(5) (A) and

(B). A commenter asserted that the addition of proposed § 822.12(c)(2) to the rules improperly extends the statutory exclusion of Section 510 of the Act for a renewal or an extension of an existing permit. The commenter then went on to state that an operation that was an expansion of another must have approved alluvial valley floor compliance responsibilities.

OSM has carefully reviewed the language of final § 822.12(b)(4) and finds that it is consistent with the language and intent of Section 506(d)(2) of the Act. It should be emphasized that for an existing operation to take advantage of the exclusion provided by this portion of the statute and rules the land must have been previously identified in a reclamation plan submitted under Part 780 or Part 784 *and* the original permit area of the operation was excluded from the protections of Section 510(b)(5) (A) and (B) of the Act by virtue of the proviso of Section 510(b)(5) of the Act. Since the proposed rule is consistent with the Act, it is not necessary to modify the rule.

Section 822.13 Monitoring: Previous § 822.13, entitled "Protection of agricultural uses," required the reestablishment of agricultural utility and levels of productivity of AVF's in affected areas. OSM has deleted § 822.13 because it was unnecessary. The postmining land use provisions in §§ 816.133 and 817.133 already necessitate the restoration of the land to the same capability as existed before mining. Also, the revegetation rules in §§ 816.111 through 816.116 and §§ 817.111 through 817.116 and, to the extent applicable, the prime farmland rules of 30 CFR Part 823 require the reestablishment of premining vegetation. Finally, the requirements of Sections 510(b)(5) and 515(b)(10)(F) of the Act assures the protection of agricultural uses.

Previous § 822.14 is revised and redesignated as § 822.13 and the basic monitoring scheme is retained. Previous § 822.14 required the establishment and maintenance of an environemental monitoring system on AVF's during surface coal mining and reclamation operations and continuation until all bonds are released. OSM has made changes to clarify that the requirements for monitoring on AVF's should parallel the requirements of Sections 510(b)(5) and 515(b)(10)(F) of the Act and the performance standards in §§822.11 and 822.12.

A number of concerns were raised by commenters with respect to changes in the monitoring requirements for alluvial valley floors proposed in § 822.13. One commenter noted that the proposed changes shift the emphasis from protection of characteristics supporting the essential hydrologic functions to compliance with § 822.11 and from protection of agricultural utility to compliance with § 822.12. The commenter went on to note that since all specific references to essential hydrologic functions and agricultural utility have been excised from the requirements of Part 822 no specific direction is available with respect to these terms. The same commenter also took issue with the proposed deletion of previous § 822.14(c) which called for monitoring to identify previously unidentified characteristics of alluvial valley floors and to evaluate the importance of these characteristics. In addition, one commenter noted that certain terminology in the alluvial valley floor monitoring requirements (namely, "at adequate frequencies" and "routinely be made available to the regulatory authority") can be interpreted and enforced by the regulatory authority in an arbitrary manner. Therefore, the commenter requested that OSM provide guidance in the rules concerning such monitoring activities. The commenter went on to recommend that because it is "long-term trends" that the data are to indicate, quarterly monitoring with annual reporting is reasonable. One commenter also recommended deletion of the term "agricultural activities" in § 822.13(a)(2) and substitution of the term "farming" to provide consistency with Section 510(b)(5)(A) of the Act.

OSM has reviewed the comments received with respect to alluvial valley floor monitoring. In response to these specific comments, OSM finds that requiring monitoring of the essential hydrologic functions (as protected under § 822.11) and of agricultural activities (as protected under § 822.12) results in no lesser protection than the previous rules. Information with respect to the characteristics supporting the essential hydrologic functions and the agricultural utility of the alluvial valley floor will be included in permit applications. The applicable performance standards of Part 822 and the monitoring system will be based on conditions described in the permit application. Thus, monitoring of essential hydrologic functions and agricultural activities in accordance with §§ 822.11 and 822.12, respectively, will provide an equal degree of protection,. This commenter's concern wih respect to the deletion of specific information requirements for essential hydrologic functions and agricultural utility is addressed elsewhere in this preamble.

With respect to the deletion of previous § 822.14(c) which called for monitoring to identify previously unidentified characteristics and to evaluate the importance of all characteristics, the final alluvial valley floor monitoring rules provide the necessary monitoring to assure conformance with the alluvial valley floor protection provisions of Sections 510 and 515 of the Act and the performance standards of Part 822 of the rules. In addition, general hydrologic monitoring required under the hydrologic protection sections of 30 CFR Parts 816 and 817 will provide an additional monitoring program for lands which may be affected by mining operations. Finally, it should be pointed out that if the regulatory authority believes that additional monitoring is necessary to further identify, define, or understand characteristics of designated alluvial valley floors, the regulatory authority may require this additional monitoring under § 822.13.

OSM has evaluated the commenter's concern that general reference to monitoring frequencies and routine submission of data may be interpreted and enforced by the regulatory authority in an arbitrary manner. OSM has also reviewed the commenter's recommendation for monitoring and reporting frequencies. The frequencies for field monitoring and data reporting with respect to alluvial valley floors should be handled on a case-by-case basis to reflect site-specific conditions. Although the commenter's specific recommendations for quarterly monitoring with annual reporting may be appropriate in some cases, site-specific conditions may dictate other frequencies. The alluvial valley floor monitoring rules, as proposed, provide this necessary flexibility. The possibility of arbitrary enforcement of monitoring requirements will not be increased by these rules. The key factor, under either the previous or new rules, is the ability and intent of the regulatory authority to enforce the regulatory program. OSM oversight will assist in ensuring proper implementation of the AVF monitoring requirement, as well as the remainder of the regulatory program.

Two commenters objected to OSM's proposed elimination of § 822.13 of the previous rules. They questioned whether the provisions of Section 515(b)(2) of the Act would be met and pointed out that without previous § 822.13, the areas would be treated like ordinary lands. One of the commenters believed OSM's reason for eliminating the section was not valid because it is based on other sections of the regulatory program that are also revised and weakened.

As explained earlier, provisions contained in other sections of the permanent program rules require reestablishment of the premining capability to sustain vegetation and levels of agricultural productivity of alluvial valley floors in affected areas.

Reference Materials

The reference materials used to develop these final rules are the same as those listed in the previous rules (44 FR 14924 and 15087–15094), including the material listed below.

Schmidt, J., 1980, Alluvial Valley Floor Identification and Study Guidelines.

III. Procedural Matters

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in the "Final Environmental Impact Statement OSM EIS–1: Supplement" (FEIS) according to Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(c)). This FEIS is available in OSM's Administrative Record in Room 5315, 1100 L Street, NW., Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, D.C. 20240. This preamble serves as the record of decision under NEPA. Although there has been a number of editorial changes and clarifications, these final rules were analyzed as the preferred alternative A in the FEIS.

Executive Order 12291

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291.

Regulatory Flexibility Act

These rules have also been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and OSM has certified that these rules do not have significant economic impact on a substantial number of small entities. The rule is expected to ease the regulatory burden on small coal operators by giving the State regulatory authorities the discretion of reducing the amount of information that will have to accompany each permit application.

Federal Paperwork Reduction Act

The information collection requirements in 30 CFR 785.19 and 822.13 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance numbers 1029–0040 and 1029–0049, respectively. The information required by §§ 785.19 and 822.13 is being collected to meet the requirements of Sections 510(b)(5) and 515(b)(10)(F) of the Act, which protect alluvial valley floors from the adverse effects of surface coal mining operations. The information required by § 785.19 will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed operation during the permanent regulatory program. The recordkeeping requirements in § 822.13 will measure compliance with performance standards during and after mining operations. The obligation to respond is mandatory.

Agency Approval

Section 516(a) requires that, with regard to rules directed toward the surface effects of underground mining, OSM must obtain written concurrence from the head of the department which administers the Federal Mine Safety and Health Act of 1977, the successor to the Federal Coal Mine Health and Safety Act of 1969. OSM has obtained the written concurrence of the Assistant Secretary for Mine Safety and Health, U.S. Department of Labor.

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 785

Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 822

Coal mining, Environmental protection, Surface mining, and Underground mining.

Accordingly, 30 CFR Parts 701, 785, and 822 are amended as set forth herein.

Dated: June 22, 1983.

J. J. Simmons III,

Under Secretary.

PART 701—PERMANENT REGULATORY PROGRAM

1. Section 701.5 is amended by revising the definitions of "Agricultural activities," "Essential hydrologic functions," "Materially damage the quantity or quality of water," "Subirrigation," and by removing the definition of "Unconsolidated stream laid deposits holding streams" to read as follows:

§ 701.5 Definitions.

* * * * *

Agricultural activities or *farming* means, with respect to alluvial valley floors, the use of any tract of land for the production of animal of vegetable life, based on regional agricultural practices, where the use is enhanced or facilitated by subirrigation or flood irrigation. These uses include, but are not limited to, the pasturing or grazing of livestock, and the cropping, cultivation, or harvesting of plants whose production is aided by the availability of water from subirrigation or flood irrigation. These uses do not include agricultural activities which have no relationship to the availability of water from subirrigation or flood irrigation practices.

* * * * *

Essential hydrologic functions means the role of an alluvial valley floor in collecting, storing, regulating, and making the natural flow of surface or ground water, or both, usefully available for agricultural activities by reason of the valley floor's topographic position, the landscape, and the physical properties of its underlying materials. A combination of these functions provides a water supply during extended periods of low precipitation.

* * * * *

Materially damage the quantity or quality of water means, with respect to alluvial valley floors, to degrade or reduce by surface coal mining and reclamation operations the water quantity or quality supplied to the alluvial valley floor to the extent that resulting changes would significantly decrease the capability of the alluvial valley floor to support agricultural activities.

* * * * *

Subirrigation means, with respect to alluvial valley floors, the supplying of water to plants from underneath or from a semisaturated or saturated subsurface zone where water is available for use by vegetation.

* * * * *

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

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

2. Section 785.19 is revised to read as follows:

§ 785.19 Surface coal mining and reclamation operations on areas or adjacent to areas including alluvial valley floors in the arid and semiarid areas west of the 100th meridian.

(a) *Alluvial valley floor determination.* (1) Permit applicants who propose to conduct surface coal mining and reclamation operations within a valley holding a stream or in a

location where the permit area or adjacent area includes any stream, in the arid and semiarid regions of the United States, as an initial step in the permit process, may request the regulatory authority to make an alluvial valley floor determination with respect to that valley floor. The applicant shall demonstrate and the regulatory authority shall determine, based on either available data or field studies submitted by the applicant, or a combination of available data and field studies, the presence or absence of an alluvial valley floor. Studies shall include sufficiently detailed geologic, hydrologic, land use, soils, and vegetation data and analysis to demonstrate the probable existence of an alluvial valley floor in the area. The regulatory authority may require additional data collection and analysis or other supporting documents, maps, and illustrations in order to make the determination.

(2) The regulatory authority shall make a written determination as to the extent of any alluvial valley floors within the area. The regulatory authority shall determine that an alluvial valley floor exists if it finds that—

(i) Unconsolidated streamlaid deposits holding streams are present; and

(ii) There is sufficient water available to support agricultural activities as evidenced by—

(A) The existence of current flood irrigation in the area in question;

(B) The capability of an area to be flood irrigated, based on evaluations of typical regional agricultural practices, historical flood irrigation, streamflow, water quality, soils, and topography; or

(C) Subirrigation of the lands in question derived from the ground-water system of the valley floor.

(3) If the regulatory authority determines in writing that an alluvial valley does not exist pursuant to Paragraph (a)(2) of this section, no further consideration of this section is required.

(b) *Applicability of statutory exclusions.* (1) If an alluvial valley floor is identified pursuant to paragraph (a)(2) of this section and the proposed surface coal mining operation may affect this alluvial valley floor or waters that supply the alluvial valley floor, the applicant may request the regulatory authority, as a preliminary step in the permit application process, to separately determine the applicability of the statutory exclusions set forth in paragraph (b)(2) of this section. The regulatory authority may make such a determination based on the available data, may require additional data collection and analysis in order to make the determination, or may require the applicant to submit a complete permit application and not make the determination until after the complete application is evaluated.

(2) An applicant need not submit the information required in paragraphs (d)(2) (ii) and (iii) of this section and a regulatory authority is not required to make the findings of paragraphs (e)(2) (i) and (ii) of this section when the regulatory authority determines that one of the following circumstances, heretofore called statutory exclusions, exist:

(i) The premining land use is undeveloped rangeland which is not significant to farming;

(ii) Any farming on the alluvial valley floor that would be affected by the surface coal mining operation is of such small acreage as to be of negligible impact on the farm's agricultural production. Negligible impact of the proposed operation on farming will be based on the relative importance of the affected vegetation and water of the developed grazed or hayed alluvial valley floor area to the farm's production over the life of the mine; or

(iii) The circumstances set forth in § 822.12(b) (3) or (4) of this chapter exist.

(3) For the purposes of this section, a farm is one or more land units on which agricultural activities are conducted. A farm is generally considered to be the combination of land units with acreage and boundaries in existence prior to August 3, 1977, or, if established after August 3, 1977, with those boundaries based on enhancement of the farm's agricultural productivity and not related to surface coal mining operations.

(c) *Summary denial.* If the regulatory authority determines that the statutory exclusions are not applicable and that any of the required findings of paragraph (e)(2) of this section cannot be made, the regulatory authority may, at the request of the applicant:

(1) Determine that mining is precluded on the proposed permit area and deny the permit without the applicant filing any additional information required by this section; or

(2) Prohibit surface coal mining and reclamation operations in all or parts of the area to be affected by mining.

(d) *Application contents for operations affecting designated alluvial valley floors.* (1) If land within the permit area or adjacent area is identified as an alluvial valley floor and the proposed surface coal mining operation may affect an alluvial valley floor or waters supplied to an alluvial valley floor, the applicant shall submit a complete application for the proposed surface coal mining and reclamation operations to be used by the regulatory authority together with other relevant information as a basis for approval or denial of the permit. If an exclusion of paragraph (b)(2) of this section applies, then the applicant need not submit the information required in paragraphs (d)(2) (ii) and (iii) of this section.

(2) The complete application shall include detailed surveys and baseline data required by the regulatory authority for a determination of—

(i) The characteristics of the alluvial valley floor which are necessary to preserve the essential hydrologic functions throughout the mining and reclamation process;

(ii) Whether the operation will avoid during mining and reclamation the interruption, discontinuance, or preclusion of farming on the alluvial valley floor;

(iii) Whether the operation will cause material damage to the quantity or quality of surface or ground waters supplied to the alluvial valley floor;

(iv) Whether the reclamation plan is in compliance with requirements of the Act, this chapter, and regulatory program; and

(v) Whether the proposed monitoring system will provide sufficient information to measure compliance with Part 822 of this chapter during and after mining and reclamation operations.

(e) *Findings.* (1) The findings of paragraphs (e)(2) (i) and (ii) of this section are not required with regard to alluvial valley floors to which are applicable any of the exclusions of paragraph (b)(2) of this section.

(2) No permit or permit revision application for surface coal mining and reclamation operations on lands located west of the 100th meridian west longitude shall be approved by the regulatory authority unless the application demonstrates and the regulatory authority finds in writing, on the basis of information set forth in the application, that—

(i) The proposed operations will not interrupt, discontinue, or preclude farming on an alluvial valley floor;

(ii) The proposed operations will not materially damage the quantity or quality of water surface and underground water systems that supply alluvial valley floors; and

(iii) The proposed operations will comply with Part 822 of this chapter and the other applicable requirements of the Act and the regulatory program.

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

3. Part 822 is revised to read as follows:

PART 822—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—OPERATIONS IN ALLUVIAL VALLEY FLOORS

Sec.

822.1 Scope.
822.10 Information collection.
822.11 Essential hydrologic functions.
822.12 Protection of agricultural activities.
822.13 Monitoring.

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

§ 822.1 Scope.

This part sets forth additional requirements for surface coal mining and reclamation operations on or which affect alluvial valley floors in the arid and semiarid regions of the country.

§ 822.10 Information collection.

The information collection requirements contained in § 822.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029-0049. The information is being collected to meet the requirements of Sections 510(b)(5) and 515(b)(10)(F) of the Act which provide the information collection requirements and performance standards for alluvial valley floors. This information will be used to enable the regulatory authority to assess the impact of the proposed operation during the permanent regulatory program. The obligation to respond is mandatory.

§ 822.11 Essential hydrologic functions.

(a) The operator of a surface coal mining and reclamation operation shall minimize distrubances to the hydrologic balance by preserving throughout the mining and reclamation process the essential hydrologic functions of an alluvial valley floor not within the permit area.

(b) The operator of a surface coal mining and reclamation operation shall minimize disturbances to the hydrologic balance within the permit area by reestablishing throughout the mining and reclamation process the essential hydrologic functions of alluvial valley floors.

§ 822.12 Protection of agricultural activities.

(a) *Prohibitions.* Surface coal mining and reclamation operations shall not: (1) Interrupt, discontinue, or preclude farming on alluvial valley floors; or (2) cause material damage to the quantity or quality of water in surface or underground water systems that supply alluvial valley floors.

(b) *Statutory exclusions.* The prohibitions of Paragraph (a) of this section shall not apply—

(1) Where the premining land use of an alluvial valley floor is undeveloped rangeland which is not significant to farming;

(2) Where farming on the alluvial valley floor that would be affected by the surface coal mining operation is of such small acreage as to be of negligible impact on the farm's agricultural production;

(3) To any surface coal mining and reclamation operation that, in the year preceding August 3, 1977—

(i) Produced coal in commercial quantities and was located within or adjacent to an alluvial valley floor; or

(ii) Obtained specific permit approval by the State regulatory authority to conduct surface coal mining and reclamation operations within an alluvial valley floor; or

(4) To any land that is the subject of an application for renewal or revision of a permit issued pursuant to the Act which is an extension of the original permit, insofar as: (i) The land was previously identified in a reclamation plan submitted under either Part 780 or 784 of this chapter, and (ii) the original permit area was excluded from the protection of Paragraph (a) of this section for a reason set forth in Paragraph (b)(3) of this section.

§ 822.13 Monitoring.

(a) A monitoring system shall be installed, maintained, and operated by the permittee on all alluvial valley floors during surface coal mining and reclamation operations and continued until all bonds are released in accordance with Subchapter J of this chapter. The monitoring system shall provide sufficient information to allow the regulatory authority to determine that—

(1) the essential hydrologic functions of alluvial valley floors are being preserved outside the permit area or reestablished within the permit area throughout the mining and reclamation process in accordance with § 822.11;

(2) Farming on lands protected under § 822.12 is not being interrupted, discontinued, or precluded; and

(3) The operation is not causing material damage to the quantity or quality of water in the surface or underground systems that supply alluvial valley floors protected under § 822.12.

(b) Monitoring shall be conducted at adequate frequencies to indicate long-term trends that could affect compliance with §§ 822.11 and 822.12.

(c) All monitoring data collected and analyses thereof shall routinely be made available to the regulatory authority.

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federal register

Tuesday
June 28, 1983

Part IV

Department of Agriculture

Foreign Agricultural Service

Regulations Governing Licenses for Importation of Sugar To Be Re-Exported in Refined Form; Final Rule

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 6

Regulations Governing Licenses for Importation of Sugar To Be Re-Exported in Refined Form

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes procedures and conditions for the issuance of licenses which permit the importation of sugar exempt from the quotas on sugars, sirups and molasses as modified by Presidential Proclamation 4941 of May 5, 1982, as amended. A quantity of sugar equal to the sugar imported under such a license must be re-exported in refined form.

DATES: Effective on June 28, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Truran, Chief, Sugar Group, Foreign Agricultural Service, U.S. Department of Agriculture 12th & Independence Avenue, S.W., Washington, D.C. 20250 Tel: (202) 447-2916.

SUPPLEMENTARY INFORMATION:

Background

Presidential Proclamation 4941 of May 5, 1982 modified the import quota for sugar, sirups and molasses described in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS) in order to carry out a provision in the Geneva (1967) Protocol of the General Agreement on Tariffs and Trade (Note 1 of Unit A, Chapter 10, Part I of Schedule XX; 19 U.S.T., Part II, 1282) and the International Sugar Agreement, 1977 (T.I.A.S. 9664, 31 U.S.T. 5135). Presidential Proclamation 5002 of November 30, 1982, amended Proclamation 4941 to read in part as follows:

> The Secretary may exempt the entry of articles described in items 155.20 and 155.30 from the requirements or limitations established pursuant to this headnote on the condition that such articles: (1) be used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption; or (2) be re-exported in refined form or in sugar containing products. Such articles shall be entered under licenses issued pursuant to regulations promulgated by the Secretary. . . .

Under this rule, licenses will be issued for the entry, exempt from quota, of sugar to be exported in refined form. The certificate of eligibility requirements contained in 15 CFR Part 2011 would not apply to this sugar. Separate rules would have to be promulgated to provide for the entry, exempt from quota, of sugar to be exported in sugar containing products and for sugar to be used in the production of certain polyhydric alcohols.

License System for Importation of Sugar To Be Re-Exported in Refined Form

Under this rule, a license may be issued only to a refiner of sugar and is not assignable unless specifically authorized. However, the refiner may employ an agent to import or export sugar on behalf of the refiner.

The applicant for a license will be asked to provide certain information to the Licensing Authority. Upon receipt of the required information, a license to import sugar, exempt from quota, will be established in favor of the applicant in the amount requested, but not to exceed 28,000 short tons.

A quantity of refined sugar, equivalent to the quantity of sugar imported under license, must be exported within three months of the date of entry. After export, license holders must present to the Licensing Authority an exporter's statement certifying that export has occurred, together with an on-board ocean carrier bill of lading, intermodal bill of lading with on-board date, or an authenticated landing certificate or similar document if exported by land.

As sugar is entered it will be charged to the license amount. As proof of export of refined sugar is received, the Licensing Authority will, if requested, credit the quantity exported to the license. The quantity of sugar entered or exported will be adjusted on the basis of sugar content. Subsequent entries and exports would be handled in the same manner, but at no time may charges or credits to the license exceed the license amount.

In order to guarantee that the sugar imported under a license is used only for the purposes intended, a bond must be posted to cover all entries under a license.

Discussion of Comments and Proposed Revisions

Fourteen comments were submitted to this office regarding the program governing licenses for importation of sugar to be re-exported in refined form. All of these comments were considered in preparing this final rule. All of these comments generally approved of the proposed re-export licensing program. Comments focused on several provisions of the proposed rule including the 25,000 short ton limit of the license, the 3-month time limit on re-exportation, issuance of licenses solely to refiners, bonding requirements, proof of export, export before import (substitution), and the effective date of the program.

Changes to the proposed rule based on comments received include: an increase in the size of the license to 28,000 short tons (6.101(c)); extension of the ten day period for submitting proof of export to thirty days (6.106(b)); provision for use of either a single entry bond or a term bond to ensure performance (6.107), an increase in the size of the bond to one and one half times the spread between the number 11 and the number 12 contract price, or Market Stabilization Price (MSP) whichever is greater (6.107) and an increase in the license holder's liability under 6.110(a).

Specific Comments Are Discussed Below by Section

Section 6.100 Definitions.

One commenter suggested that this rule should include molasses as part of the definition of refined sugar. The definition of sugar (6.100(m)) covers sugars, sirups and molasses derived from sugarcane and sugar beets and is felt to already encompass this suggestion. Thus, no change has been made to the proposed rule to identify molasses as a refined sugar.

Section 6.101(a) Issuance of a license.

Three commenters suggested that licenses should be granted to persons other than refiners. One commenter suggested granting licenses to any person who can present evidence of the appropriate bond, one suggested granting licenses to anyone with drawback credits and a bona fide tolling agreement with a refiner, and one suggested that the rule be broadened to permit sugar operators (trade houses) to receive licenses equally with refiners.

After review of these comments, it is felt that licenses will continue to be issued only to a refiner of sugar. All sugar must pass through a refinery under this program, thus a more effective control can be placed on the amount of non-quota sugar in the country by limiting licenses to refiners. Also, the regulations do not specify who must actually own the sugar in question. It may be physically owned by the refiner, or by someone else (e.g. operators).

Section 6.101(b) Issuance of a license.

Comments were received concerning the requirement that sugar imported under a license must be re-exported within 3 months from the date of entry. One comment stressed that the 3 month limit would inhibit domestic refiners

from purchasing foreign raw sugar when they do not already have foreign buyers for re-exported refined sugar prior to importation. Further, if refiners were forced to buy without prearranged sales, they could be forced to dispose of refined product at distressed prices. In this light, one commenter suggested that this potential problem could be greatly eliminated by extending the time limit to six months. Two other commenters suggested a time limit of three and one-half or four months.

After careful review, it has been determined that the 3 month limit should remain. This limit restricts the absolute quantity of non-quota sugar in the United States at any one time and ensures the timely re-exportation of the imported sugar thereby ensuring maximum protection against possible displacement of domestic sugar in the U.S. market. In addition, under normal circumstances, tolling contracts would be, in large part, arranged with knowledge of the re-export market potential for refined sugar. Therefore, it has been determined that the likelihood of re-export sales by refiners at distressed prices would be minimal.

Related to the above comments, a suggestion was made to require that sugar be re-exported within 3 months of the date of entry or the last day of the quota year (September 30), whichever occurs first. This suggestion is designed to prevent a license holder from possibly expanding the total supply of sugar available at the end of the quota year by importing non-quota sugar late in the year, selling it in the domestic market prior to the end of quota year and then replacing that sugar in the next quota year, all within 3 months. These comments were spurred by special concerns about the amount of sugar entering the United States during the first quarter of the quota year when a large portion of domestic new crop sugar is processed and marketed.

This comment was reviewed, but not adopted in the final rule. It is felt that the controls on the quantity of non-quota sugar in the United States at any one time through the license size limit, coupled with the requirement that the sugar be re-exported within three months, will adequately control the amount of sugar present in the domestic market.

Section 6.101(c) Issuance of a license.

Several comments were received concerning the 25,000 short ton limit. These were of two types: (a) Export shipments are "normally" 12,500 metric tons, which means that the proposed maximum amount of the license would not be enough to cover two full boatloads of sugar for export and (b) the limit is too small and could unduly restrict exports, so it should be either be eliminated or increased to 35,000 short tons (or possibly more if contracts could be presented to support the increase).

After careful review, it has been determined that the limit will be increased to 28,000 short tons. This is approximately 25,000 metric tons. Since there is little experience with this program, it was felt to be undesirable to sharply increase the limit now. We have, however, provided that the limit may be modified by publishing a notice in the **Federal Register.**

Section 6.106(b) Proof of export.

One commenter suggested that the requirement that proof of export be submitted within 10 days of export is too restrictive and does not aid the Department. It suggested that the time period be lengthened to 30 days and that the word "submitted" be understood to mean postmarked.

This suggestion, if adopted, would not affect the requirement that the sugar actually be exported within three months, and would make the program less burdensome for licensees, especially for smaller shipments when the exporter may wish to accumulate several export shipments before submission. Thus, we have adopted this change.

Section 6.107 Bond requirements.

The bonding provisions in the proposed rule suggest that a single entry bond would be used. There have been comments that both a single entry bond or a term bond be permitted. In the case of a term bond, it was noted that it would be reasonable to require the license holder to increase the size of the bond if the spread between the number 11 and number 12 contract prices widened.

These comments have been reviewed and are considered reasonable in that they continue to provide protection to the Department while reducing the burden on the trade, thus the regulations were changed to explicitly permit this.

It was suggested that a specimen of the bond form be included as part of the regulations. Considering the small number of potential license holders and the time required to make any necessary changes in the bond form if it is incorporated in the regulations, this suggestion has not been adopted. A sample bond form, either for a single entry bond or a term bond, will be provided on request.

Concerning the size of the bond, comments presenting two opposite arguments have been received. One suggests that, since the number 11 contract price is calculated on a FOB basis while the number 12 contract price is CIF or duty paid, the number 12 contract price should be adjusted when used in computing the bond amount by subtracting out the costs of insurance, freight and handling and duties paid. It was argued that such an adjustment was necessary to avoid double counting insurance, freight and handling costs and duties. On the opposite side, comments were received that, with an increase of as little as one cent in the domestic market price for sugar, it would be possible to forfeit the bond and still make a substantial profit. The number 12 price has often increased by as much as 100 points in a short time and could do so again. The suggestion was made that the damages, if forfeit occurs should be some multiple of the difference in prices. One comment suggested that the bond should be for one and one half times the price difference while a second comment recommended three times the price difference.

In reviewing these points, we also considered the fact that failure to export sugar could be grounds for suspension or revocation of the license. It is felt that, despite this last provision, there is a reasonable chance of sugar being diverted into the domestic market. Thus in the final rule, the size of the bond has been increased to one and one half times the difference between the number 11 and the number 12 contract prices.

One comment suggested that the performance bond for the re-export program should be a "Temporary Import Bond" (TIB) as provided for in TSUS item 864.05. We have reviewed the TIB and feel that it is inappropriate for the purposes of this provision because it covers only the amount of import duties and fees that would have to be paid if the product is not exported. Also, conflicts between the three month time limit for the re-export of sugar under this system, and the potential one year limit of the TIB preclude its use for this program. Thus, this suggestion was not adopted.

Section 6.109 Export before import; substitution of sugars.

With respect to the effective date for crediting exports of refined sugar to the license, one commenter proposed that exports be credited if made on or after November 30, 1982, the date of Presidential Proclamation 5002 which authorized the issuance of regulations to permit the re-export program, and one commenter proposed using April 8, 1983,

the date of publication of the proposed rules in the **Federal Register.**

After reviewing these comments, we continue to feel that the effective date should be the day the final rule is published in the **Federal Register.** While there may have been some small amount of speculative exporting prior to the proposed effective date, there was no reason to believe that the re-export program would apply retroactively to sugar shipped before the receipt of licenses. It would be inequitable to now, without prior notice, permit retroactive application of the program to a few exporters, and there is little potential benefit to now announce retroactivity.

One commenter suggested that § 6.109 Export before import; substitution of sugars be rewritten titled "Deemed Re-export of Licensed Sugar." This subsection of the regulations was included to clarify that this activity would be permitted. Because of the nature of sugar storage and refining, it is not practicable to maintain sugar in an identity preserved position. Thus some substitution is inevitable. It is felt that since substitution would occur in a normal transaction, provisions for this should be clearly stated in the regulations. Thus, the suggested language was not adopted.

Section 6.111 Waiver.

One comment was received that the waiver provision, 6.111, be rewritten to provide for extension of the three month time period for reasons outside of the control of the refiner such as government intervention, fire, flood, strikes or other similar causes constituting force majeure. After review of § 6.111, it is felt that the language in the proposed rule is sufficiently broad to provide for these events, and that no change would be necessary in the final rule.

Rulemaking Matters

This rule should yield benefits to the public by increasing employment in the field of refining and related industries and by improving the balance of trade. Currently, because of the import quotas on sugars, sirups and molasses, it is not practical for exports of refined sugar to occur from the United States. This is because a person in the United States must pay a significantly higher price for raw sugar than the world price available to foreign refiners. This rule will permit an equalization of the raw materials costs and will make U.S. refined sugar competitive in the world market. Costs should be minimal since the licensing system has been designed to conform as closely as possible to current commercial practices.

This rule has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major" since the rule would not have any of the effects specified in those documents.

The Administrator, Foreign Agricultural Service (FAS), certifies that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

An assessment of the impact of this rule on the environment was made and, based on this evaluation, this action is not a major federal action and will have no foreseeable significant effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this proposed rule. The environmental assessment is available for review in room 6091, South Building, USDA during normal business hours.

The paperwork requirements imposed by this rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980, and have been given OMB approval number 0551–0015.

It has been determined that the effective date of this rule shall be less than 30 days from the date of publication, since this rule recognizes an exemption to the import quota for sugar.

List of Subjects in 7 CFR Part 6

Foreign trade, Imports, Licenses, Quotas, Sugar.

In accordance with the above, 7 CFR Part 6 is amended by adding the following subpart:

Subpart—Importation of Sugar Free From Quota

Sugar To Be Re-Exported in Refined Form

Sec.

6.100 Definitions.
6.101 Issuance of a license.
6.102 Transferability of a license.
6.103 Application for a license.
6.104 Entry of sugar.
6.105 Entry of sugar by an agent.
6.106 Proof of export.
6.107 Bond requirements.
6.108 Charges and credits to licenses.
6.109 Export before import; substitution of sugars.
6.110 Enforcement.
6.111 Waiver.
6.112 Expiration.

Authority: Presidential Proclamation No. 5002, 47 FR 54269.

§ 6.100 Definitions

(a) "Appropriate customs official" means the district or area Director of the U.S. Customs Service, his or her designee, or any other customs officer of similar authority and responsibility for the customs district in which the port of entry is located.

(b) "Date of entry" is the date when the specified U.S. Customs Service entry form is properly executed and deposited, together with any estimated duties and special import fees and any related documents required by law or regulation to be filed with such form at the time of entry with the appropriate customs official.

(c) "Date of export" means the on-board date of an ocean carrier bill of lading or an airway bill or on-board date of an intermodal bill of lading; if exported by rail or truck, the date of entry shown on an authenticated landing certificate or similar document issued by an official of the government of the importing country; or the date of export established by such other proof of export as is acceptable to the Licensing Authority.

(d) "Date of license" means the day when the license is issued by the Licensing Authority.

(e) "Department" means the U.S. Department of Agriculture.

(f) "License" means a license issued by the Secretary through the Licensing Authority permitting the entry of sugar, not chargeable to the import quota for sugar as modified by Presidential Proclamation 4941, as amended, for items covered by 155.20 or 155.30 of the Tariff Schedules of the United States, for the purpose of refining and exporting in the form of refined sugar.

(g) "Licensing Authority" means the Chief, Sugar Group, Foreign Agricultural Service, U.S. Department of Agriculture.

(h) "Person" means any individual, partnership, corporation, association, estate, trust or any other business entity, and, whenever applicable, any unit, instrumentality or agency of a government, domestic or foreign.

(i) "Quota" means any quota on imports of sugar, sirups or molasses as covered by items 155.20 or 155.30 of the Tariff Schedules of the United States under Presidential Proclamation 4941 of May 5, 1982, 47 FR 19661, and any modifications thereto.

(j) "Raw value" means, for a given quantity of sugar, the equivalent of that quantity in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury.

(k) "Refiner" means any person who engages in the processing (refining) of sugar to further improve the quality of such sugar.

(l) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has delegated the authority or to whom the authority hereafter may be delegated to act in the Secretary's place.

(m) "Sugar" means sugars, sirups and molasses derived from sugarcane or sugar beets as defined in items 155.20 and 155.30 of the Tariff Schedules of the United States.

§ 6.101 Issuance of a license.

(a) The Secretary, through the Licensing Authority, will issue licenses to refiners under which sugar may be entered into the United States exempt from the import quotas on items 155.20 and 155.30 of the Tariff Schedules of the United States.

(b) A quantity of refined sugar equivalent to the quantity of sugar, raw value, imported under the license, adjusted in accordance with § 6.108(c) of this subpart, must be re-exported within 3 months of the date of entry of such sugar. The licenses may contain such other conditions, limitations or restrictions as the Secretary, in his or her discretion, deems necessary.

(c) The license amount may not exceed 28,000 short tons of sugar. Quantities of sugar imported under the license shall be charged to the license and quantities of refined sugar exported may be credited to the license as provided in § 6.108. At no time may the outstanding balance of charges or credits exceed the license amount.

(d) No more than one license may be issued and be outstanding at any one time to any one refiner. A license may be surrendered in whole or in part to the Licensing Authority.

(e) The Secretary may change the quantitative limit in § 6.101(c) through publishing a notice in the **Federal Register** if he or she determines that such a change is appropriate within the purposes of this program.

§ 6.102 Transferability of a license.

A license holder may, with the written permission of the Licensing Authority, transfer a license to another refiner provided that the other refiner does not have a license. The Licensing Authority may impose such terms and conditions in connection with a license transfer as he or she deems appropriate to carry out the purposes of this subpart.

§ 6.103 Application for a license.

Applicants for licenses must apply in writing to the Licensing Authority. Such letter of application shall contain as a minimum the following information:

(a) Name and address of the applicant.

(b) License amount requested, not to exceed 28,000 short tons of sugar.

(c) The TSUS number and description of the sugar to be imported.

(d) The name of the firm that will establish a performance bond in favor of the United States Government on behalf of the applicant, if such firm is not the applicant.

(e) Name of anticipated refinery, if known at time of application.

(f) Anticipated dates of entry of sugar and export of refined sugar, if known at time of application.

The Licensing Authority may waive any provisions of this section for good cause if it is determined that such a waiver will not adversely affect the implementation of this subpart.

§ 6.104 Entry of sugar.

(a) Entry of the sugar exempt from the quotas on items 155.20 and 155.30 of the Tariff Schedules of the United States shall be allowed in conformity with the conditions of the import license, the provisions of this subpart and any other procedures specified by the Licensing Authority.

(b) The license holder shall submit to the Licensing Authority a statement, certified as true and accurate, of the polarization and weight of the imported sugar to be charged to the license. This statement must adequately identify the imported sugar and state the basis for the determination of the polarization of the sugar. The basis must be either the settlement polarization or some other means approved by the Licensing Authority.

§ 6.105 Entry of sugar by an agent.

In those cases where entry of sugar is made by an agent of the license holder, the agent shall produce for inspection by the appropriate customs official a written authorization designating such person to act as an agent for the purpose of entering sugar.

§ 6.106 Proof of export

(a) The proof of export shall consist of:

(1) *Certification.* A written certification by the license holder that the license holder has exported a quantity of sugar in refined form. The certification shall include:

(i) The license holder's name and address;

(ii) An identification of the license to which the sugar exported is to be credited;

(iii) The weight and polarization of the sugar exported;

(iv) The date of export, point of export, and an identification of the vessel, railroad or other means of export;

(v) The intended destination; and

(vi) For sugar entered before the export of the corresponding refined sugar, an identification of the imported sugar to which the exported sugar corresponds including the quantity and polarization of the imported sugar.

(2) *Documentation.* A copy of the on-board bill of lading or intermodal bill of lading with an on-board date or, if exported by land, an authenticated landing certificate or similar document issued by an official of the importing country. The document could include a foreign official's stamp and/or certification on a U.S. document.

(b) The certification must accompany the documentation when submitted to the Licensing Authority. The proof of export must be submitted to the Licensing Authority postmarked within 30 working days from the date of export. The Licensing Authority may waive the provisions of this section if exportation is otherwise established to the Licensing Authority's satisfaction. The Licensing Authority may for good cause extend the period for submitting proof of export upon written application of the license holder.

§ 6.107 Bond requirements.

(a) To enter the United States, sugar under license must meet all applicable customs bond requirements (see 19 CFR Parts 113, 141, 142, 143 and 144), and be subject to a performance bond ("bond") for the entry of sugar exempt from quota, except that no bond is required under this subpart for the quantity of any sugar entered that corresponds to a quantity of sugar that has been exported prior to the date of entry of such sugar and credited to the license in accordance with section 6.108. To obtain this exception, the license holder must obtain from the Licensing Authority, and present to the appropriate customs official, a specific written waiver of the bond requirements.

(b) The performance bond may be either a single entry bond or a term bond. In the case of a term bond, the bond obligation may be adjusted as provided for in the sample bond form.

(c) The amount of the bond for the entry of sugar exempt from quota shall be equal to 1.5 times the difference between the daily "spot" price per pound of raw sugar as reported in the Number 12 contract of the New York Coffee, Sugar and Cocoa Exchange or

the Market Stabilization Price (MSP) established pursuant to Presidential Proclamation 4940 of May 5, 1982, as amended, whichever is greater, and the daily "spot" price of the Number 11 contract of the New York Coffee, Sugar and Cocoa Exchange, multiplied by the weight of the sugar entered under the license. In the case of the term bonds, the Number 12 and Number 11 contract prices and the MSP shall be computed quarterly, based on the average price difference during the 20 consecutive market days preceding the 20th day of the month preceding the calendar quarter. If the New York Coffee, Sugar and Cocoa Exchange does not report a Number 11 or 12 contract price for one or more of these market days, then the Licensing Authority may use such price as he or she deems appropriate. In the case of a single entry bond, the Number 12 and Number 11 contract prices and the MSP shall be computed as of the last market day before the execution of the bond.

(d) The appropriate customs official will release the obligation under the bond by an amount computed in accordance with subsection 6.107(c) for a corresponding quantity of sugar credited to the license in accordance with Section 6.108(b) of this subpart, as determined by the Licensing Authority.

(e) If the license holder fails to export, within three months of the date of entry of the corresponding sugar, an amount of sugar equivalent to the corresponding sugar, payment shall be made to the United States under the bond of the monetary amount corresponding to the amount of the charge to the license for the corresponding sugar not offset by timely exportation.

§ 6.108 Charges and credits to licenses.

(a) Charges will be made to a license for quantities of sugar entered under the license. This charge will be adjusted on the basis set forth in paragraph (c) of this section when the license holder submits the information required by § 6.104.

(b) At the request of the license holder, the Licensing Authority will credit a license for:

(1) quantities of refined sugar, adjusted as set forth in paragraph (c) of this section, for which proof of export has been submitted in accordance with the provisions of this subpart.

(2) quantities of sugar charged to the license which the Licensing Authority determines have been destroyed or otherwise disposed of so as to render the exportation of a corresponding quantity of sugar in refined form unnecessary to carry out the purposes of this subpart.

(c) To determine the quantity of sugar that must be exported to equal a corresponding quantity of imported sugar charged to the license, divide the quantity of sugar imported, expressed in raw value, by 1.07. To obtain the raw value for sugar with a polarization of 92 degrees or above, the formula to be used is [(Polarization × .0175) − 0.68] × weight. For sugar of less than 92 degrees polarization the total sugar content shall be divided by 0.972.

§ 6.109 Export before import; substitution of sugars.

(a) The sugar exported does not have to be the same sugar entered.

(b) Exportation of sugar in refined form may occur any time after the date of the license, including prior to the date of entry of the corresponding quantity of sugar charged to the license.

§ 6.110 Enforcement.

(a) If at any time after receiving the proof of export described in § 6.106 of this subpart and release of the bond under § 6.107 of this subpart the Licensing Authority determines that an export of refined sugar corresponding to the amount of sugar entered under the license did not occur, the Licensing Authority may hold the license holder liable for up to one and one half times the difference between the daily "spot" price per pound as reported in the Number 12 contract of the New York Coffee, Sugar and Cocoa Exchange or the Market Stabilization Price, whichever is greater, and the daily "spot" price of the Number 11 contract of the New York Coffee, Sugar and Cocoa Exchange in effect on the last market day before the entry of the corresponding sugar or the last market day before the end of the three month period, whichever is greater, times the amount of sugar, raw value, that should have been, but was not, exported. In the event no Number 11 or Number 12 price is reported by the New York Coffee, Sugar and Cocoa Exchange for the relevant market day, then the Licensing Authority may use such price as he or she deems appropriate.

(b) If at any time the Licensing Authority determines that a license holder has failed to comply with the requirements of this subpart, the Licensing Authority may, after notice to the license holder, suspend or revoke the license issued to the license holder pursuant to this subpart and/or refuse to issue future licenses to that refiner.

(c) The determination of the Licensing Authority under subsections (a) and (b) may be appealed to the Director, Horticultural and Tropical Products Division, Foreign Agricultural Service (FAS), within 30 days from the date of notification. The request for reconsideration shall be presented in writing specifically stating any reason as to why such determination should not stand. The Director, Horticultural and Tropical Products Division, FAS will provide such person with an opportunity for an informal hearing on such matter. A further appeal may be made to the Administrator, FAS, within five working days of the notification of the decision of the Director, Horticultural and Tropical Products, FAS.

§ 6.111 Waiver.

Under unusual, unforeseen or extraordinary circumstances, the Secretary may extent the 3 month period for the re-export of sugar or may temporarily increase the maximum amount of the license.

§ 6.112 Expiration.

The licenses issued pursuant to the provisions of this subpart shall expire upon written notice to the license holders by the Licensing Authority. The notice will state the expiration date of the licenses and any other details applicable to the expiration of the licenses.

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

Richard A. Smith,

Administrotor, Foreign Agricultural Service.

[FR Doc. 83-17556 Filed 6-24-83; 4:57 pm]

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federal register

Tuesday
June 28, 1983

Part V

Department of Health and Human Services

Food and Drug Administration

Vitamin D_2 and Vitamin D_3; Proposed Affirmation of GRAS Status, With Specific Limitations, as Direct Human Food Ingredients; Extension of Comment Period; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the period for submitting comments on its proposal to affirm that vitamin D_2 and vitamin D_3 are generally recognized as safe (GRAS), with specific limitations, as direct human food ingredients. The Robert H. Kellen, Co., asked for the extension, and FDA is granting it.

DATE: Comments by July 29, 1983.

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

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 19, 1983 (48 FR 16695), FDA published a proposal to affirm that vitamin D_2 and vitamin D_3 are GRAS, with specific limitations, as direct human food ingredients. FDA asked for comments by June 20, 1983.

By letter dated June 20, 1983, an association of manufacturers and marketers of enteral nutrition products asked FDA to extend the comment period by 30 days. This association apparently was formed only recently, and it requested the extension to enable its members to consider, on a collective basis, the impact of this proposal on their industry and to prepare appropriate comments.

After carefully evaluating the request, FDA has decided to grant this very brief extension. FDA recognizes the significance of the issues involved in this matter and wishes to ensure that all interested parties have a fair amount of time for comment. Therefore, FDA has concluded that the comment period should be extended an additional 30 days.

Interested persons may, on or before July 29, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 24, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-17402 Filed 6-27-83; 10:15 am]

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Reader Aids

Federal Register

Vol. 48, No. 125

Tuesday, June 28, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

24311-24652.....1
24653-24854.....2
24855-25168.....3
25169-26278.....6
26279-26442.....7
26443-26584.....8
26585-26750.....9
26751-27026.....10
27027-27218.....13
27219-27390.....14
27391-27530.....15
27531-27714.....16
27715-28068.....17
28069-28186.....20
28187-28420.....21
28421-28608.....22
28609-28968.....23
28969-29462.....24
29463-29664.....27
29665-29832.....28

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-7 of June 3, 1983.....26585

Executive Orders:

October 18, 1912 (Revoked in part by PLO 6394).....29693

August 13, 1914 (Revoked in part by PLO 6394).....29693

May 14, 1915 (Revoked in part by PLO 6397).....29693

September 15, 1916 (Revoked in part by PLO 6392).....26315

September 30, 1916 (Revoked in part by PLO 6392).....26315

September 27, 1917 (Revoked in part by PLO 6394).....29694

May 21, 1920 (Revoked in part by PLO 6392).....26315

12400 (Amended by EO 12424).....27219

12424.....27219

12425.....28069

12426.....29463

Proclamations:

5066.....24855

5067.....26443

5068.....27391

5069.....28187

5070.....28421

4 CFR

28.....29665

5 CFR

Ch. XIV.....28814

213.....24857

315.....29667

316.....29667

410.....29668

581.....26279

2423.....27531

Proposed Rules:

950.....29458

2422.....28816

2426.....28816

2429.....28816

7 CFR

1.....28189

2.....27715

6.....29824

29.....29670

51.....26751

52.....26752

68.....24857

210.....27886

225.....29122

227.....29122

235.....27836, 29122

246.....29122

247.....29122

250.....27716, 28609, 29122

253.....29122

272.....28190

273.....28190

282.....29124, 29673

301.....28423, 28646

319.....24311

354.....26294

905.....27221, 29672

906.....27532, 29672

910.....24859, 26587, 26757, 27716, 28424, 28969

911.....28969

915.....24860

916.....24653

918.....28969

923.....28969

925.....28969

930.....28613, 28969

932.....24311

944.....24860

959.....25169

966.....26757

1002.....28655

1004.....28655

1013.....29672

1033.....24861

1036.....24863

1139.....24864

1464.....28425

1823.....29120

1900.....28193

1901.....29120

1933.....29120

1942.....29120

1944.....29120

1948.....29120

1980.....29120

3015.....27222, 29100, 29114, 29115

Proposed Rules:

51.....24723

403.....29520

415.....28465

422.....28468

428.....28472

430.....28994

433.....28476

800.....27082, 27084

810.....28998

1001.....29523

1007.....24391

1046.....24905, 27763

1124.....29529

1125.....26460
1133.....26460
1136.....29704
1207.....24724
1701.....28999
1746.....28999
3015.....29118

8 CFR

109.....29465

9 CFR

78.....28067
92.....24866, 28426
113.....28428
318.....24314

Proposed Rules:

72.....27256
91.....27255
92.....27257

10 CFR

20.....26295
25.....24318, 27533
35.....28431, 29677
60.....28194
61.....26295
95.....24318
455.....28071
474.....28432
600.....29174
1005.....29174

Proposed Rules:

50.....24391, 28282
73.....28282
430.....28014
625.....27482
960.....26440

11 CFR

102.....26300
114.....26303

12 CFR

4.....29466
5.....26758
29.....28970
32.....27224
204.....28971
207.....26587, 28229
211.....26445
217.....27393
220.....26587, 26589, 28229
221.....26587, 28229
224.....26587, 28229
250.....28973
303.....27027, 28073
304.....28073, 28079
309.....28079
347.....28073
505c.....26590
572a.....27394
601.....28976
612.....28615

Proposed Rules:

7.....24913
202.....28285
225.....28286
250.....29001
614.....25210

13 CFR

101.....28624
121.....26760
133.....28080
135.....29380
303.....29126
307.....29126
309.....29126

14 CFR

21.....29466
23.....29466
39.....26590-26593, 27030, 27031, 27533, 28081-28083, 28625, 29467-29473
71.....25169, 25170, 26594-26596, 27032-27034, 28084, 28085, 28625, 28626
75.....26596
95.....24854
97.....27534, 28627
152.....29264
204.....26596
250.....29678
252.....24866
389.....24323
1204.....29334

Proposed Rules:

Ch. I.....28657
21.....28658-28663
23.....26623
39.....25210, 27085-27087, 27549, 28103, 29535-29538
61.....28104
71.....28667
73.....28106
91.....28106
120.....28118
121.....25211, 28118
135.....28118
139.....25211
159.....25215
221.....24916
252.....24918
253.....29707
291.....24922, 26830
377.....24923

15 CFR

13.....29126
369.....24323
371.....25171
373.....25174
376.....25171
379.....25171
386.....25171, 26303, 26449
399.....25171, 25174, 26450
905.....29126
920.....29126
921.....29126
923.....29126
930.....29126
931.....29126
932.....29126
933.....29126
2013.....28629
2301.....29126

16 CFR

13.....28977, 29681
423.....24868, 27225
453.....25174
1204.....29682
1406.....26761, 28229

Proposed Rules:

13.....24724, 27089, 27258, 29709, 29713
457.....25218
1051.....27763
1052.....27763
1105.....27763
1109.....27763
1110.....27763
1145.....27409
1607.....27763

17 CFR

1.....28631
170.....26304, 28633
190.....28977
200.....24663
210.....28230
211.....27225, 28230
240.....24663, 27524, 28231
249.....24663
270.....25175

Proposed Rules:

1.....27411
12.....25218
31.....28668
210.....26623
229.....27768
230.....27768
240.....24725, 24728, 28109
270.....25220, 26460
275.....27771

18 CFR

2.....24323, 24358
4.....29474
35.....24323
271.....25177-29179, 28115
282.....28981
292.....29475
385.....29477
1311.....29392

Proposed Rules:

35.....26831
271.....24730-24732, 25223, 28112-28115

19 CFR

10.....28982, 29683
101.....25180
146.....27536
177.....25180, 27538, 28982

Proposed Rules:

Ch. I.....26831
10.....27776
24.....28671
101.....27092, 27265
123.....26832
147.....27776
152.....27778
175.....26833, 27780
177.....25224, 28673

20 CFR

416.....27538

Proposed Rules:

632.....24392
633.....24392
634.....24392
635.....26430
684.....24392

21 CFR

5.....26311
81.....27721, 29684
131.....24868
155.....28983
175.....24869
177.....26312, 26761
178.....24869, 27721
193.....28249, 28432
357.....27004
436.....28249
442.....28249
444.....27722
448.....27722
455.....27722
510.....24870, 24871, 26983
520.....24871, 26762
522.....26313
524.....28983
540.....24872, 24873
558.....24871, 27722, 28983
561.....28432
600.....26313
868.....27723
895.....25126, 25137, 27724

Proposed Rules:

16.....27780
20.....27780
101.....27266
131.....27782
158.....26319
182.....27782, 29831
184.....27782, 29831
201.....27389
310.....26986
312.....26720
341.....24925
349.....29788
429.....27389
899.....27780
1306.....29713

22 CFR

121.....28633
1303.....28984

Proposed Rules:

11.....26834

23 CFR

Ch. I.....24852, 25181
420.....29264
625.....27539
650.....29264
740.....29264

24 CFR

8.....27528
50.....29206
52.....29206
111.....24361
202a.....28794
203.....27398, 28794, 28807, 28985
209.....28794
211.....28794
213.....27398, 28794
220.....28794
221.....27035, 28794
222.....28794
226.....28794
228.....28794
234.....27035, 27398, 28794
235.....27035, 28794, 28985
237.....28794
245.....28433
255.....29686
570.....29206
590.....29206
595.....29206
600.....29206

720.....29206
841.....29206
870.....29206
880.....29206
881.....29206
883.....29206
885.....29206
891.....29206
1800.....24873

Proposed Rules:
8.....27529
841.....29003

25 CFR
249.....28250

Proposed Rules:
250.....29004
700.....24734

26 CFR
31.....28252
601.....24668

Proposed Rules:
1.....24736, 25224, 25228, 29538
52.....29007, 29011

27 CFR
21.....24672
212.....24672

Proposed Rules:
4.....27782
5.....27782
7.....27782
9.....24737, 29539, 29541

28 CFR
0.....25183, 28633
30.....29238
42.....29686
540.....24622
550.....24623
551.....24623

Proposed Rules:
547.....24626
570.....24626
571.....24626

29 CFR
17.....29250
1691.....29686
1625.....26434
1910.....29687

Proposed Rules:
1910.....26962
1952.....26836
2670.....27092
2675.....27092

30 CFR
46.....29250
226.....26763
256.....26778
260.....24873
701.....29802
784.....24638
785.....24638, 29802
816.....24638
817.....24638
818.....24638
822.....29802
886.....27363
916.....24874
931.....28086
934.....28986
944.....24876
946.....25184, 28088

Proposed Rules:
57.....27024
250.....26837
901.....24739
913.....24741, 27550
917.....26839, 27101, 29544
936.....24928
938.....27102, 27551, 28286
942.....25229
946.....26624, 27552, 29545
948.....24393, 27784, 28480

32 CFR
1–39.....28826, 28908
199.....28438
242b.....26451
243.....29140
518.....29688
634.....28252
806b.....24878
823.....27540
984.....29687
988.....29688

33 CFR
81.....28634
100.....25186, 26599–26602, 27540, 28637
115.....29479
117.....26602, 28637, 29479
165.....25187
384.....29144

Proposed Rules:
117.....26625, 28674
162.....25231, 27103, 27553

34 CFR
75.....29158
76.....29158
79.....29158
668.....26779
682.....24584

35 CFR
101.....27399
103.....27399
253.....27399

36 CFR
50.....28058
212.....28638
219.....29122
222.....25187
251.....28638, 29122
254.....28638
262.....26603

Proposed Rules:
7.....27553
13.....26319

37 CFR
2.....27225

Proposed Rules:
1.....26319
5.....26319

38 CFR
1.....27400
3.....27036
36.....27226, 27401
40.....29404

Proposed Rules:
17.....26627
21.....29714, 29716

39 CFR
10.....27227, 28267
601.....28268
775.....29370
776.....29370
778.....29370

Proposed Rules:
111.....27103, 27267, 28116
265.....28481

40 CFR
1.....27227
29.....29288
35.....29288
40.....29288
51.....29288
52.....24362, 24689, 28269, 28271, 28988, 29479, 29689, 29690
55.....28639
60.....28271–28273, 29691
61.....28272, 28273
80.....29692
81.....28988
144.....27039
146.....27039
162.....26451
173.....28439
180.....24364, 24365, 24689, 26452, 28440–28442
204.....27039
205.....27039
211.....27039
255.....29288
271.....27040, 28273, 28988
712.....27041, 28443
716.....24366
720.....27043
763.....27041

Proposed Rules:
Ch. I.....24930
51.....26840
52.....26841, 28288, 29716 28290, 29012
65.....24930
66.....26627
67.....26627
81.....24393
86.....24932
145.....26842
180.....24394, 24396, 26629, 29718
271.....25236
403.....24933
405.....24742
406.....24742
407.....24742
408.....24742
409.....24742
411.....24742
412.....24742
422.....24742
424.....24742
426.....24742
429.....24742
430.....24742
431.....24742
432.....24742
433.....24742
440.....24742
600.....26698
610.....24397
716.....28483
764.....28292

41 CFR
Ch. 7.....25188
Ch. 101.....27541
1–15.....26453
3–3.....26605
15–1.....28274
101–6.....29322
101–29.....25196
101–41.....27235, 27724
101–45.....24878, 27236
101–47.....24879, 25199
101–49.....27404
105–53.....25200

42 CFR
51c.....29188
52b.....29188
55a.....29188
56.....29188
57.....25064
66.....24879
122.....29188
431.....29450
433.....29480

Proposed Rules:
57.....25071, 25072
431.....28089

43 CFR
9.....29224
23.....27008
1600.....26314
3200.....24367, 28277
3210.....24367
3220.....24367
3240.....24367
3250.....24367
3600.....27008
3610.....27008
3620.....27008

Public Land Orders:
2301 (Revoked in part by PLO 6398).....29696
2573 (Revoked in part by PLO 63960).....29695
4783 (Revoked in part by PLO 6399).....29696
6377.....26780
6378.....28277
6391.....25205
6392.....26315
6393.....29693
6394.....29693
6395.....29694
6396.....29695
6397.....29694
6398.....29696
6399.....29696
6400.....29697
6401.....29697

Proposed Rules:
3000.....26320
3100.....26320
3130.....28117
3900.....28292
8370.....26485
8560.....27366

44 CFR

4 29308
9 29308
59 29308
60 29308
64 ..... 24369, 26780, 26796, 27248, 27727, 28277
65 ..... 26605, 27247, 27249, 28277
67 ..... 24370, 26784, 26796, 27404
70 ..... 27237-27246, 28277
76 29308
205 28990
300 29308
302 29308

Proposed Rules:

11 27791
67 ..... 24743, 26629, 26630, 27414, 27555
302 27105

45 CFR

100 29188
206 28398
224 29188
232 28398
233 28398
234 28398
238 28398
240 28398
660 29358
1152 29344
1180 27727
1207 26802
1208 26808
1209 26815
1233 29278
1351 29188
1626 28089

Proposed Rules:

1607 29718
1627 28485

46 CFR

32 29486
67 29486
221 27044
310 27044

Proposed Rules:

93 29551
125 26631
126 26631
127 26631
128 26631
129 26631
130 26631
131 26631
132 26631
133 26631
134 26631
135 26631
136 26631
542 27112
543 27112
544 27112

47 CFR

Ch. I 27044
0 ..... 24383, 26606
1 ..... 24884, 27182
2 ..... 27054, 27541, 28445
21 27251
22 ..... 26820, 27182, 27251
23 27251
31 27072
73 ..... 24383, 24898, 26453, 26608, 27054, 27182, 27545, 27546, 28445-28458, 29486
74 ..... 24383, 27406
76 27054
81 ..... 27182, 28640
83 28640
87 27182
90 ..... 26617, 27182, 28279, 29512
94 27182
95 24884
97 ..... 26455, 26606

Proposed Rules:

Ch. I 28674
2 ..... 24945, 26461
22 24945
61 28292
63 28292
68 29014
69 26632
73 ..... 24945, 24949, 26462-26471, 27562-27581, 28294, 28295, 28487-28499, 29551, 29552
74 ..... 24945, 29553
76 26472
90 27797
94 ..... 24950, 27113
96 24953
97 ..... 24954, 26647

49 CFR

Ch. X 27253
1 27546
17 29264
25 29264
171 ..... 27674, 28095
172 ..... 27674, 28095
173 ..... 27674, 28095
174 27674
176 ..... 27674, 28095
177 ..... 27674, 28095
178 ..... 27674, 28095
179 27674
192 25206
195 25206
266 29264
387 29698
450 29264
501 27547
571 ..... 24690, 24717, 25209, 27547
1011 26456
1033 ..... 24386, 28992, 29700
1039 ..... 24900, 26822, 27254
1152 27547
1153 24386
1162 24388
1175 ..... 26317, 28281
1176 ..... 26317, 28281
1307 24388

Proposed Rules:

Ch. X 24397
25 26649
172 26650
173 ..... 25236, 26650
179 25236
571 ..... 24751, 25237, 27583, 29560
1102 29024
1152 ..... 27269, 27584
1155 27271
1186 26485

50 CFR

17 28460
20 26457
250 26621
260 24901
285 27745
301 27073
371 24902
401 29126
424 ..... 24718, 24903
611 ..... 24719, 27075, 29703
652 29518
655 29703
656 29703
657 29703
674 27080

Proposed Rules:

17 ..... 26488, 28500, 28504
20 27799
23 26651
424 27273
611 25238
646 26843
661 26653
671 27807
674 24751
675 25238

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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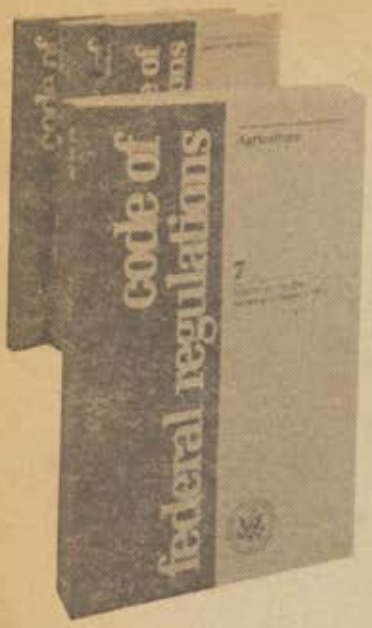
Note: **The Office of the Federal Register proposes to terminate the formal program of agency publications on assigned days of the week. See 48 FR 19283, April 28, 1983.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing June 24, 1983



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